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

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2017–0255; FRL–9963–07–Region 9]

Determination To Defer Sanctions; Arizona Department of Environmental Quality

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: The EPA is making an interim final determination to defer imposition of sanctions based on a proposed determination, published elsewhere in this **Federal Register**, that the State of Arizona (State) has submitted rules that satisfy the requirements of part D of the Clean Air Act (CAA or Act) permitting program for areas under the jurisdiction of the Arizona Department of Environmental Quality (ADEQ).

DATES: This interim final determination is effective on June 1, 2017. However, comments will be accepted until July 3, 2017.

ADDRESSES: Submit comments, identified by Docket ID No. EPA–R09–OAR–2017–0255, at *http://www.regulations.gov,* or via email to *R9airpermits@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited from *Regulations.gov.* For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Lisa Beckham, EPA Region 9, (415) 972–3811, *beckham.lisa@epa.gov.*

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

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I. Background
II. EPA Action
III. Statutory and Executive Order Reviews

I. Background

On November 2, 2015 (80 FR 67319), the EPA issued a final limited approval and limited disapproval action for revisions to the ADEQ portion of the Arizona State Implementation Plan (SIP) that had been submitted by ADEQ to the EPA for approval (the 2015 NSR action).[1] The 2015 NSR action addressed ADEQ's permitting program for the issuance of New Source Review (NSR) permits for stationary sources, including review and permitting of major and minor sources under the Act. In our 2015 NSR action, we determined that while ADEQ's SIP revision submittal strengthened the Arizona SIP, the submittal did not fully meet the requirements for NSR permitting programs under the CAA. Our 2015 NSR action included a final limited disapproval action under title I, part D of the Act, relating to requirements for nonattainment areas. Pursuant to section 179 of the CAA and our regulations at 40 CFR 52.31, this limited disapproval action under title I, part D started a sanctions clock for imposition of offset sanctions 18 months after the action's effective date of December 2, 2015, and highway sanctions 6 months later.

On March 21, 2017, ADEQ revised its NSR permitting program rules and on April 28, 2017, ADEQ submitted a number of revised NSR permitting rules to the EPA for approval into the Arizona SIP (April 2017 NSR submittal), including rules intended to address the limited disapproval issues under title I, part D that we identified in our 2015 NSR action. In the Proposed Rules section of this **Federal Register**, we have proposed approval of ADEQ's April 2017 NSR submittal. Based on the proposed approval action, we are also taking this final rulemaking action, effective on publication, to defer imposition of the offset sanctions and highway sanctions that were triggered by our 2015 NSR action's limited disapproval of ADEQ's NSR permitting program, because we believe that ADEQ's April 2017 NSR submittal corrects the deficiencies that triggered such sanctions.

EPA is providing the public with an opportunity to comment on this deferral of sanctions. If comments are submitted that change our assessment described in this final determination and the proposed full approval of ADEQ's April 2017 NSR submittal with respect to the title I, part D deficiencies identified as limited disapproval issues in our 2015 NSR action, we would take final action proposing to lift this deferral of sanctions under 40 CFR 52.31. If no comments are submitted that change our assessment, then all sanctions and any sanction clocks triggered by our 2015 NSR action would be permanently terminated on the effective date of our final approval of ADEQ's April 2017 NSR submittal.

II. EPA Action

We are making an interim final determination to defer CAA section 179 sanctions associated with our limited disapproval action on November 2, 2015 of ADEQ's NSR permitting program with respect to the requirements of part D of title I of the CAA. This determination is based on our concurrent proposal to fully approve ADEQ's April 2017 NSR submittal, which resolves the deficiencies that triggered sanctions under section 179 of the CAA.

Because the EPA has preliminarily determined that ADEQ's April 2017 NSR submittal addresses the

[1] We also finalized other actions, which included a partial disapproval related to the $PM_{2.5}$ significant monitoring concentration, and limited approvals, without corresponding limited disapprovals, related to section 189(e) of the Act.

deficiencies under part D of title I of the CAA identified as limited disapproval issues in our 2015 NSR action, and is fully approvable, relief from sanctions should be provided as quickly as possible. Therefore, the EPA is invoking the good cause exception under the Administrative Procedure Act (APA) in not providing an opportunity for comment before this action takes effect (5 U.S.C. 553(b)(3)). However, by this action, the EPA is providing the public with a chance to comment on the EPA's determination after the effective date, and the EPA will consider any comments received in determining whether to reverse such action.

The EPA believes that notice-and-comment rulemaking before the effective date of this action is impracticable and contrary to the public interest. The EPA has reviewed the State's submittal and, through its proposed action, is indicating that it is more likely than not that the State has submitted a revision to the SIP that corrects deficiencies under part D of the Act that were the basis for the action that started the sanctions clocks. Therefore, it is not in the public interest to impose sanctions. The EPA believes that it is necessary to use the interim final rulemaking process to defer sanctions while the EPA completes its rulemaking process on the approvability of the State's submittal. Moreover, with respect to the effective date of this action, the EPA is invoking the good cause exception to the 30-day notice requirement of the APA because the purpose of this notice is to relieve a restriction (5 U.S.C. 553(d)(1)).

III. Statutory and Executive Order Reviews

This action defers sanctions and imposes no additional requirements.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. This action defers sanctions and imposes no new requirements.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. This action defers sanctions and imposes no new requirements.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. This action defers sanctions and imposes no new requirements. In addition, this action does not apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This rule is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994) because it does not establish an environmental health or safety standard. This action defers sanctions in accordance with CAA regulatory provisions and imposes no additional requirements.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. The CRA allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and comment rulemaking procedures are impracticable, unnecessary or contrary to the public interest (5 U.S.C. 808(2)). The EPA has made a good cause finding for this rule as discussed in section II of this preamble, including the basis for that finding.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 31, 2017. Filing a petition for reconsideration by the EPA Administrator of this final rule does not affect the finality of this rule for the purpose of judicial review nor does it extend the time within which petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see CAA section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Authority: 42 U.S.C. 7401 *et seq.*

Dated: May 16, 2017.

Alexis Strauss,

Acting Regional Administrator, Region IX.

[FR Doc. 2017–10942 Filed 5–31–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[GN Docket No. 14–177; FCC 16–89]

Use of Spectrum Bands Above 24 GHz for Mobile Radio Services

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, for a period of three years, the information collection requirements associated with the Commission's *Report and Order,* GN Docket No. 14–177, FCC 16–89. This document is consistent with the *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 requirements.

DATES: 47 CFR 25.136, published at 81 FR 79894, November 14, 2016, is effective on June 1, 2017.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Cathy Williams, *Cathy.Williams@fcc.gov,* (202) 418–2918.

SUPPLEMENTARY INFORMATION: This document announces that, on May 22, 2017, OMB approved the information collection requirements contained in the Commission's *Report and Order,* FCC 16–89, published at 81 FR 79894, November 14, 2016. The OMB Control Number is 3060–1215. The Commission publishes this document as an announcement of the effective date of the requirements.

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval on May 22, 2017, for the information collection requirements contained in the Commission's rules.

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 is 3060–1215.

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: 3060–1215.

OMB Approval Date: May 22, 2017.

OMB Expiration Date: May 31, 2020.

Title: Use of Spectrum Bands Above 24 GHz for Mobile Radio Services.

Form Number: Not applicable.

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

Number of Respondents and Responses: 230 respondents; 230 responses.

Estimated Time per Response: 0.25–10 hours.

Frequency of Response: On occasion reporting requirement; at end of license term, or 2024 for incumbent licensees, one time reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in sections 1, 2, 3, 4, 5, 7, 10, 201, 225, 227, 301, 302, 302a, 303, 304, 307, 309, 310, 316, 319, 332, and 336 of the Communications Act of 1934, 47 U.S.C. 151, 152, 153, 154, 155, 157, 160, 201, 225, 227, 301, 302, 302a, 303, 304, 307, 309, 310, 316, 319, 332, 336, Section 706 of the Telecommunications Act of 1996, as amended, 47 U.S.C. 1302.

Total Annual Burden: 278 hours.

Annual Cost Burden: $196,875.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information. The information to be collected will be made available for public inspection. Applicants may request materials or information submitted to the Commission be given confidential treatment under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The FCC adopted Use of Spectrum Bands Above 24 GHz for Mobile Radio Services in a Report and Order (R&O, Docket No. 14–177, FCC 16–89, on July 14, 2016, published in 81 FR 79894 on November 14, 2016. In this R&O, the Commission adopted service rules for licensing of mobile and other uses for millimeter wave (mmW) bands. This R&O will help facilitate Fifth Generation mobile services and other mobile services. In developing service rules for mmW bands, the Commission will facilitate access to spectrum, develop a flexible spectrum policy, and encourage wireless innovation. OMB also approved information collection requirements contained in this collection under 47 CFR 30.3, 30.105 and 30.107.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–11335 Filed 5–31–17; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 100812345–2142–03]

RIN 0648–XF465

Snapper-Grouper Fishery of the South Atlantic; 2017 Commercial Accountability Measure and Closure for South Atlantic Yellowtail Snapper

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements an accountability measure (AM) for the commercial sector for yellowtail snapper in the South Atlantic exclusive economic zone (EEZ). NMFS projects that commercial landings of yellowtail snapper will reach the commercial annual catch limit (ACL) for the August 2016 through July 2017 fishing year by June 3, 2017. Therefore, NMFS closes the commercial sector for yellowtail snapper in the South Atlantic EEZ on June 3, 2017, and it will remain closed until August 1, 2017, the start of the August 2017 through July 2018 fishing year. This closure is necessary to protect the South Atlantic yellowtail snapper resource.

DATES: This rule is effective at 12:01 a.m., local time, June 3, 2017, until 12:01 a.m., local time, August 1, 2017.

FOR FURTHER INFORMATION CONTACT: Mary Vara, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *mary.vara@noaa.gov.*

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic includes yellowtail snapper and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The yellowtail snapper commercial ACL is 1,596,510 lb (724,165 kg), round

weight, as specified in 50 CFR 622.193(n)(1)(i). Under 50 CFR 622.193(n)(1)(i), NMFS is required to close the yellowtail snapper commercial sector when the commercial ACL has been reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS has projected that the yellowtail snapper commercial sector will reach its ACL on June 3, 2017. Therefore, this temporary rule implements an AM to close the yellowtail snapper commercial sector in the South Atlantic EEZ, effective from 12:01 a.m., local time, June 3, 2017, until August 1, 2017, the start of the 2017–2018 fishing year.

In 2016, Regulatory Amendment 25 to the FMP revised the fishing year for the yellowtail snapper commercial and recreational sectors from January 1 through December 31 to August 1 through July 31 (81 FR 45245, July 13, 2016). Therefore, the 2017–2018 fishing year for yellowtail snapper will begin on August 1, 2017.

The operator of a vessel with a valid commercial vessel permit for South Atlantic snapper-grouper having yellowtail snapper on board must have landed and bartered, traded, or sold such species prior to June 3, 2017. During the commercial closure, all sale or purchase of yellowtail snapper from the South Atlantic EEZ is prohibited. The harvest or possession of yellowtail snapper in or from the South Atlantic EEZ is limited to the bag limit specified in 50 CFR 622.187(b)(4) and the possession limits specified in 50 CFR 622.187(c). These bag and possession limits apply on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, regardless of whether such species were harvested in state or Federal waters.

Classification

The Regional Administrator for the NMFS Southeast Region has determined this temporary rule is necessary for the conservation and management of South Atlantic yellowtail snapper and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.193(n)(1)(i) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA) finds that the need to immediately implement this action to close the yellowtail snapper commercial sector constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule implementing the AM has been subject to notice and comment, and all that remains is to notify the public of the closure. Such procedures are contrary to the public interest because there is a need to immediately implement this action to protect the yellowtail snapper resource, as the capacity of the fishing fleet allows for rapid harvest of the commercial ACL. Prior notice and opportunity for public comment would require time and could result in a harvest well in excess of the established commercial ACL.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: May 26, 2017.

Margo B. Schulze-Haugen,

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

[FR Doc. 2017–11310 Filed 5–26–17; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 82, No. 104
Thursday, June 1, 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.

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket No. USCG–2016–0916]

RIN 1625–AA01

Anchorages; Captain of the Port Puget Sound Zone, WA; Notice of Tribal Consultation

AGENCY: Coast Guard, DHS.

ACTION: Notification of tribal consultation.

SUMMARY: The Coast Guard seeks input from tribal officials, tribal governments, tribal organizations, and tribal members on a notice of proposed rulemaking entitled ''Anchorages; Captain of the Port Puget Sound Zone, WA'' that was published in the **Federal Register** on February 10, 2017. As stated in that document, this rulemaking proposes the creation of several new anchorages, holding areas, and a non-anchorage area as well as the expansion of one existing general anchorage in the Puget Sound area. The Coast Guard encourages all interested tribes to R.S.V.P. to the formal consultation to be held on July 13, 2017, and provide information on which treaty rights are impacted and how the Coast Guard should consider these rights in its rulemaking analysis.

DATES: A formal government to government consultation is scheduled to be held on July 13, 2017, from 9 a.m. to 3 p.m. to provide an opportunity for oral comments. R.S.V.P.s to the consultation must be submitted by June 30, 2017, to the person listed below at **FOR FURTHER INFORMATION CONTACT**. Written comments and related material may also be submitted to Coast Guard personnel specified at that meeting. The comment period for the proposed rule published on February 10, 2017 (82 FR 10313), which was reopened on May 16, 2017 (82 FR 22448), closes on August 9, 2017. All comments and related material submitted after the meeting must be received by the Coast Guard on or before August 9, 2017.

ADDRESSES: The location of the tribal consultation is to be determined at this time. The Coast Guard will publish a supplemental notification in the **Federal Register** and will also conduct outreach to the tribes to communicate the location of the formal consultation.

You may submit written comments identified by docket number USCG–2016–0916 using the Federal eRulemaking Portal at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: If you have questions concerning the meeting or the proposed rule, please call or email Mr. Laird Hail, U.S. Coast Guard Sector Puget Sound; telephone 206–217–6051, email *SectorPugetSoundWWM@uscg.mil.*

SUPPLEMENTARY INFORMATION:

Background and Purpose

We published a notice of proposed rulemaking (NPRM) in the **Federal Register** on February 10, 2017 (82 FR 10313), entitled ''Anchorages; Captain of the Port Puget Sound Zone, WA.'' In it we stated that this proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. 82 FR 10314. We received letters from two tribes requesting additional time to comment and have concluded, notwithstanding the Coast Guard's position that this proposed rule does not have tribal implications under Executive Order 13175, that a formal government to government consultation would aid this rulemaking. The Coast Guard greatly values the government to government relationship it has with the tribes, and desires to continue a meaningful dialogue on shared interests. Therefore, we are publishing this notification so that the tribes can identify and communicate to the Coast Guard which treaty rights are impacted and how the Coast Guard should consider these rights in its rulemaking analysis.

In the NPRM, we proposed the creation of several new anchorages, holding areas, and a non-anchorage area as well as the expansion of one existing general anchorage in the Puget Sound area, as detailed in the proposed regulatory text. The proposed anchorages and areas have been used for many years informally, however, they are not included on nautical charts, referenced in the Coast Pilot, or subject to anchorage regulations. This rulemaking also proposes new and updated regulations governing anchorages and areas in the Puget Sound area, as detailed in the proposed regulatory text. The codification of these anchorages and areas, along with the new and updated regulations, would improve the safety of all Puget Sound waterway users by having the anchorages and areas included on nautical charts, referenced in the Coast Pilot, subject to appropriate regulations, and available to Vessel Traffic Service (VTS) Puget Sound whenever necessary to manage vessel traffic.

You may view the NPRM in our online docket, in addition to supporting documents prepared by the Coast Guard—*e.g.*, environmental checklist, and comments submitted thus far, by going to *http://www.regulations.gov.* Once there, insert ''USCG–2016–0916'' in the ''Keyword'' box and click ''Search.''

We encourage all interested tribes to participate in this formal consultation by responding orally at the consultation or in writing. If you bring written comments to the formal consultation, you may submit them to Coast Guard personnel specified at the meeting to receive written comments. These comments will be submitted to our online public docket. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

Comments submitted after the meeting must reach the Coast Guard on or before August 9, 2017. We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Anyone can search the electronic form of comments received into any of our dockets by the name of the

individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the March 24, 2005 issue of the **Federal Register** (70 FR 15086).

Information on Service for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the tribal consultation, contact at Mr. Laird Hail at the telephone number or email address indicated under the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Tribal Government to Government Consultation

The Coast Guard will hold a formal tribal government to government consultation regarding its proposed rule on Thursday, July 13, 2017 from 9 a.m. to 3 p.m. at the location to be published shortly. We request that tribes intending to participate in this consultation submit the following information to the person in the **FOR FURTHER INFORMATION CONTACT** section of this document by June 30, 2017: (1) Whether the tribe will attend the face-to-face tribal consultation, (2) the name and contact information of anyone other than the Chief Executive of the tribe that is authorized to engage in government to government consultation with the Coast Guard for this tribal consultation, and (3) any proposed agenda items and written materials it intends to present. We will also provide a written summary of the government to government tribal consultation and comments and will place that summary in the docket. Members of the public will have time to submit further comments between the posting of the summary of the tribal consultation and the closing of the comment period.

Dated: May 26, 2017.

D.G. Throop,

Rear Admiral, U.S. Coast Guard, Commander, Thirteenth Coast Guard District.

[FR Doc. 2017–11456 Filed 5–30–17; 4:15 pm]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2015–0067; FRL–9962–99–Region 10]

Air Plan Approvals, Idaho: Logan Utah/Idaho $PM_{2.5}$ Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; supplemental.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to Idaho's State Implementation Plan (SIP) submitted in 2012 and 2014 to address Clean Air Act (CAA) requirements for the Idaho portion of the Logan, Utah-Idaho fine particulate matter ($PM_{2.5}$) nonattainment area (Logan UT-ID area). Based on newly available air quality monitoring data, the EPA is proposing to approve Idaho's attainment demonstration and approve Idaho's 2014 Motor Vehicle Emissions Budgets (MVEBs) as early progress budgets. Additionally, the EPA is proposing to conditionally approve Reasonable Further Progress (RFP), Quantitative Milestones (QMs), and revised MVEBs for the Idaho portion of the nonattainment area, based on Idaho's commitment to adopt and submit updates to these attainment plan elements within one year of the effective date of our final action.

DATES: Written comments must be received on or before July 3, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2015–0067 at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information, the disclosure of which is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Jeff Hunt, Air Planning Unit, Office of Air and Waste (OAW–150), Environmental Protection Agency, Region 10, 1200 Sixth Ave, Suite 900, Seattle, WA 98101; telephone number: (206) 553–0256; email address: *hunt.jeff@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we,'' ''us,'' or ''our'' is used, it is intended to refer to the EPA.

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I. Background
II. Proposed Action
III. Statutory and Executive Orders Review

I. Background

On October 17, 2006, the EPA strengthened the 24-hour $PM_{2.5}$ National Ambient Air Quality Standards (NAAQS) by lowering the numerical level of the NAAQS to 35 μg/m³ (71 FR 61144). Following promulgation of a new or revised NAAQS, the EPA is required by the CAA to promulgate designations for areas throughout the United States in accordance with section 107(d) of the CAA. On November 13, 2009, the EPA designated a portion of Franklin County, Idaho as part of the cross-boundary Logan UT-ID area for the 2006 24-hour $PM_{2.5}$ NAAQS. This designation requires Idaho to prepare and submit an attainment plan for the Idaho portion of the nonattainment area meeting applicable statutory and regulatory requirements and providing for attainment of the 2006 24-hour $PM_{2.5}$ NAAQS in the Logan UT-ID area (74 FR 58688). On December 14, 2012, the Idaho Department of Environmental Quality (IDEQ) submitted an attainment plan SIP submission developed to address attainment planning requirements for the Idaho portion of the Logan UT-ID area for the 2006 24-hour $PM_{2.5}$ NAAQS. On December 24, 2014, the IDEQ submitted a supplement to the 2012 SIP submission that included revised attainment demonstration modeling intended to show that the area would meet the December 31, 2015 attainment date specified in subpart 4, part D of title I of the CAA. The 2012 SIP submittal and 2014 amendment are hereinafter referred to as the Idaho attainment plan.

In a proposed rulemaking published October 27, 2016, the EPA proposed a partial approval and partial disapproval of the Idaho attainment plan with regard to specific requirements for attainment plans for the 2006 24-hour $PM_{2.5}$ NAAQS. Specifically, the EPA proposed to approve Idaho's woodstove

curtailment ordinances, burn bans, heating device restrictions, and woodstove change-out programs included in the Idaho attainment plan as meeting Reasonably Available Control Measures and Reasonably Available Control Technology (RACM/RACT) requirements for the Idaho portion of the Logan, UT-ID area (81 FR 74741). The EPA proposed to disapprove the attainment demonstration, contingency measures, RFP, QM, and MVEB elements of the Idaho attainment plan for the Idaho portion of the area. On January 4, 2017, the EPA finalized the approval of the RACM/RACT measures, finalized the disapproval of the contingency measures, and deferred action on the SIP submissions with respect to the attainment demonstration, RFP, QM, and MVEB requirements (82 FR 732). These deferred attainment plan elements are addressed in this proposed action.

In a separate proposed action published December 16, 2016, pertaining to whether the Logan, UT-ID area attained the 2006 24-hour $PM_{2.5}$ NAAQS, the EPA stated that the Logan, Utah Federal Reference Method (FRM) monitor relied upon for determining compliance with the $PM_{2.5}$ NAAQS did not have fully complete and valid 2015 data in accordance with 40 CFR part 58 (81 FR 91088). Based upon that incomplete data, the EPA proposed to determine that the area had failed to attain the NAAQS by December 31, 2015. However, since that time, the State of Utah and the EPA have examined data from the co-located Federal Equivalent Method (FEM) continuous $PM_{2.5}$ monitor in Logan, Utah, and the EPA has determined that data from this FEM monitor can be used to substitute for days without valid data at the FRM monitor in order to create a valid and complete data set for 2015.[1] This data, which is available in the docket, shows a 98th percentile value of 29 μg/m^3 for 2015, meeting the ''clean data'' criterion for a 1-year attainment date extension.[2] IDEQ requested that the EPA use the discretion allowed under CAA section 188(d) to grant a 1-year extension of the Moderate area attainment date for the Logan, UT-ID area, from December 31, 2015 to December 31, 2016, and requested a second 1-year extension based on 2016 monitoring data.[3] The State of Utah also requested two 1-year extensions of the Moderate area attainment date based on the validated 2015 air quality monitoring data and the newly available 2016 data.[4] The EPA will act separately on the 1-year extension requests.

The EPA's evaluation of the additional data now available for calendar year 2015 at the Logan, Utah monitors also affects the agency's prior evaluation of the Idaho attainment plan. Additionally, in a letter dated April 25, 2017, IDEQ committed to revising the Idaho attainment plan to address RFP, QM, and MVEB requirements by August 1, 2018. Based upon our evaluation of these two factors, the EPA is issuing this supplemental proposal to explain and take comment upon its revised analysis of Idaho's SIP submissions.

A. Attainment Demonstration

A key factor in our October 27, 2016 proposed disapproval of Idaho's attainment demonstration was that the 2013–2015 design value exceeded the level of the 2006 24-hour $PM_{2.5}$ NAAQS and air quality data available at that time was not available to establish that the 2015 98th percentile was below the standard, as necessary to qualify for a potential 1-year attainment date extension. Therefore, the EPA proposed to disapprove the modeled attainment demonstration portion of the Idaho attainment plan which indicated that the Logan, UT-ID area would attain the NAAQS by the December 31, 2015 attainment date (81 FR 74741, at page 74744).

The EPA's subsequent evaluation of the monitoring data indicates that the Logan, UT-ID area did meet the numerical level of the 24-hour $PM_{2.5}$ NAAQS in 2015, as projected in the modeled attainment demonstration portion of the Idaho attainment plan. The fact that the monitoring data confirms the State's projections in the attainment demonstration affects the EPA's evaluation of the attainment demonstration and supports a proposed approval rather than prior proposed disapproval.

In particular, the EPA's August 24, 2016, *Fine Particulate Matter National Ambient Air Quality Standards: State Implementation Plan Requirements,* Final Rule ($PM_{2.5}$ SIP Requirements Rule) provides that a state's modeled attainment demonstration needs to establish that an area will attain the NAAQS by the projected attainment date, but for purposes of modeling a state may elect to demonstrate that the area will meet the numerical level of the NAAQS the final year (81 FR 58010, at page 58054). The EPA authorizes this approach because of the potential availability of extensions of the attainment date under relevant provisions of the CAA. In other words, if ambient data show attainment-level concentrations in the final statutory attainment year, a state may be eligible for up to two 1-year extensions of the attainment date. See 40 CFR 51.1005. Using this provision, a state may be able to attain the NAAQS by the extended attainment date, even if the measured design value for an area does not meet the NAAQS by the end of the 6th calendar year after designation. For this reason, the EPA's $PM_{2.5}$ SIP Requirements Rule indicates that it is acceptable for a state to model air quality levels for the final statutory attainment year in which the area is required to attain the standard (in this case 2015).

In the Logan UT-ID area, both measured and modeled $PM_{2.5}$ concentrations in 2015 were consistent with meeting the numerical level of the NAAQS in both Utah and Idaho.[5] The EPA is therefore proposing to approve the attainment demonstration portion of the Idaho attainment plan on the basis that the attainment-level concentrations modeled for this area (based on the Idaho, Utah, and federal control measures already in place) are consistent with the updated 2015 monitoring data for the nonattainment area. We also note that the joint Idaho and Utah modeling included in Appendix D of the Idaho attainment plan followed applicable EPA modeling guidance in predicting that existing state and federal control measures to address motor vehicle, wood stove, and other emission sources would bring $PM_{2.5}$ concentrations below 35 μg/m^3 by 2015 in the Logan, UT-ID area. Because there is now valid and complete 2015 data confirming the projected modeling concentrations in Idaho's modeled attainment demonstration, the EPA is proposing to approve IDEQ's attainment demonstration.

B. RFP, QMs, and MVEBs

In our October 27, 2016 action, the EPA proposed to disapprove the Idaho attainment plan with respect to the RFP and QM requirements for the 2006 24-hour $PM_{2.5}$ NAAQS. The Idaho attainment plan did not address these attainment plan elements consistent with current requirements because it did not include QMs and did not

[1] See Memorandum from Joshua Rickard, ''Logan Utah $PM_{2.5}$ 2015 Design Value,'' May 8, 2017.

[2] See spreadsheet referred to in memorandum. This criterion is set forth in 40 CFR 51.1005(a)(ii).

[3] See letters dated December 15, 2015, February 26, 2016, and April 25, 2017.

[4] See letters dated May 1, 2017 and May 2, 2017.

[5] The Franklin County, Idaho monitor recorded a valid 2015 98th percentile of 18.8 μg/m^3. See *https://www.epa.gov/air-trends/air-quality-design-values#report.*

include any RFP analysis or plan, other than the modeling demonstration showing attainment by 2015 due to the control measures already in place. We noted, however, that, ''[i]f properly accounted for and specified in the SIP submittal, such reductions might be sufficient to provide the necessary demonstration of RFP for use in a quantitative milestones report.'' See 81 FR 74741, at page 74748. In addition, the EPA proposed to disapprove the MVEBs because at the time that notice was issued, air quality data indicated the area was not attaining the standard, and therefore MVEBs could not be considered consistent with the applicable requirements for reasonable further progress and attainment. See 40 CFR 93.118(e).

Following the October 27, 2016 proposed disapproval of the Idaho attainment plan, there have been two significant developments. First, the EPA has now evaluated additional monitoring data indicating that the Logan, UT-ID area met the numerical level of the 2006 24-hour $PM_{2.5}$ NAAQS in 2015. This fact affects the EPA's evaluation of the RFP, QM, and MVEB elements of the SIP submissions. Second, based on further evaluation of the issues, in an April 25, 2017 letter, the State of Idaho committed to make a SIP submission that will further address the RFP, QM, and MVEB requirements. Because the State has committed to address these requirements within one year in specific ways that the EPA considers appropriate, the EPA is now proposing a conditional approval of the Idaho attainment plan with respect to these requirements. Under section 110(k)(4) of the CAA, the EPA has authority to approve a SIP submission conditionally when a state commits to revise the submission to adopt specific enforceable measures by a date certain, but not later than one year after approval of the plan.

As discussed in the 2016 $PM_{2.5}$ SIP Requirements Rule, a state's attainment plan SIP submission must include an RFP plan or analysis that includes three components: (1) An implementation schedule for control measures on sources in the nonattainment area, (2) RFP projected emissions for each applicable quantitative milestone year, including emissions reductions, based on the anticipated control measure implementation schedule; and (3) an analysis that demonstrates that this schedule of aggregate emissions reductions achieves sufficient progress toward attainment between the applicable baseline year to the attainment year. In a letter dated April 25, 2017, Idaho committed to address the required elements discussed above. Specifically, the April 25, 2017 commitment letter contains an implementation schedule for control measures on sources in the nonattainment area and projected emissions reductions resulting from that implementation schedule. Accordingly, Idaho committed in the April 25, 2017 letter to make a SIP submission that will include an RFP plan or analysis that will explain how the existing measures meet the annual RFP requirement and include appropriate QMs for the purposes of establishing that the RFP requirement is met, consistent with subpart 4 requirements.

In our October 27, 2016 proposal, the EPA noted that Idaho relied on the control measures included in the Idaho attainment plan and already approved into the SIP, in addition to the Utah control measures and ongoing motor vehicle fleet turnover with cleaner cars, to provide the emissions reductions projected to bring the area into attainment by 2015. In particular, IDEQ's modeling used the EPA's Motor Vehicle Emission Simulator (MOVES2010a) model to project emissions reductions of 43% NO_X and 37% VOC between a baseline year of 2008 and the end of 2014. Idaho indicated that these projected reductions, primarily from ongoing motor vehicle fleet turnover of Idaho vehicles, would be expected to provide large and generally linear emissions reductions.[6] Idaho regulates both NO_X and VOC as precursors for purposes of the 2006 24-hour $PM_{2.5}$ NAAQS in the Logan, UT-ID area, so these reductions are appropriate for purposes of the RFP requirement.

We noted in the proposal that, ''[i]f properly accounted for and specified in the SIP submittal, such reductions might be sufficient to provide the necessary demonstration of RFP for use in a quantitative milestones report.'' See 81 FR 74741, at page 74748. In response, Idaho included the following information in the April 25, 2017 commitment letter: The woodstove curtailment and burn ban ordinances were adopted and in place during the summer and fall of 2012, with estimated emission reductions of 0.06 tons per winter day (tpwd) direct $PM_{2.5}$, 0.009 tpwd nitrogen oxides (NO_X), and 0.078 tpwd volatile organic compounds (VOC). The woodstove change-out programs conducted in 2006–2007, 2011–2012, and 2013–2014 had already commenced and achieved sustained and quantifiable emission reductions of 8.04 tons per year (tpy) $PM_{2.5}$, 0.47 tpy NO_X, and 18.57 tpy VOC. In addition, the IDEQ negotiated road sanding agreements effective July 16, 2012 and October 25, 2012, with quantified emissions reductions of 0.10 tpwd direct $PM_{2.5}$ in reentrained road dust emissions.[7] Again, each of these measures are projected to attain quantifiable reductions of emissions of the relevant pollutants in the Idaho portion of the Logan, UT-ID area that Idaho could thus use to show reasonable progress towards attainment by 2015, and Idaho could use documentation of the implementation of these measures to meet the QM requirement, *e.g.,* the QM for the first 3-year quantitative milestone period from 2014 to 2017.

With respect to QMs, the 2016 $PM_{2.5}$ SIP Requirements Rule requires that the attainment plan contain quantitative milestones to be achieved by the milestone dates that provide for objective evaluation of reasonable further progress toward timely attainment. For a Moderate area plan such as that at issue in this proposed action, quantitative milestones are required for years 4.5 (year 2014) and 7.5 (year 2017) after the December 2009 effective date of designation. The 2016 $PM_{2.5}$ SIP Requirements Rule states that the quantitative milestones contained in the attainment plan for a Moderate nonattainment area should be constructed such that they can be tracked, quantified and/or measured adequately in order for a state to meet its milestone reporting obligations, which are due 90 days after a given milestone date. The EPA suggested possible metrics that ''support and demonstrate how the overall quantitative milestones identified for an area may be met, such as percent implementation of control strategies, percent compliance with implemented control measures, and adherence to a compliance schedule.'' This list was not exclusive or exhaustive but reflected the EPA's view that the purpose of the quantitative milestone requirement is to provide an objective way to determine whether the area is making the necessary progress towards attainment by the applicable attainment date, *i.e.,* to verify that the separate RFP requirement is met.

Idaho's April 25, 2017 commitment letter describes Idaho's plan for making a SIP submission that will include QMs in the attainment plan for the Logan, UT-ID area. This commitment presents Idaho's approach for revising the attainment plan to include a detailed implementation schedule, estimated

[6] See section 5.5.2 of Idaho's 2012 SIP revision.

[7] See 2012 SIP submission, Appendix C, Road Dust Documentation.

emissions reductions, and potential 2017 QM reporting metrics for the control measures discussed above, including wood stove and open burning curtailment days, wood stove change-outs, and road sanding agreements. Idaho's proposed QMs are consistent with EPA's suggested metrics and will provide an objective way to determine whether the area is making necessary progress towards attainment. Therefore, the commitment letter demonstrates that the State will, within one year of EPA's finalization, revise the Idaho attainment plan to satisfy the QM requirement.[8]

Lastly, with respect to MVEBs, Idaho calculated projected 2014 emission budgets based on the former subpart 1 attainment deadline of December 2014. On April 25, 2017, Idaho requested that the EPA approve the submitted 2014 MVEBs as early progress budgets.[9] We have concluded that the submitted budgets are consistent with making progress toward attaining the 2006 $PM_{2.5}$ NAAQS by December 31, 2015, because the budgets show reduced emissions from the motor vehicle sector over time. Therefore, we are proposing approval of the submitted 2014 MVEBs as early progress budgets. We are also proposing to conditionally approve Idaho's commitment to submit MVEBs for the 2015 attainment year.

II. Proposed Action

For the reasons discussed above, the EPA is proposing to approve the attainment demonstration in the Idaho attainment plan for the Idaho portion of the Logan UT-ID area. The EPA is also proposing to approve the 2014 MVEBs as early progress budgets, in that they are consistent with making progress toward attainment of the 2006 $PM_{2.5}$ NAAQS by December 31, 2015. Lastly, the EPA is proposing to conditionally approve RFP, QMs, and revised MVEBs in the Idaho attainment plan, based on IDEQ's April 25, 2017 commitment to adopt and submit updated plan elements to meet these requirements. Under a conditional approval, the State must adopt and submit the specific revisions it has committed to by a date certain but not later than within one year of the EPA's finalization.[10] If the EPA fully approves the submittal of the revisions specified in the commitment letter, the conditional nature of the approval would be removed and the submittal would become fully approved. If the State does not submit these revisions by a date certain within one year of final action, or if the EPA finds the State's revisions to be incomplete, or EPA disapproves the State's revisions, a conditional approval will convert to a disapproval. If any of these occur and the EPA's conditional approval converts to a disapproval, that will constitute a disapproval of a required plan element under part D of title I of the Act, which starts an 18-month clock for sanctions, see section 179(a)(2), and the two-year clock for a Federal Implementation Plan (FIP), see CAA section 110(c)(1)(B).

III. Statutory and Executive Orders Review

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because this action does not involve technical standards; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

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

Dated: May 15, 2017.

Michelle L. Pirzadeh,

Acting Regional Administrator, Region 10.

[FR Doc. 2017–11226 Filed 5–31–17; 8:45 am]

BILLING CODE 6560–50–P

[8] Our confidence in Idaho's ability to expeditiously revise the Idaho attainment plan to include valid QMs is bolstered by the information the State submitted in a February 26, 2016 letter. Specifically, the February 26, 2016 letter provides a list of all woodstove and open burning curtailment days that have occurred in the Idaho portion of the Logan, UT-ID area since the program was established, along with the public outreach materials and criteria used in forecasting curtailment days. The letter also gives a listing of all woodstove change-outs conducted in the area to date and quantifies the estimated emission reductions achieved through those change-outs since 2006. Lastly, the letter details compliance with the road sanding agreements documenting the amount of sand and salt used by Franklin County Road and Bridge verifying that the local agency has met its obligations since these agreements were put in place in 2012.

[9] Early progress budgets for $PM_{2.5}$ areas were discussed in the July 1, 2004 transportation conformity final rule. (*See* 69 FR 40030–1.)

[10] In IDEQ's April 25, 2017 commitment letter, IDEQ committed to a date certain to submit revisions by August 1, 2018, which we anticipate will be within one year of the effective date of final action.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2017–0152; FRL–9962–45–Region 3]

Air Plan Approval; Delaware; Infrastructure Requirements for the 2012 Fine Particulate Matter Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve

portions of a state implementation plan (SIP) revision submittal from the State of Delaware pursuant to the Clean Air Act (CAA). Whenever new or revised national ambient air quality standards (NAAQS) are promulgated, the CAA requires states to submit a plan for the implementation, maintenance, and enforcement of such NAAQS. The plan is required to address basic program elements, including, but not limited to, regulatory structure, monitoring, modeling, legal authority, and adequate resources necessary to assure attainment and maintenance of the standards. These elements are referred to as infrastructure requirements. Delaware made a SIP submittal to address the infrastructure requirements for the 2012 fine particulate matter ($PM_{2.5}$) NAAQS. This action proposes to approve portions of this submittal pursuant to section 110 of the CAA. EPA is not proposing any action on the portion of the submittal which addresses interstate transport of emissions and intends to take later separate action on this portion.

DATES: Written comments must be received on or before July 3, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2017–0152 at *http://www.regulations.gov,* or via email to *rehn.brian@epa.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Gavin Huang, (215) 814–2042, or by email at *huang.gavin@epa.gov.*

SUPPLEMENTARY INFORMATION: On December 14, 2015, the State of Delaware, through the Delaware Department of Natural Resources and Environmental Control (DNREC), submitted a revision to its SIP to satisfy the requirements of section 110(a)(2) of the CAA for the 2012 $PM_{2.5}$ NAAQS.

I. Background

On July 18, 1997, EPA promulgated a new 24-hour and a new annual NAAQS for $PM_{2.5}$ (62 FR 38652). On October 17, 2006, EPA revised the NAAQS for $PM_{2.5}$, tightening the 24-hour $PM_{2.5}$ standard from 65 micrograms per cubic meter (μg/m³) to 35 μg/m³, and retaining the annual $PM_{2.5}$ NAAQS at 15 μg/m³ (71 FR 61144). Subsequently, on December 14, 2012, EPA revised the level of the health based (primary) annual $PM_{2.5}$ NAAQS to 12 μg/m³. *See* 78 FR 3086 (January 15, 2013).[1]

Pursuant to section 110(a)(1) of the CAA, states are required to submit a SIP revision to address the applicable requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS or within such shorter period as EPA may prescribe. Section 110(a)(2) requires states to address basic SIP elements to assure attainment and maintenance of the NAAQS—such as requirements for monitoring, basic program requirements, and legal authority. Section 110(a) imposes the obligation upon states to make a SIP submission to EPA for a new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances of each NAAQS and what is in each state's existing SIP. In particular, the data and analytical tools available at the time the state develops and submits the SIP revision for a new or revised NAAQS affect the content of the submission. The content of such SIP submission may also vary depending upon what provisions the state's existing SIP already contains.

Specifically, section 110(a)(1) provides the procedural and timing requirements for SIP submissions. Section 110(a)(2) lists specific elements that states must meet for infrastructure SIP requirements related to a newly established or revised NAAQS such as requirements for monitoring, basic program requirements, and legal authority that are designed to assure attainment and maintenance of the NAAQS.

II. Summary of SIP Revision and EPA Analysis

On December 14, 2015, EPA received a SIP revision submittal from DNREC in order to satisfy the requirements of section 110(a)(2) of the CAA for the 2012 $PM_{2.5}$ NAAQS. EPA reviewed the submittal and determined that it addressed the following infrastructure elements: Section 110(a)(2)(A), (B), (C), (D)(i)(I), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M) of the CAA. A detailed summary of EPA's review and rationale for approving Delaware's submittal may be found in the Technical Support Document (TSD) for this rulemaking action, which is available on line at *www.regulations.gov,* Docket ID Number EPA–R03–OAR–2017–0152. This rulemaking action does not include any proposed action on section 110(a)(2)(I) of the CAA which pertains to the nonattainment requirements of part D, title I of the CAA, because this element is not required to be submitted by the 3-year submission deadline of section 110(a)(1) of the CAA, and will be addressed in a separate process if necessary.

Although Delaware's December 14, 2015 SIP submission contained provisions to address section 110(a)(2)(D)(i)(I) of the CAA, EPA is not proposing any action on the portion of the December 14, 2015 submittal which addresses section 110(a)(2)(D)(i)(I) regarding the interstate transport of emissions. EPA intends to take later separate action on this portion of Delaware's December 14, 2015 submittal. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

III. Proposed Action

EPA is proposing to approve the portions of Delaware's December 14, 2015 SIP revision which address for the following elements of section 110(a)(2) of the CAA for the 2012 $PM_{2.5}$ NAAQS: (A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). Delaware's December 14, 2015 SIP revision addressing 110(a)(2)(A–C), (D)(i)(II) and (D)(ii), (E–H), and (J–M) provides the basic program elements specified in section 110(a)(2) of the CAA necessary to implement, maintain, and enforce the 2012 $PM_{2.5}$ NAAQS. EPA will take separate action, at a future date, on the portion of the December 14, 2015 SIP revision addressing section 110(a)(2)(D)(i)(I) (interstate transport of

[1] In EPA's 2012 $PM_{2.5}$ NAAQS revision, EPA left unchanged the existing welfare (secondary) standards for $PM_{2.5}$ to address particulate matter (PM) related effects such as visibility impairment, ecological effects, damage to materials and climate impacts. This includes a secondary annual standard of 15 μg/m³ and a 24-hour standard of 35 μg/m³.

emissions) for the 2012 $PM_{2.5}$ NAAQS. This proposed rulemaking action does not include action on section 110(a)(2)(I) of the CAA which pertains to the nonattainment planning requirements of part D, title I of the CAA, because this element is not required to be submitted by the 3-year submission deadline of section 110(a)(1) of the CAA, and will be addressed in a separate process if necessary.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L 104–4);
- does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule to approve portions of Delaware's December 14, 2015 SIP for section 110(a)(2) infrastructure requirements for the 2012 $PM_{2.5}$ NAAQS does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: April 26, 2017.

John A. Armstead,

Acting Regional Administrator, Region III.

[FR Doc. 2017–11085 Filed 5–31–17; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2017–0255; FRL–9963–08-Region 9]

Air Plan Approval; Arizona; Stationary Sources; New Source Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of regulatory revisions to the Arizona Department of Environmental Quality (ADEQ) portion of the applicable state implementation plan (SIP) for the State of Arizona. These revisions are primarily intended to make corrections to ADEQ's SIP-approved rules for the issuance of New Source Review (NSR) permits for stationary sources, with a focus on preconstruction permit requirements under the Clean Air Act (CAA or Act) for major sources and major modifications. On November 2, 2015, we took final action on a SIP submittal from ADEQ that significantly updated ADEQ's SIP-approved NSR permitting program. However, that action identified several deficiencies in ADEQ's program that needed to be corrected. This proposed action will correct a substantial portion of the deficiencies we identified in that 2015 action. We are seeking comment on our proposed action and plan to follow with a final action.

DATES: Any comments must arrive by July 3, 2017.

ADDRESSES: Submit comments, identified by Docket ID No. EPA–R09–OAR–2017–0255, at *http://www.regulations.gov,* or via email to *R9airpermits@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited from *Regulations.gov.* For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Lisa Beckham, EPA Region 9, (415) 972–3811, *beckham.lisa@epa.gov.*

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

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Definitions

For this document, we are giving meaning to certain words or initials as follows:

(i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.

(ii) The initials *ADEQ* mean or refer to the Arizona Department of Environmental Quality.

(iii) The initials *A.R.S.* mean or refer to the Arizona Revised Statutes.

(iv) The initials *BACT* mean or refer to Best Available Control Technology.

(v) The initials *CFR* mean or refer to Code of Federal Regulations.

(vi) The words *EPA, we, us* or *our* mean or refer to the United States Environmental Protection Agency.

(vii) The initials *FIP* mean or refer to Federal Implementation Plan.

(viii) The initials *GHG* mean or refer to greenhouse gas.

(ix) The initials *IBR* mean or refer to incorporation by reference.

(x) The initials *NAAQS* mean or refer to National Ambient Air Quality Standards.

(xi) The initials *NA–NSR* mean or refer to Nonattainment New Source Review.

(xii) The initials *NSR* mean or refer to New Source Review.

(xiii) The initials *PAL* mean or refer to Plantwide Applicability Limits.

(xiv) The initials PM_{10} mean or refer to particulate matter with an aerodynamic diameter of less than or equal to 10 micrometers (coarse particulate matter).

(xv) The initials $PM_{2.5}$ mean or refer to particulate matter with an aerodynamic diameter of less than or equal to 2.5 micrometers (fine particulate matter).

(xvi) The initials *PSD* mean or refer to Prevention of Significant Deterioration.

(xvii) The initials *SIP* mean or refer to State Implementation Plan.

(xviii) The initials *SMC* mean or refer to significant monitoring concentration.

(xix) The words *State* or *Arizona* mean the State of Arizona, unless the context indicates otherwise.

(xx) The initials *TSD* mean or refer to the technical support document for this action.

(xxi) The initials *VOC* mean or refer to volatile organic compound.

I. The State's Submittals

A. Which rules did the State submit?

On April 28, 2017, ADEQ submitted regulatory revisions for the ADEQ portion of the Arizona SIP to the EPA. This SIP revision submittal, which is the subject of this action and is referred to herein as the ''April 2017 NSR submittal,'' contains revisions to ADEQ's preconstruction review and permitting program requirements. These revisions are intended to correct deficiencies in ADEQ's SIP-approved NSR program related to the requirements under both part C (prevention of significant deterioration or PSD) and part D (nonattainment new source review or NA–NSR) of title I of the Act, which apply to major stationary sources and major modifications of such sources. The preconstruction review and permitting programs are often collectively referred to as ''New Source Review'' or NSR.

Table 1 lists the rules in the April 2017 NSR submittal, all of which we are proposing for SIP approval in this action, along with the rules' effective dates under State law. The submitted rules are from the Arizona Administrative Code, Title 18—Environmental Quality, Chapter 2—Department of Environmental Quality—Air Pollution Control, Articles 1 through 4.

TABLE 1—SUBMITTED RULES PROPOSED FOR APPROVAL IN THIS ACTION

Rule	Title	State effective date
R18–2–101 (except 20)	Definitions	March 21, 2017.
R18–2–201	Particulate Matter: PM_{10} and $PM_{2.5}$	March 21, 2017.
R18–2–203	Ozone	March 21, 2017.
R18–2–217	Designation and Classification of Attainment Areas	March 21, 2017.
R18–2–218	Limitation of Pollutants in Classified Attainment Areas	March 21, 2017.
R18–2–330	Public Participation	March 21, 2017.
R18–2–332	Stack Height Limitation	March 21, 2017.
R18–2–401	Definitions	March 21, 2017.
R18–2–402	General	March 21, 2017.
R18–2–403	Permits for Sources Located in Nonattainment Areas	March 21, 2017.
R18–2–404	Offset Standards	March 21, 2017.
R18–2–405	Special Rule for Major Sources of VOC or Nitrogen Oxides in Ozone Nonattainment Areas Classified as Serious or Severe.	March 21, 2017.
R18–2–406	Permit Requirements for Sources Located in Attainment and Unclassifiable Areas	March 21, 2017.
R18–2–407	Air Quality Impact Analysis and Monitoring Requirements	March 21, 2017.
R18–2–408	Innovative Control Technology	March 21, 2017.
R18–2–410	Visibility and Air Quality Related Value Protection	March 21, 2017.
R18–2–411	Permit Requirements for Sources that Locate in Attainment or Unclassifiable Areas and Cause or Contribute to a Violation of Any National Ambient Air Quality Standard.	March 21, 2017.
R18–2–412	PALs	March 21, 2017.

On May 9, 2017, ADEQ's April 2017 NSR submittal was determined to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

The proposed revisions will apply to all areas and sources of Arizona where ADEQ has jurisdiction. Currently, ADEQ has permitting jurisdiction for the following stationary source categories in all areas of Arizona: smelting of metal ores, coal-fired electric generating stations, petroleum refineries, Portland cement plants, and portable sources. ADEQ also has permitting jurisdiction for major and minor sources in the following counties: Apache, Cochise, Coconino, Gila, Graham, Greenlee, La Paz, Mohave, Navajo, Santa Cruz, Yavapai, and Yuma. Finally, ADEQ has permitting jurisdiction over major sources in Pinal

County [1] and the Rosemont Copper Mine in Pima County.

B. Are there previous versions of the rules in the Arizona SIP?

Table 2 lists the existing rules in the Arizona SIP that would be superseded or removed from the Arizona SIP as part of our proposed action. If the EPA were to take final action as proposed herein, these rules generally would be replaced in the SIP by the submitted set of rules listed in Table 1.

TABLE 2—SIP RULES PROPOSED FOR REMOVAL FROM ARIZONA SIP IN THIS ACTION

Rule	Title	EPA approval date	Federal Register citation
R9–3–301(I) and (K)	Installation Permits: General	05/05/1982	47 FR 19326
R9–3–304(H)	Installation Permits in Attainment Areas	05/03/1983	48 FR 19878
R18–2–101	Definitions	11/23/2014	79 FR 56655
		11/2/2015	80 FR 67319
R18–2–201	Particulate Matter: PM_{10} and $PM_{2.5}$	09/23/2014	79 FR 56655
R18–2–203	Ozone: One-hour Standard and Eight-hour Averaged Standard	09/23/2014	79 FR 56655
R18–2–217	Designation and Classification of Attainment Areas	11/2/2015	80 FR 67319
R18–2–218	Limitation of Pollutants in Classified Attainment Areas	11/2/2015	80 FR 67319
R18–2–330	Public Participation	11/2/2015	80 FR 67319
R18–2–332	Stack Height Limitation	11/2/2015	80 FR 67319
R18–2–401	Definitions	11/2/2015	80 FR 67319
R18–2–402	General	11/2/2015	80 FR 67319
R18–2–403	Permits for Sources Located in Nonattainment Areas	11/2/2015	80 FR 67319
R18–2–404	Offset Standards	11/2/2015	80 FR 67319
R18–2–405	Special Rule for Major Sources of VOC or Nitrogen Oxides in Ozone Non-attainment Areas Classified as Serious or Severe.	11/2/2015	80 FR 67319
R18–2–406	Permit Requirements for Sources Located in Attainment and Unclassifiable Areas.	11/2/2015	80 FR 67319
R18–2–407	Air Quality Impact Analysis and Monitoring Requirements	11/2/2015	80 FR 67319
R18–2–412	PALs	11/2/2015	80 FR 67319

C. What is the purpose of the EPA's proposed rule?

The purpose of this proposed rule is to propose to update the Arizona SIP by approving the rule revisions submitted in ADEQ's 2017 NSR submittal, to discuss the basis for our proposed approval action, and to provide notice of and seek public comment on our proposed action. We present our evaluation of the rules submitted by ADEQ in its April 2017 NSR submittal, which are identified in Table 1 above, as compared with applicable requirements under the CAA and EPA regulations, particularly with respect to the PSD and NA–NSR requirements applicable to major sources and major modifications. We provide our reasoning in general terms below, and include our more detailed analysis in the Technical Support Document for this action (TSD), which is available in the docket for this proposed rulemaking. This proposed rule also discusses our proposal to approve ADEQ's request that we remove older, outdated rules from the Arizona SIP and our rationale for doing so.

II. The EPA's Evaluation

A. How is the EPA evaluating the State's rules?

The EPA has reviewed the provisions submitted for SIP approval by ADEQ that are the subject of this action for compliance with the CAA's general requirements for SIPs in CAA section 110(a)(2), EPA's regulations for stationary source permitting programs in 40 CFR part 51, subpart I, and the CAA requirements for SIP revisions in CAA section 110(l) and 193.

With respect to procedures, CAA sections 110(a) and 110(l) require that revisions to a SIP be adopted by the state after reasonable notice and public hearing. EPA has promulgated specific procedural requirements for SIP revisions in 40 CFR part 51, subpart F. These requirements include publication of notices, by prominent advertisement in the relevant geographic area, a public comment period of at least 30 days, and an opportunity for a public hearing. Based on our review of the public process documentation included in the April 2017 NSR submittal, we find that ADEQ has provided sufficient evidence of public notice and opportunity for comment and public hearing prior to adoption and submittal of these rules to the EPA.

With respect to substantive requirements, we have reviewed the ADEQ provisions that are the subject of our current action in accordance with the CAA and applicable regulatory requirements, focusing primarily on those that apply to PSD permit programs under part C of title I of the Act and Nonattainment NSR permit programs under part D of title I of the Act. The submitted rules are intended to correct a substantial portion of the deficiencies in ADEQ's NSR program that we identified in our November 2, 2015 final action and a separate June 22, 2016 final action issued by the EPA, discussed below.

On November 2, 2015 (80 FR 67319), the EPA published a final limited approval and limited disapproval of revisions to the ADEQ portion of the Arizona SIP (referred to hereinafter as ''our 2015 NSR action'').[2] Our 2015 NSR action updated ADEQ's SIP-approved NSR permitting program, but identified deficiencies that need to be corrected for the EPA to grant full approval of ADEQ's NSR program. Thus, our 2015 NSR action would trigger an obligation on the EPA to promulgate a Federal Implementation Plan (FIP) to address the deficiencies that were the basis for our limited disapproval action unless the State of Arizona corrects the

[1] ADEQ has delegated implementation of the major source program to the Pinal County Air Quality Control District.

[2] We also finalized other actions, which included a partial disapproval related to the fine particulate matter ($PM_{2.5}$) significant monitoring concentration, and limited approvals, without corresponding limited disapprovals, related to section 189(e) of the Act.

deficiencies, and the EPA approves the related plan revisions, within two years of that final action. In addition, to avoid sanctions under section 179 of the Act, ADEQ has 18 months from December 2, 2015, the effective date of our 2015 NSR action, to correct those deficiencies related to part D of title I of the Act.

On June 22, 2016 (81 FR 40525), the EPA also published a separate but related final limited disapproval action for ADEQ's NA–NSR program, as ADEQ's program did not fully address fine particulate matter ($PM_{2.5}$) precursors as required by section 189(e) of the Act (referred to hereinafter as ''our 2016 $PM_{2.5}$ precursor action''). This action triggered an obligation on the EPA to promulgate a FIP to address this deficiency unless the State of Arizona corrects the deficiency, and the EPA approves the related plan revisions, within two years of the final action. In addition, to avoid sanctions under section 179 of the Act, ADEQ has 18 months from the July 22, 2016 effective date of our 2016 $PM_{2.5}$ precursor action to correct the deficiency as it relates to part D of title I of the Act.

B. Do the rules meet the evaluation criteria?

Please see our 2015 NSR action, including our proposed action on March 18, 2015 (80 FR 14044), for a detailed discussion of the approval criteria for the NSR program and how ADEQ's NSR rules reviewed in that action generally meet the approval criteria despite certain deficiencies that require correction for the EPA to fully approve ADEQ's NSR program. In this action, we are focusing our review on the revisions that ADEQ made to correct the deficiencies we identified in our 2015 NSR action and our 2016 $PM_{2.5}$ precursor action. We also reviewed other revisions ADEQ made in the rules submitted in ADEQ's April 2017 NSR action to ensure that the revised language was consistent with applicable requirements of the Act and EPA regulations.

We are proposing approval of ADEQ's 2017 NSR submittal because it would correct numerous deficiencies and is otherwise consistent with the requirements for NSR programs and the Act. If approved, this action would not correct *all* the deficiencies in ADEQ's NSR program previously identified by the EPA, but it would correct those deficiencies that would potentially lead to sanctions under section 179 of the Act because of our 2015 NSR action. ADEQ expects to correct the remaining deficiencies in a subsequent SIP submittal. Our detailed analysis of ADEQ's 2017 NSR submittal is provided in the TSD for this action. Here we briefly discuss the previously identified deficiencies that this action, if finalized, would correct.

1. Deficiencies Corrected Related to Public Availability of Information

In our 2015 NSR action, we found that ADEQ's NSR program did not ensure, for all sources subject to NSR review, that certain requirements related to public availability of information were met. Specifically, ADEQ's program did not ensure that the information submitted by the owner or operator and ADEQ's analysis of effects of air quality would be available for public inspection in at least one location in the affected area. See 40 CFR 51.161(b)(1). To address this deficiency, ADEQ revised its public notice requirements to ensure that the necessary documents will be available for public inspection in the ''area affected'' by the action, including the Director's analysis of the effects on ambient air quality. See revised R18–2–330(D) and (F).

2. Deficiencies Corrected Related to Stack Height Provisions

Regarding requirements for stack heights and good engineering practice, in our 2015 NSR action, we found that ADEQ's NSR program did not adequately address the following requirements. First, we found that ADEQ's NSR program did not meet the public hearing requirements in 40 CFR 51.164 and 51.118(a) because the referenced procedures were not in the SIP or submitted for SIP approval. ADEQ addressed this issue by revising R18–2–332 to reference the SIP-approved public notice requirements in R18–2–330. See revised R18–2–332(E). We found that ADEQ's rules did not contain language that met the exception to the stack height provisions provided in 40 CFR 51.118(b). In addition, R18–2–332 incorrectly referenced July 1, 1975 instead of July 1, 1957. ADEQ's current SIP submittal has corrected these deficiencies; see revised R18–2–332(B)(1) and (B)(2). We also determined that ADEQ's NSR program did not contain a requirement that owners or operators seeking to rely on the equation in 40 CFR 51.100(ii)(2)(i) produce evidence that the equation was relied on in establishing an emission limitation. ADEQ's currently submitted rules have added this requirement; see revised R18–2–332(C)(2)(a). Finally, ADEQ's NSR program previously contained a provision at R18–2–332(D) which provided additional provisions for sources ''seeking credit because of plume impaction which results in concentrations in violation of national ambient air quality standards or applicable maximum allowable increases.'' This provision is not contained in the federal regulations and appeared to allow for the use of stack heights beyond good engineering practice (GEP) stack height, as defined in 40 CFR 51.100(ii), which we identified as a deficiency in our 2015 NSR action. ADEQ has now addressed this deficiency by removing this provision from R18–2–332.

3. Deficiencies Corrected Related to the CAA NA–NSR Program

In our 2015 NSR action, we found that ADEQ's NSR program often referred to Articles 9 and/or 11 of ADEQ's regulations where the federal regulations refer to 40 CFR part 60, 61, or 63; or, similarly, sections 111 or 112 of the Act (see 40 CFR 51.165(a)(1)(xiii)—lowest achievable emission rate, and (a)(1)(xl)—best available control technology).[3] Articles 9 and 11 are where ADEQ incorporates by reference the federal regulations in 40 CFR parts 60, 61, and 63 (which the EPA implements under sections 111 and 112 of the Act). However, these Articles were not in the SIP, had not been submitted for SIP approval, and did not necessarily contain provisions equivalent to *all* the subparts in parts 60, 61, and 63. In its current submittal, ADEQ has revised its rules to remove the references to Article 9 and 11 and instead reference the requirements in 40 CFR part 60, 61, or 63; sections 111 and 112; and/or the new source performance standard or national emission standards for hazardous air pollutants. See the revised R18–2–101(21), R18–2–401(11) and R18–2–406(A)(4).

We also determined in our 2015 NSR action that ADEQ's SIP-approved NSR rules governing nonattainment NSR contained several definitions that were not at least as stringent as the corresponding federal definition. In its April 2017 NSR submittal, ADEQ has revised its definitions for consistency with the federal definitions in 40 CFR 51.165(a)(1). Specifically, ADEQ corrected the definitions for *stationary source* in revised R18–2–101(140), *major stationary source* in revised R18–2–401(13), *net emissions increase* in revised R18–2–101(88), *significant* in revised R18–2–101(131) and R18–2–405(B), *allowable emissions* in revised R18–2–101(13), *federally enforceable* in

[3] Our 2015 NSR action also identified the definition for ''regulated NSR pollutant'' in 40 CFR 51.165(a)(1)(xxxvii) as being part of this deficiency. However, upon further review, that determination was in error as the federal definition does not reference part 60, 61, 63 or sections 111 and 112 of the Act.

revised R18–2–101(53), *regulated NSR pollutant* in revised R18–2–101(122), and *projected actual emissions* in revised R18–2–401(23).

40 CFR 51.165(a)(3)(ii)(G) requires that credit for emission reductions can be claimed only to the extent that the reviewing authority has not relied on it in issuing any permit under regulations approved pursuant to 40 CFR part 51, subpart I, or the state has not relied on it in demonstration of attainment or reasonable further progress. In our 2015 NSR action, we found that ADEQ's NSR program generally addresses this requirement at R18–2–404(H), but also needed to include references to minor NSR requirements, which are to be approved as part of ADEQ's NSR regulations under subpart I. In its April 2017 NSR submittal, ADEQ added a reference to its minor NSR rule R18–2–334, but not its registration program in R18–2–302.01. We determined that this is acceptable as sources in the registration program cannot use emission reductions to obtain a registration. That is, as ADEQ explained in its April 2017 NSR submittal, R18–2–302.01 does not provide for the imposition of minor NSR emission limits; rather, those limits would only be imposed on a source that was denied registration and required to obtain a permit meeting the minor NSR requirements (which are in R18–2–334). See revised R18–2–404(H).

We determined in our 2015 NSR action that ADEQ's NSR program contained an apparent typographical error in R18–2–402 by including an incorrect cross reference that did not meet the requirements of 40 CFR 51.165(a)(6) that ensures owners and operators document and maintain a record of certain applicability-related information. In its current submittal, ADEQ has corrected this error; see revised R18–2–402(F)(1)(c). Additionally, we previously found that ADEQ's NSR program did not require owners or operators to make information required under 40 CFR 51.165(a)(6) available for review upon request by the Director or the public, as required by 40 CFR 51.165(a)(7). ADEQ's current submittal has added this requirement; see revised R18–2–402(F)(7).

40 CFR 51.165(a)(9)(i) requires that increases in emissions be offset by reductions in emissions using a ratio of emission decreases to emission increases of at least 1 to 1. ADEQ's rules contained this requirement in R18–2–404, but we found in our 2015 NSR action that it could have been interpreted as establishing the ratio as increases to decreases, instead of decreases to increases. In addition, R18–2–404(A) referred to additional offset requirements in R18–2–405, but did not refer to the offset requirement in other parts of R18–2–404. ADEQ has corrected these deficiencies in its current SIP submittal; see revised R18–2–402(A).

40 CFR 51.165(a)(11) requires emission offsets to be obtained for the same regulated NSR pollutant, unless interprecursor offsetting is permitted for a particular pollutant, as further specified in the rule. We found in our 2015 NSR action that ADEQ's rules did not contain a specific requirement that offsets must be for the same regulated pollutant. In its April 2017 NSR submittal, ADEQ has clarified its rules consistent with 40 CFR 51.165(a)(11). See revised R18–2–404(A). In addition, ADEQ added an option to R18–2–404(A) to use interprecursor trading for ozone that is consistent with new revisions to 40 CFR 51.165(a)(11)(i).

40 CFR 51.165(b) requires that SIPs have a preconstruction program that satisfies the requirements of section 110(a)(2)(D)(i) of the Act for any new major stationary source or major modification that would locate in an attainment area, but would cause or contribute to a violation of a national ambient air quality standard (NAAQS) in any adjacent area. ADEQ's rules contained provisions for 40 CFR 51.165(b) in R18–2–406 that generally met this requirement. However, we found in our 2015 NSR action that ADEQ's regulations referred to the State's primary or secondary ambient air quality standards, and thus did not fully meet the requirements in 40 CFR 51.165(b)(1) and (2) as ADEQ's program did not ensure such standards would apply to areas outside of Arizona. In this current SIP submittal, ADEQ has addressed this issue by revising its program to instead refer to the NAAQS, which are applicable in all areas. These program requirements were removed from R18–2–406 and included in the new R18–2–411—Permit Requirements for Sources that Locate in Attainment or Unclassifiable Areas and Cause or Contribute to a Violation of any National Ambient Air Quality Standard. See revised R18–2–101(85), R18–2–401(27), and newly adopted R18–2–411.

In our 2015 NSR action, we found certain deficiencies in ADEQ's rules regarding requirements for Plantwide Applicability Limits (or Actuals PALs), which have been corrected in ADEQ's 2017 NSR submittal. First, ADEQ's provisions for PALs did not specify that modifications under a PAL do not need approval through the nonattainment major NSR program as required by 40 CFR 51.165(f)(1)(iii)(B), as only the PSD program was mentioned. ADEQ's current submittal has added language to include this provision, see revised R18–2–412(A)(2)(b). ADEQ's NA–NSR program did not contain a definition for *major emissions unit* as is required by 40 CFR 51.165(f)(2)(iv). ADEQ has now added this term at R18–2–401(12). 40 CFR 51.165(f)(9)—ADEQ's PAL provisions at R18–2–412(H) contained an incorrect reference, and R18–2–412(H)(5) used ''eliminated'' where the federal regulation uses ''established.'' ADEQ has now corrected these deficiencies; see revised R18–2–412(H)(4) and (H)(5). ADEQ's program also contained incorrect cross-references in meeting the requirements of 40 CFR 51.165(f)(10), as follows: PAL renewal provisions at R18–2–412(I)(1) needed to contain a reference to subsection (D) of R18–2–412 instead of (F), and R18–2-(I)(4)(a) needed to reference subsection (E) of R18–2–412. ADEQ's current SIP submittal shows that it has made these corrections; see revised R18–2–412(I)(1) and (I)(4)(a).

Finally, section 173(a)(4) of the Act requires that NA–NSR permit programs shall provide that permits to construct and operate may be issued if ''the Administrator has not determined that the applicable implementation plan is not being adequately implemented for the nonattainment area in which the proposed source is to be constructed or modified.'' We found in our 2015 NSR action that ADEQ's program did not contain this provision. ADEQ's current SIP submittal has added this requirement. See revised R18–2–403(A)(4).

4. Deficiencies Corrected Related to the CAA PSD Program

In our 2015 NSR action, we found that ADEQ's NSR rules often referred to Articles 9 and/or 11 of ADEQ's regulations where the federal regulations refer to 40 CFR parts 60, 61, or 63; or, similarly, sections 111 or 112 of the Act (see 40 CFR 51.166(b)(1)(iii)(*aa*), (b)(12), (b)(16)(i), (b)(17), (b)(47)(ii)(*c*), (b)(49)(ii), (i)(1)(ii)(*aa*), and (j)). Articles 9 and 11 are where ADEQ incorporates by reference the federal regulations in 40 CFR parts 60, 61, and 63 (which EPA implements under sections 111 and 112 of the Act). However, these Articles were not in the SIP, had not been submitted for SIP approval, and do not necessarily contain provisions equivalent to *all* the subparts in parts 60, 61, and 63. In its current SIP submittal, ADEQ has revised its rules to remove the references to Article 9 and 11 and instead reference the requirements in 40 CFR part 60, 61, or

63; and/or sections 111 and 112. See revised R18–2–101(53)(a), (124)(b); R18–2–401(11); R18–2–101(21); R18–2–402(G)(2); and R18–2–406(A)(4).

ADEQ adopted the PSD increments, or maximum allowable increases, in R18–2–218—*Limitation of Pollutants in Classified Attainment Areas.* However, we determined in our 2015 NSR action that in other rules ADEQ used ''increment'' or ''incremental ambient standard'' where it appeared the intent is to refer to the standards established in R18–2–218 and identified in ADEQ's rules as the ''maximum allowable increases.'' ADEQ's April 2017 NSR submittal addresses this issue by generally revising these references to ''maximum allowable increases.'' See revised R18–2–406(E), R18–2–412(G)(2)(b), R18–2–101(51).[4]

In our 2015 NSR action, we found that ADEQ's program did not ensure that sources subject to the PSD program would be reviewed for compliance with the 2012 $PM_{2.5}$ NAAQS of 12.0 μg/m^3, which was effective March 18, 2013 (see 78 FR 3086). See 40 CFR 51.166(b)(2)(iii)(i)(2), (b)(35), (d), (g)(3)(ii), (k), and (m)(1). This new NAAQS is required to be implemented for PSD sources (unless otherwise grandfathered under provisions at 40 CFR 51.166(i)(10)) beginning with the effective date of the NAAQS. In its April 2017 NSR submittal, ADEQ revised its program to more broadly reference the NAAQS, ensuring that this requirement is met. See the revised R18–2–218(F)(5)(b)(ii), R18–2–401(27), R18–2–406(A)(5) and R18–2–407(B).

In our 2015 NSR action, we noted that ADEQ's PSD program, at R18–2–406(A), contained a reference to rule R18–2–408, but R18–2–408 was not in the SIP and had not been submitted for SIP approval. ADEQ included R18–2–408 in the April 2017 NSR submittal, and we are proposing to approve it into the SIP.

In our 2015 NSR action, we determined that ADEQ's definitions applicable to the PSD program did not fully meet 40 CFR 51.166(b)(1), which requires each state plan to contain specific definitions for the PSD program. We have reviewed the revised definitions included in the current SIP submittal as compared with the federal PSD definitions in 40 CFR 51.166(b) and have found that ADEQ's submittal contains the definitions necessary to implement a PSD program. ADEQ made revisions that corrected the following definitions from 40 CFR 51.166(b): *Major stationary source*—see revised R18–2–101(75) and R18–2–401(13), *net emissions increase*—see revised R18–2–101(88), *stationary source*—see revised R18–2–101(140), m*ajor source baseline date*—see revised R18–2–218(B)(2)(b), *baseline area*—see revised R18–2–218(D), *allowable emissions*—see revised R18–2–101(13)(b), *federally enforceable*—see revised R18–2–101(53), *complete*—see revised R18–2–401(4), *significant*—see revised R18–2–101(131), *projected actual emissions*—see revised R18–2–401(23), and *regulated NSR pollutant*—see revised R18–2–101(124).

Regarding restrictions on area classifications (as Class I, II or III), we found in our 2015 NSR action that ADEQ's rules did not completely meet the requirements of 40 CFR 51.166(e) and section 162(a) of the Act, which require certain areas in existence on August 7, 1977 to be designated as Class I areas. ADEQ's rules impermissibly limited the consideration of boundary changes to such Class I areas to those made prior to March 12, 1993. ADEQ has now corrected this deficiency; see revised R18–2–217(B). ADEQ's rules also did not contain a provision consistent with the federal regulatory requirement for Class I area redesignations prior to August 7, 1977 at 40 CFR 51.166(e)(2). ADEQ has now corrected this deficiency, see revised R18–2–217(C). In addition, ADEQ's rules did not include a provision that is fully consistent with the requirements related to designating areas as Class II areas in 40 CFR 51.166(e)(3). ADEQ corrected this deficiency, see the revised R18–2–217(D).

Regarding requirements for exclusions from increment consumption, we determined in our 2015 NSR action that ADEQ's rules contained provisions that allowed for certain temporary emissions to be excluded from increment consumption that did not conform with the requirements in 40 CFR 51.166(f)(1)(v) and (f)(4). ADEQ needed to remove the Director's discretion to extend the time allowed for temporary emissions, and to broaden the reference to the State ambient air quality standards to apply to any air quality control region. In its current SIP submittal, ADEQ has corrected these deficiencies; see revised R18–2–218(F)(5).

Regarding requirements for redesignating areas as Class I, II or II, in our 2015 NSR action, we found that ADEQ's program incorrectly applied the provisions in 40 CFR 51.166(g)(1) only to attainment and unclassifiable areas. However, this portion of the PSD program applies to all areas of the State, including nonattainment areas. This deficiency has been corrected in the current SIP submittal; see revised R18–2–217(A). ADEQ's rules also previously contained provisions for allowing the State to redesignate certain areas under 40 CFR 51.166(g), but they did not adequately meet the public participation requirements in 40 CFR 51.166(g)(2)(i). ADEQ has now corrected this deficiency; see revised R18–2–217(F)(1). In addition, ADEQ's provisions for classifying areas to Class III did not clearly identify which areas may be designated as Class III as specified in 40 CFR 51.166(g)(3). ADEQ has now corrected this deficiency; see revised R18–2–217(G). Concerning 40 CFR 51.166(g)(3)(ii), ADEQ's rules improperly allowed for redesignation to be approved by the Governor's designee. This was inconsistent with 40 CFR 51.166(g)(3)(ii), which specifically requires the Governor's approval. ADEQ has now corrected this deficiency; see revised R18–2–217(F) and (G). In meeting the requirements of 40 CFR 51.166(g)(3)(iii), ADEQ rules R18–2–217 also contained a reference to ''maximum allowable concentration'' which incorrectly referenced R18–2–218, and referenced only the State's ambient air quality standards, which do not generally apply in areas outside of Arizona. In the current SIP submittal, ADEQ has corrected this deficiency; see revised R18–2–217(G)(4). Also, ADEQ's rules did not meet all the public notice requirements for redesignations under 40 CFR 51.166(g)(3)(iv). ADEQ's current submittal has corrected this deficiency; see revised R18–2–217(G).

At the time of our 2015 NSR action, ADEQ's rules provided an exemption for certain portable stationary sources with a prior permit that contains requirements equivalent to the PSD requirements in 40 CFR 51.166 (j) through (r). While this requirement was generally consistent with 40 CFR 51.166(i)(1)(iii), we found that ADEQ's rules impermissibly expanded this exemption to portable sources that have been issued nonattainment NSR permits and PAL permits. ADEQ has corrected this deficiency. See revised R18–2–406(E).

In our 2015 NSR action, we determined that ADEQ's rules did not clearly meet the requirements of 40 CFR 51.166(k)(1) because the relevant rule provision contained an ''or'' that could be interpreted as allowing a source to demonstrate it will not contribute to an increase above the significance levels in an adjacent nonattainment area *in lieu of* the demonstration required for the NAAQS and increments. In addition, R18–2–406(A)(5)(a) requires that a

[4] ADEQ also needs to correct this issue in R18–2–319(A)(3) and R18–2–320(B)(6) per our 2015 NSR action. While ADEQ has recently revised these rules to address this issue, they were not included in the April 2017 NSR submittal.

person applying for a PSD permit demonstrate that the project would not cause a violation of any maximum allowable increase over the baseline concentration in ''any attainment or unclassifiable area,'' but ADEQ's definition for ''attainment area'' in the SIP limited attainment areas to those ''in the state.'' ADEQ has corrected these deficiencies in its current SIP submittal. See revised R18–2–406(A)(5) and R18–2–101(19).

We determined in our 2015 NSR action that ADEQ's rules did not specifically address the requirements of 40 CFR 51.166(n)(1) and (3), which require that (1) the owner or operator of a proposed source or modification submit all information necessary to perform any analysis or make any determination required under procedures established in accordance with 40 CFR 51.166, and (2) upon request of the state, the owner or operator also provide specified information concerning air quality impacts and growth. ADEQ has corrected these deficiencies in its current SIP submittal; see revised R18–2–406(L).

Regarding requirements for sources impacting Class I areas, in our 2015 NSR action, we found that ADEQ's rules did not fully address the requirements in 40 CFR 51.166(p)(1) that relate to notifications to EPA, although existing SIP requirements in R9–3–304(H) partially addressed the requirements. ADEQ now has corrected this issue by submitting R18–2–410 for SIP approval, which contain these requirements at R18–2–410(C)(1). In addition, we found in our 2015 NSR action that while ADEQ's rules generally included the requirements of 40 CFR 51.166(p)(3) at R18–2–406, ADEQ's rule contained the phrase ''no significant adverse impacts,'' which is inconsistent with the federal regulation, which requires a demonstration of ''no adverse impacts.'' ADEQ has now corrected this deficiency; see revised R18–2–410(D). ADEQ's program also contained outdated maximum allowable increases for Class I areas that were not consistent with 40 CFR 51.166(p)(4). ADEQ has corrected this deficiency in the current SIP submittal; see revised R18–2–410(F).

In our 2015 NSR action, we found that certain PSD public participation requirements were not adequately addressed; these issues have been corrected in ADEQ's April 2017 NSR submittal. First, ADEQ's rules did not ensure that materials available during the public comment period are available in each region in which the proposed source would be constructed as required by 40 CFR 51.166(q)(2)(ii). ADEQ has now corrected this deficiency. See R18–2–330(D). ADEQ's rules also did not require ADEQ to notify the public of (1) the degree of increment consumption that is expected from the source or modification, or (2) the Director's preliminary determination, as required by 40 CFR 51.166(q)(2)(iii). ADEQ has corrected this deficiency. See revised R18–2–402(I). ADEQ's NSR program also did not require ADEQ to make public comments and the written notification of its final determination available in the same location as the preliminary documents as required by 40 CFR 51.166(q)(2)(vi) and (viii). ADEQ has also corrected this deficiency; see revised R18–2–402(I).

Regarding information required to be provided by the source, in our 2015 NSR action, we found that ADEQ's rules contained a typographical error, which did not ensure owners and operators would document and maintain records of certain applicability-related information as required by 40 CFR 51.166(r)(6). ADEQ corrected this deficiency; see revised R18–2–402(F)(6)(b). In addition, we found that ADEQ's submittal did not require owners or operators to make information required under 40 CFR 51.166(r)(6) available for review upon request by the Director or the public as required by 40 CFR 51.166(r)(7). ADEQ has corrected this deficiency in its current SIP submittal; see revised R18–2–402(F)(7).

In our 2015 NSR action, we identified a number of deficiencies in ADEQ's rules specifying the requirements for plantwide applicability limits (PALs), which have been corrected in its April 2015 NSR submittal. The issues are similar to the issues discusses above for PALs provisions for the NA–NSR program. First, ADEQ's program did not include a definition for major emissions unit as required by 40 CFR 51.166(w)(2)(iv). ADEQ has added the definition at R18–2–401(12). ADEQ's PAL provisions at R18–2–412(H) contained an incorrect reference, and R18–2–412(H)(5) used ''eliminated'' where the federal regulation uses ''established'', which prevented ADEQ's rules from meeting 40 CFR 51.166(w)(9). ADEQ has corrected these deficiencies; see revised R18–2–412(H)(4) and (5). ADEQ's PAL renewal provisions also contained incorrect references related to the requirements in 40 CFR 51.166(w)(10). ADEQ has now corrected those references; see revised R18–2–412(I)(1) and (4).

5. Other Revisions and Changes to the EPA's NSR Program and/or ADEQ's NSR Program

Our review of ADEQ's April 2017 NSR submittal also considered whether ADEQ's submittal was consistent with other changes made to federal NSR program requirements following our 2015 action. These changes include: The removal of vacated elements from the PSD program related to GHGs (August 19, 2015 at 80 FR 50199); revisions to the public noticing provisions for permitting (October 18, 2016 at 81 FR 71613); SIP requirements for $PM_{2.5}$ nonattainment areas (August 24, 2016 at 81 FR 58010); and the 2015 ozone standard (October 26, 2015 at 80 FR 65292). As discussed in further detail in our TSD, we have determined that ADEQ's program, as updated by the current SIP submittal, meets the required elements of these regulatory revisions except for one disapproval issue that is already the subject of a limited disapproval in our 2016 $PM_{2.5}$ precursor action. ADEQ intends to correct this deficiency in a separate SIP submittal. That is, no new disapproval issues have been identified that are associated with these changes to the federal NSR requirements.

Additionally, in our 2015 NSR action we finalized a partial disapproval of ADEQ's program related to the significant monitoring concentration (SMC) for $PM_{2.5}$ at 40 CFR 51.166(i)(5)(i)(*c*). Our disapproval action did not require ADEQ to revise its program, as our action prevented this portion of ADEQ's program from becoming approved into the SIP. However, in its current SIP submittal, ADEQ has updated its program to be consistent with the $PM_{2.5}$ SMC, and our current action includes our proposed approval of that change.

C. Review of Rules Requested To Be Removed From the SIP

In Table 2 of this preamble, we identified the ADEQ rules we are proposing to remove from the SIP as part of this action. Except for R9–2–301(I) and (K) and R9–3–304(H), the ADEQ rules we are proposing to replace are older versions of the ADEQ rules in the April 2017 NSR submittal. The older versions proposed for removal from the SIP contain deficiencies that ADEQ needed to correct. R9–3–301(I) and (K) and R9–3–304(H) are significantly older rules that were approved into the SIP in 1982 and 1983 that have since been repealed by ADEQ under State law, and the corresponding updated provisions are included in the April 2017 NSR submittal.

D. Remaining NSR Deficiencies

As discussed previously, this action does not address all the outstanding limited disapproval issues related to ADEQ's NSR program from our 2015 NSR action and our 2016 $PM_{2.5}$ precursor action. Our TSD provides a summary of the remaining limited disapproval issues. Our 2015 NSR action triggered a CAA obligation for EPA to promulgate a FIP unless Arizona submits, and we approve, plan revisions that correct the deficiencies within two years of the effective date of our final action. In addition, for deficiencies pertaining to requirements under part D of title I of the CAA our action also triggers sanctions unless ADEQ submits and we approve SIP revisions that correct the deficiencies before 18 months from our final action. The EPA has preliminarily determined that ADEQ's April 2017 NSR submittal addresses the deficiencies under part D of title I of the CAA identified as limited disapproval issues in our 2015 NSR action. ADEQ intends to make an additional submittal in order to the meet the FIP deadline of December 2, 2017 related to our 2015 action and the sanctions deadline of January 22, 2018 for our 2016 $PM_{2.5}$ precursor action.

E. Federal Implementation Plan for GHGs and ADEQ's PSD Program

ADEQ is currently subject to a FIP under the PSD program for GHGs because ADEQ has not adopted a PSD program for the regulation of GHGs. See 40 CFR 52.37. ADEQ's April 2017 NSR submittal is not intended to correct this program deficiency, as regulation of GHG emissions is currently prohibited under State law. See A.R.S. section 49–191. In our final action, we intend to move the codification of the FIP for GHGs for areas under the jurisdiction of ADEQ and certain other areas in Arizona from 40 CFR 52.37 to 40 CFR 52.144, where the State of Arizona's PSD program approval is listed. Previously, there were several other states subject to the FIP for GHGs, and EPA applied the FIP to all such states, collectively, at 40 CFR 52.37. See 75 FR 82246 on Dec. 30, 2010. However, the State of Arizona is the only area that remains subject to this GHG-specific FIP. Therefore, it is appropriate to move the FIP provision to the regulatory section where Arizona's PSD program is identified.

In addition, if we finalize our action, we also intend to update 40 CFR 51.144 to clarify that ADEQ has an approved PSD program, except for GHGs, under sections 160 through 165 of the Act.

F. The EPA's Recommendations To Further Improve the State's Rules

The TSD describes additional rule revisions that we recommend that ADEQ make the next time ADEQ modifies the rules.

G. Do the rules meet the evaluation criteria under Section 110(l) and 193 of the Clean Air Act?

Section 110(l) states: ''Each revision to an implementation plan submitted by a State under this chapter shall be adopted by such State after reasonable notice and public hearing. The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 7501 of this title), or any other applicable requirement of this chapter.''

With respect to the procedural requirements of CAA section 110(l), based on our review of the public process documentation included in ADEQ's April 2017 NSR submittal, we find that ADEQ has provided sufficient evidence of public notice and opportunity for comment and public hearings prior to adoption and submittal of these rules to the EPA. With respect to the substantive requirements of section 110(l), we have determined that our approval of the 2017 NSR submittal corrects numerous deficiencies in ADEQ's program and does not relax any existing requirements in the Arizona SIP.

For the reasons set forth above, we can approve the ADEQ SIP revision as proposed in this action under section 110(l) of the Act.

Section 193 of the Act, which was added by the Clean Air Act Amendments of 1990, includes a savings clause that provides, in pertinent part: ''No control requirement in effect, or required to be adopted by an order, settlement agreement, or plan in effect before November 15, 1990, in any area which is a nonattainment area for any air pollutant may be modified after November 15, 1990, in any manner unless the modification insures equivalent or greater emission reductions of such air pollutant.'' We find that the provisions included in ADEQ's 2017 NSR submittal would ensure equivalent or greater emission reductions as compared to the current SIP-approved NSR program in the nonattainment areas under ADEQ's jurisdiction. In addition, this action does not modify any pre-1990 requirements. Although we are proposing to remove two pre-1990 rules from the SIP—R9–3–301(I) and (K)—*Installation Permits: General* and R9–3–304(H)—*Installation Permits in Attainment Areas*—we are also proposing to approve newer, updated requirements into the SIP that are at least as stringent.

For the reasons set forth above, we can approve the submitted NSR program under section 193 of the Act.

H. Conclusion

For the reasons stated above, and as explained further in our TSD, we find that the rules in ADEQ's April 2017 NSR submittal satisfy the applicable CAA and regulatory requirements for PSD, and nonattainment NSR permit programs under CAA section 110(a)(2)(C) and parts C and D of title I of the Act, with the exception of one NA–NSR requirement relating to $PM_{2.5}$ precursors that has already been identified as a disapproval issue in a previous action and which ADEQ intends to address in a later SIP submittal. The submitted NSR rules also adequately address certain deficiencies we identified in our 2015 NSR action concerning specific requirements in 40 CFR 51.161 and 51.164 that were evaluated as part of this action. Our proposed approval is also consistent with section 110(l) and 193 of the Act. Accordingly, we are proposing to approve all the rules in ADEQ's April 2017 NSR submittal into the Arizona SIP. In addition, we are also proposing to remove the existing SIP-approved rules listed in Table 2 from the SIP, as these rules are outdated and mostly being superseded by our proposed action.

III. Public Comment and Proposed Action

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted rules into the Arizona SIP because we believe they fulfill all relevant requirements. Specifically, we are proposing approval of the new and amended ADEQ regulations listed in Table 1, above, as a revision to the ADEQ portion of the Arizona SIP. We are also proposing to remove from the Arizona SIP the existing rules listed in Table 2, as these rules are outdated and mostly being superseded by our proposed action.

We will accept comments from the public on this proposal until July 3, 2017. If we take final action to approve the submitted rules, our final action will incorporate these rules into the federally enforceable SIP.

IV. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the ADEQ rule listed in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through *www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the CAA, the EPA Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

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

Authority: 42 U.S.C. 7401 *et seq.*

Dated: May 16, 2017.

Alexis Strauss,

Acting Regional Administrator, Region IX.

[FR Doc. 2017–10946 Filed 5–31–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

46 CFR Parts 515, 520, 525, 530, 531, 532, 535, 540 and 565

[Docket No. 17–04]

RIN 3072–AC69

Regulatory Reform Initiative

AGENCY: Federal Maritime Commission.

ACTION: Notice of inquiry.

SUMMARY: The Federal Maritime Commission (FMC or Commission) is issuing this Inquiry to solicit information and comments in an effort to identify existing FMC regulations that are outdated, unnecessary, ineffective, eliminate jobs or inhibit job creation, impose costs that exceed benefits, or otherwise interfere with regulatory reform initiatives and policies. This action is taken in conjunction with Executive Order 13777, ''Enforcing the Regulatory Reform Agenda.''

DATES: Comments are due July 5, 2017.

ADDRESSES: You may submit comments by either of the following methods:

- *Email: secretary@fmc.gov.* Include in the subject line: ''Docket No. 17–04, Regulatory Reform Initiative.'' Comments should be attached to the email as a Microsoft Word or text-searchable PDF document. Only non-confidential comments and public versions of confidential comments should be submitted by email. Comments containing confidential information should not be submitted by email.
- *Mail:* Rachel E. Dickon, Assistant Secretary, Federal Maritime Commission, 800 North Capitol Street NW., Ste. 1046, Washington, DC 20573–0001.

Docket: For access to the docket to read background documents and comments received, go to the Commission's Electronic Reading Room at: *http://www.fmc.gov/17-04.*

Confidential Information: If your comments contain confidential information, you must submit the following:

- A transmittal letter requesting confidential treatment that identifies the specific information in the comments for which protection is sought and demonstrates that the information is a trade secret or other confidential research, development, or commercial information.
- A confidential copy of your comments, consisting of the complete filing with a cover page marked ''Confidential-Restricted,'' and the confidential material clearly marked on each page. You should submit the confidential copy to the Commission by mail.
- A public version of your comments with the confidential information excluded. The public version must state ''Public Version—confidential materials excluded'' on the cover page and on each affected page, and must clearly indicate any information withheld. You may submit the public version to the Commission by email or mail.

The Commission will provide confidential treatment for the identified confidential information to the extent allowed by law.

FOR FURTHER INFORMATION CONTACT: For questions regarding submitting comments or the treatment of confidential information, contact Rachel E. Dickon, Assistant Secretary, Federal Maritime Commission, 800 North Capitol Street NW., Ste. 1046, Washington, DC 20573–0001. *Phone:* (202) 523–5725. *Email: secretary@fmc.gov.* For all other questions, contact Karen V. Gregory, Managing Director,

Federal Maritime Commission, 800 North Capitol Street NW., Room 1018, Washington, DC 20573–0001. *Phone:* (202) 523–5800. *Email: omd@fmc.gov.*

SUPPLEMENTARY INFORMATION: On February 24, 2017, President Trump issued Executive Order 13777, Enforcing the Regulatory Reform Agenda (E.O. or E.O. 13777). 82 FR 12285 (March 1, 2017). This E.O. follows closely upon the President's previous E.O. concerning government regulations, E.O. 13771, Reducing Regulations and Controlling Regulatory Costs. 82 FR 9339 (February 3, 2017). Among other issues, E.O. 13777 directs the head of most Federal agencies to designate an agency official as its Regulatory Reform Officer (RRO), who will ''oversee the implementation of regulatory reform initiatives and policies to ensure that agencies effectively carry out regulatory reforms.'' Independent regulatory agencies such as the Commission are not subject to E.O. 13777, however they are encouraged to comply. OMB Memorandum M–17–23, Guidance on Regulatory Reform Accountability under Executive Order 13777, titled ''Enforcing the Regulatory Reform Agenda,'' issued April 28, 2017. On March 13, 2017, Acting Chairman Michael A. Khouri designated the agency's Managing Director, Karen V. Gregory, to serve as Regulatory Reform Officer.

E.O. 13777 directs Federal agencies subject to the E.O. to establish a Regulatory Reform Task Force (Task Force), consisting of the Agency RRO and other designated agency officials, which will evaluate existing regulations and make recommendations to the agency head concerning their repeal, replacement, or modification. The FMC's Task Force is charged with evaluating existing regulations to ''make recommendations to the agency head regarding their repeal, replacement, or modification.'' Further, the E.O. directs each Task Force to attempt to identify regulations that:

- Eliminate jobs, or inhibit job creation;
- are outdated, unnecessary, or ineffective;
- impose costs that exceed benefits; or
- create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies.

Within 90 days of the E.O., the Task Force is directed to provide a report to the agency head detailing the agency's progress towards the goals of implementing regulatory reform and identifying regulations for repeal, replacement, or modification.

The designation of a Regulatory Reform Officer and establishment of a Regulatory Reform Task Force is consistent with the intent of E.O. 13777 and E.O. 13771, the deregulatory spirit of the Shipping Act as amended by the Ocean Shipping Reform Act of 1998, and agency regulatory review initiatives ongoing since November 4, 2011. Building on Executive Orders of both the prior and current Administrations, the Commission is in the process of identifying those regulations that are the most ineffective, would be the easiest to repeal, and would lend themselves to a definitive timeline within the agency to move those items to a vote before the Commission.

Commission Action

The Commission invites comment and information from all members of the interested public, including ocean common carriers, marine terminal operators, ocean transportation intermediaries (OTIs), tariff publishers, surety companies, exporters, importers, and beneficial cargo owners, on ways to make the Commission's regulations less burdensome and more effective in achieving the objectives of the Shipping Act. The Commission specifically requests comments and current information or data on any (or all) of the following areas of FMC programs and regulations:

46 CFR Part 515 Licensing, Financial Responsibility Requirements and General Duties for Ocean Transportation Intermediaries

Under this program, the Commission reviews all applications for OTI Non-Vessel Operating Common Carrier (NVOCC) and OTI Ocean Freight Forwarder licenses and, after investigation, may issue a license to qualified applicants. After approval, OTI licenses are issued to applicants upon receipt of acceptable proof of financial responsibility, usually in the form of a surety bond. When appropriate, the Office recommends denial.

The Commission also manages the Regulated Persons Index as to parties licensed or registered with the Commission, receives and processes all OTI bonds and bond riders, registers foreign-based unlicensed NVOCCs, and provides for renewal of OTI licenses and registrations every three years.

Interested parties may wish to review the record and Final Rule in FMC Docket No. 13–05, *Amendments to Regulations Governing Ocean Transportation Intermediary Licensing and Financial Responsibility Requirements, and General Duties,* (Final Rule published at 80 FR 68721 (Nov. 5, 2015), as corrected at 81 FR 4592 (Jan. 27, 2016); rulemaking record available at *www.fmc.gov/13-05/*).

46 CFR Part 520 Carrier Automated Tariffs

Under this program, the Commission reviews carrier-published tariff systems under the accessibility and accuracy standards of the Shipping Act of 1984, reviews published tariff material for compliance with the Shipping Act's requirements, and responds to inquiries or issues that arise concerning tariff rates, rules and practices. The Commission also acts upon applications for special permission to deviate from tariff publishing rules and regulations and recommends Commission action on specific problems and concerns regarding the publication of tariffs.

The Commission publishes the location of all VOCC and NVOCC tariffs online.

46 CFR Part 525 Marine Terminal Operator Schedules

The Commission's program under 46 CFR part 525 provides that a Marine Terminal Operator (MTO) may make available a schedule of its rates, regulations, and practices to the public at its discretion. A complete and current set of schedules of rates, regulations, and practices must be maintained for five years, and made available to the Commission upon request.

MTOs who currently publish a schedule are identified through Form FMC–1 and the RPI. The Commission separately publishes the location of those terminal schedules available to the public.

46 CFR Part 530 Service Contracts

The Shipping Act allows ocean common carriers, either individually or through agreements, to negotiate and execute service contracts with one or more shippers or shippers' associations. Under service contracts, shippers make a commitment to provide a certain volume or portion of cargo over a fixed period of time and carriers commit to a specified rate and a defined service level. These contracts are filed confidentially with the Commission, and are maintained in the Commission's SERVCON system. A concise statement of certain contract essential terms, *i.e.,* commodity or commodities involved, minimum volume or portion, duration, and origin and destination port ranges, is required to be published in the carrier's tariffs.

The Commission monitors service contract filings for acts prohibited by the Shipping Act of 1984. Original

signed service contracts, amendments, and associated records must be maintained for five years from the termination of the contract and be made available to the Commission for audit upon request. An FMC-developed Web Service allows VOCCs to incorporate the filing of service contracts into their own contract management systems.

Interested parties may wish to review the record and Final Rule in FMC Docket No. 16–05, *Amendments to Regulations Governing Service Contracts and NVOCC Service Arrangements* (Final Rule published at 82 FR 16288 (Apr. 4, 2017); rulemaking record available at *http://www.fmc.gov/16-05/*).

46 CFR Part 531 NVOCC Service Arrangements

NVOCCs that are in compliance with the Commission's licensing and financial responsibility requirements (46 CFR part 515) may enter into an NVOCC Service Arrangement (NSA) with one or more NSA Shippers. An NSA is the NVOCC functional equivalent to a service contract. NSAs are filed confidentially with the Commission, and maintained in the FMC's SERVCON system.

Interested parties may wish to review the record and Final Rule in FMC Docket No. 16–05, *Amendments to Regulations Governing Service Contracts and NVOCC Service Arrangements* (Final Rule published at 82 FR 16288 (Apr. 4, 2017); rulemaking record available at *http://www.fmc.gov/16-05/*).

46 CFR Part 532 NVOCC Negotiated Rate Arrangements

NVOCCs may enter into an NVOCC Negotiated Rate Arrangement (NRA), which are exempt from certain tariff rate publication requirements. NRAs are written arrangements between a shipper and a licensed or registered NVOCC to provide specific transportation service for a stated cargo quantity, from origin to destination, on and after a stated date or within a defined time frame. If an NVOCC uses NRAs, it need not publish that rate in the tariff it makes available to the public. Unlike service contracts and NSAs, NRAs are not filed with the Commission, but are maintained in private electronic systems.

46 CFR Part 535 Ocean Common Carrier and Marine Terminal Operator Agreements Subject to the Shipping Act of 1984

The Commission reviews agreements involving ocean common carriers and marine terminal operators under the standards of the Shipping Act of 1984. More specifically, the Commission has responsibility for competition review and market analysis, focusing on activity that is substantially anticompetitive under the standards of section 6(g) of the Shipping Act of 1984. In this regard, the Commission administers a variety of monitoring programs and other research efforts, designed to track relevant competitive and economic activity in major U.S. trade lanes and apprise the Commission of emerging commercial trends and carrier pricing and service activities.

The Commission's agreement program activities consist of processing carrier and marine terminal operator agreement filings; making appropriate recommendations on the disposition of filed agreements, administering Monitoring Report filing requirements, and reviewing agreement meeting minutes and reports; and maintaining an agreement database that contains pertinent information on each ocean common carrier and marine terminal operator agreement filed with the Commission.

A rulemaking proceeding is currently pending as to agreement filing requirements and processing. See FMC Docket No. 16–04, *Ocean Common Carrier and Marine Terminal Operator Agreements Subject to the Shipping Act of 1984,* (Notice of Proposed Rulemaking published at 81 FR 53986 (Aug. 15, 2016); rulemaking record available at *www.fmc.gov/16-04/*). Parties are encouraged to review that rulemaking proceeding before filing comments to this Notice of Inquiry.

46 CFR Part 540 Passenger Vessel Financial Responsibility

Under this program, the Commission issues certificates to operators of passenger vessels (PVOs) with berths for 50 or more passengers and that embark passengers from U.S. ports. The Certificate (Performance) evidences that the PVO has on file with the Commission acceptable coverage to satisfy any liability incurred for nonperformance of transportation, such as when a PVO declares bankruptcy and fails to complete the cruises booked. The coverage is used to reimburse passengers when the PVO fails to perform cruises as contracted and has taken no further actions to refund passengers. The Certificate (Casualty) evidences that the PVO has acceptable coverage on file with the Commission to satisfy any liability incurred for death or injury during a cruise.

For additional information, please see the record and Final Rule in FMC Docket No. 11–16, *Passenger Vessel Operator Financial Responsibility Requirements for Nonperformance of Transportation,* (Final Rule published at 78 FR 13268 (Feb. 27, 2013); rulemaking record available at *www.fmc.gov/11-16/*).

46 CFR Part 565 Controlled Carriers

The Commission maintains a program of reviewing the reasonableness of the rates of carriers operating in the U.S.-foreign trades that are owned or controlled by foreign governments. Special regulatory oversight is exercised by the Commission to ensure that controlled carriers, whose marketplace decision-making can be influenced by foreign governmental priorities or by their access to non-market sources of capital, do not engage in unreasonable below-market pricing practices which could disrupt trade or harm privately-owned shipping companies.

The Commission periodically publishes an updated list of controlled carriers. [Please see *http://www.fmc.gov/about/controlled_carrier_list.aspx*]

With respect to any Part of the Commission's regulations set forth above, any individual regulation thereunder, or any section or subsection of such regulations, interested parties are asked to submit written comments that: (1) Identify the particular FMC regulation or program believed burdensome or ineffective; (2) provide details as to how the FMC program imposes unnecessary costs or burdens upon your business; and (3) indicate the manner by which the program or particular requirement should best be repealed, replaced, or modified. The FMC requests that comments be as specific as possible and include any supporting data or other helpful information in order to assist the Commission with its review.

By the Commission.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2017–11321 Filed 5–31–17; 8:45 am]

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Notices

Federal Register

Vol. 82, No. 104

Thursday, June 1, 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 AGRICULTURE

Office of Advocacy and Outreach (OAO)

Advisory Committee on Minority Farmers Request for Nominations

AGENCY: Office of Advocacy and Outreach, USDA.

ACTION: Solicitation for nominations.

SUMMARY: Pursuant to the Federal Advisory Committee Act (FACA, 5 U.S.C. App.), notice is hereby given that the Secretary of Agriculture is soliciting nominations for membership for the Advisory Committee on Minority Farmers (the ''Committee''). Interested persons may submit applications and nomination packages which can be downloaded at: *https://www.ocio.usda.gov/document/ad-755.*

DATES: Consideration will be given to nominations received on or before June 16, 2017.

FOR FURTHER INFORMATION CONTACT: Mrs. Kenya Nicholas, Designated Federal Official, USDA OAO, 1400 Independence Avenue SW., Room 520–A, Washington, DC 20250–0601; Telephone (202) 720–6350; Fax (202) 720–7704; Email: *kenya.nicholas@osec.usda.gov.*

ADDRESSES: Nomination packages may be sent by postal mail or commercial delivery to: Mrs. Kenya Nicholas, Designated Federal Official, USDA OAO, 1400 Independence Avenue SW., Room 520–A, Washington, DC 20250–0601. Nomination packages may also be faxed to (202) 720–7704.

SUPPLEMENTARY INFORMATION: On March 7, 2017, we published in the **Federal Register** (FR DOC# 2017–04395, Pages 12782–12783) a Notice of Solicitation for Membership.

Applications were required to be received on or before March 31, 2017. We are re-issuing this announcement to extend the submission period to June 16, 2017. Prior applicants are not required to reapply. We are soliciting nominations from interested organizations and individuals from among socially disadvantaged farming and ranching producers (industry); civil rights professionals; private nonprofit organizations; State, and Tribal agricultural agencies; academic institutions; commercial banking entities; trade associations; related enterprises that support socially disadvantaged producers; and higher education institutions that work with socially disadvantaged producers. An organization may nominate individuals from within or outside its membership; alternatively, an individual may nominate herself or himself. Nomination packages should include a nomination form along with a cover letter or resume that documents the nominee's background and experience. Nomination forms are available on the Internet at *https://www.ocio.usda.gov/document/ad-755* or may be obtained from Mrs. Kenya Nicholas at the email address or telephone number noted above.

The Secretary will fill up to 15 vacancies from among those organizations and individuals solicited, in order to obtain the broadest possible representation on the Committee. Equal opportunity practices, in line with the USDA policies, will be followed in all appointments to the Committee. To ensure that the recommendations of the Committee have taken into account the needs of the diverse groups served by the Department, membership should include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

Signed in Washington, DC, May 2, 2017.

Christian Obineme,

Associate Director, Office of Advocacy and Outreach.

[FR Doc. 2017–11216 Filed 5–31–17; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2017–0022]

Notice of Request for Renewal of an Approved Information Collection (Electronic Import Inspection)

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations, the Food Safety and Inspection Service (FSIS) is announcing its intention to request a renewal of the approved information collection regarding electronic import inspection. The approval for this information collection will expire on October 31, 2017. There are no changes to the existing information collection.

DATES: Submit comments on or before July 31, 2017.

ADDRESSES: FSIS invites interested persons to submit comments on this information collection. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.
- *Mail, including CD–ROMs, etc.:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Docket Clerk, Patriots Plaza 3, 1400 Independence Avenue SW., Mailstop 3782, Room 8–163A, Washington, DC 20250–3700.
- *Hand- or courier-delivered submittals:* Deliver to Patriots Plaza 3, 355 E Street SW., Room 8–163A, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2017–0022. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

Docket: For access to background documents or comments received, go to

the FSIS Docket Room at Patriots Plaza 3, 355 E Street SW., Room 8–164, Washington, DC 20250–3700 between 8:00 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW., Room 6065, South Building, Washington, DC 20250; (202) 720–5627.

SUPPLEMENTARY INFORMATION:

Title: Electronic Import Inspection.

OMB Number: 0583–0159.

Expiration Date of Approval: 10/31/2017.

Type of Request: Renewal of an approved information collection.

Abstract: FSIS has been delegated the authority to exercise the functions of the Secretary as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031, *et seq.*). These statutes provide that FSIS is to protect the public by verifying that meat, poultry, and egg products are safe, wholesome, not adulterated, and properly labeled and packaged.

FSIS is requesting a renewal of the approved information collection regarding electronic import inspection. The approval for this information collection will expire on October 31, 2017. There are no changes to the existing information collection.

FSIS requires foreign governments to submit information in addition to the foreign establishment certificate and the foreign inspection certificate in order for foreign establishments to be permitted to import product to the United States. The additional information required with the Foreign Establishment Certificate includes: the type of operation(s) conducted at the establishment (*e.g.,* slaughter, processing, storage, exporting warehouse); and the establishment's eligibility status (*e.g.,* new or relisted (if previously delisted)). Additionally, slaughter and processing establishment certifications must address the species and type of product(s) produced at the establishment and the process category.

The additional information required with the Foreign Inspection Certificate includes: The species used to produce the product and the source country and foreign establishment number, if the source materials originate from a country other than the exporting country; the product's description, including the process category, the product category, and the product group; address of the consignor; address of the consignee; the name and address of the exporter; the name and address of the importer; and, any additional information the Administrator requests to determine whether the product is eligible to be imported into the U.S.

Applicants that do not file this information electronically file can continue to submit paper applications to FSIS inspection personnel at an official import inspection establishment. The Import Inspection Application (FSIS Form 9540–1) must be provided to FSIS in advance of the presentation of the shipment at the official import inspection establishment.

FSIS also requires official import inspection establishments to develop, implement, and maintain written Sanitation Standard Operating Procedures (SSOPs), as provided in 9 CFR 416.11 through 416.17.

FSIS has made the following estimates based upon an information collection assessment:

Estimate of Burden: FSIS estimates that it will take respondents an average of 22.709 minutes to provide the additional information and maintain necessary documentation.

Respondents: Foreign establishments, foreign governments and import inspection establishments.

Estimated No. of Respondents: 150.

Estimated No. of Annual Responses per Respondent: 530.4.

Estimated Total Annual Burden on Respondents: 30,112 hours.

Copies of this information collection assessment can be obtained from Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence SW., 6065, South Building, Washington, DC 20250; (202) 720–5627.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSIS's functions, including whether the information will have practical utility; (b) the accuracy of FSIS's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both FSIS, at the addresses provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20253.

Responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS Web page located at: *http://www.fsis.usda.gov/federal-register.*

FSIS also will make copies of this publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The Update is available on the FSIS Web page. Through the Web page, FSIS is able to provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *http://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

USDA Non-Discrimination Statement

No agency, officer, or employee of the USDA shall, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the USDA.

How To File a Complaint of Discrimination

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410.

Fax: (202) 690–7442.

Email: program.intake@usda.gov.

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Done at Washington, DC, on: May 25, 2017.

Alfred V. Almanza,

Administrator.

[FR Doc. 2017–11332 Filed 5–31–17; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2017–0015]

Retail Exemptions Adjusted Dollar Limitations

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing the dollar limitations on the amount of meat and meat food products, poultry, and poultry products that a retail store can sell to hotels, restaurants, and similar institutions without disqualifying itself for exemption from Federal inspection requirements. In accordance with FSIS's regulations, for calendar year 2017, the dollar limitation for meat and meat food products is being decreased from $79,200 to $75,700 and for poultry and poultry products from $58,200 to $56,600. FSIS is changing the dollar limitations from calendar year 2016 based on price changes for these products evidenced by the Consumer Price Index.

FSIS has provided an 18-month transitional period for mandatory inspection of Siluriformes fish and fish products. FSIS is currently considering the retail dollar limitations for this product.

DATES: *Effective Date:* July 3, 2017.

FOR FURTHER INFORMATION CONTACT: Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW., Room 6065, South Building, Washington, DC 20250; (202) 720–5627.

SUPPLEMENTARY INFORMATION:

Background

The Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*) provide a comprehensive statutory framework to ensure that meat, meat food products, poultry, and poultry products prepared for commerce are wholesome, not adulterated, and properly labeled and packaged. Statutory provisions requiring inspection of the processing of meat, meat food, poultry, and poultry products do not apply to operations of types traditionally and usually conducted at retail stores and restaurants in regard to products for sale to consumers in normal retail quantities (21 U.S.C. 661(c)(2) and 454(c)(2)). FSIS's regulations (9 CFR 303.1(d) and 381.10(d)) elaborate on the conditions under which requirements for inspection do not apply to retail operations involving the preparation of meat and meat food, and processing of poultry and poultry products.

Sales to Hotels, Restaurants, and Similar Institutions

Under these regulations, sales to hotels, restaurants, and similar institutions (other than household consumers) disqualify a retail store for exemption if the product sales exceed either of two maximum limits: 25 percent of the dollar value of total product sales or the calendar year dollar limitation set by the Administrator. The dollar limitation is adjusted automatically during the first quarter of the year if the Consumer Price Index (CPI), published by the Bureau of Labor Statistics, shows an increase or decrease of more than $500 in the price of the same volume of product for the previous year. FSIS publishes a notice of the adjusted dollar limitations in the **Federal Register**. (See 9 CFR 303.1(d)(2)(iii)(b) and 381.10(d)(2)(iii)(b).)

The CPI for 2016 reveals an annual average price decrease for meat and meat food products at 4.4 percent and for poultry products at 2.7 percent. When rounded to the nearest $100, the dollar limitation for meat and meat food products decreased by $3,500 and the dollar limitation for poultry products decreased by $1,600. In accordance with 9 CFR 303.1(d)(2)(iii)(b) and 381.10(d)(2)(iii)(b), because the dollar limitation of meat and meat food products and poultry products decreased by more than $500, FSIS is decreasing the dollar limitation on sales to hotels, restaurants, and similar institutions to $75,700 for meat and meat food products and to $56,600 for poultry products for calendar year 2017.

Additional Public Notification

FSIS will announce this rule online through the FSIS Web page located at *http://www.fsis.usda.gov/federal-register.*

FSIS will also make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page. In addition, FSIS offers an electronic mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/subscribe.*

Options range from recalls to export information to regulations, directives and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

USDA Non-Discrimination Statement

No agency, officer, or employee of the USDA shall, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the USDA.

How To File a Complaint of Discrimination

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail: U.S. Department of Agriculture Director, Office of Adjudication 1400 Independence Avenue SW., Washington, DC 20250–9410.

Fax: (202) 690–7442.

Email: program.intake@usda.gov.

Persons with disabilities who require alternative means for communication

(Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Done, at Washington, DC on: May 25, 2017.

Alfred V. Almanza,

Administrator.

[FR Doc. 2017–11337 Filed 5–31–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Negative QC Review Schedule, Status of Sample Selection of Completion

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This collection is a revision of a currently approved collection for FNS–245, Case and Procedural Case Action Review Schedule.

DATES: Written comments must be received on or before July 31, 2017.

ADDRESSES: 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, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to: Lacy O'Neal, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 824, Alexandria, VA 22302. Comments may also be submitted via fax to the attention of Stephanie Proska at 703–305–2516 or via email to *SNAPHQ-Web@fns.usda.gov.* Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov,* and follow the online instructions for submitting comments electronically.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Lacy O'Neal at 703–305–2516.

SUPPLEMENTARY INFORMATION:

Title: Case and Procedural Case Action Review Schedule.

Form Number: FNS 245.

OMB Number: 0584–0034.

Expiration Date: October 31, 2017.

Type of Request: Revision of a currently approved collection.

Abstract: State agencies must complete and maintain the FNS–245 for each negative case in their SNAP Quality Control (QC) sample. The FNS–245, Negative Case Action Review Schedule, is designed to collect QC data and serve as the data entry form for negative case action QC reviews in the Supplemental Nutrition Assistance Program (SNAP). The legal authority for SNAP QC can be found in Section 16(c) of the Food and Nutrition Act of 2008, as amended; the regulatory requirement for the QC reporting requirements is provided by 7 CFR 275.14(d) and 7 CFR 275.2; and the legislative requirement for the recordkeeping requirements is Section 11(a) of the Act. In addition, SNAP regulations, in Section 272.1(f), specify that program records are to be retained for a period of three years from the date of fiscal or administrative closure.

The reporting and recordkeeping burden associated with the completion of the FNS–245 has decreased from approximately 118,569 hours to 115,514.87 hours. The 3,054.13 hour decrease in the total burden is largely a result of the decrease in total SNAP negative case selections from 38,911 cases in FY 2010 to 38,970 cases in FY 2015.

Affected Public: State, Local and Tribal Government.

Estimated Number of Respondents: 53 State Agencies.

Estimated Number of Responses per Respondent: 735.28.

Estimated Total Annual Responses: 38,970.

Estimated Time per Response: 176.436 minutes (2.9406 hours).

Estimated Total Burden Hours: 114,595.18.

Number of Record Keepers: 53.

Number of Records per Record Keeper: 735.28 Records.

Estimated Number of Records/Response to Keep: 38,970 Records.

Recordkeeping time per Response: 1.416 minutes (.0236 hours).

Total Estimated Recordkeeping Burden Hours: 55,181.4 minutes (919.692 hours).

Estimated Total Annual Burden on Respondents including reporting and recording: 6,930,892.2 minutes (115,514.87 hours).

REPORTING AND RECORDKEEPING BURDEN

Respondent	Estimated number respondents	Estimated total responses annually per respondent (Col. d/b)	Estimated total annual responses (Col. bxc)	Estimated average number of hours per response	Estimated total hours (Col. dxe)
State Agencies (SA) *Reporting*	53	735.28	38,970	2.9406	114,595.18
State Agencies (SA) *Recordkeeping*	53	735.28	38,970	0.0236	919.69
Grand Total Reporting & Recordkeeping Burden for the entire collection I/H case files and SA	106		77,940		115,514.87

Dated: May 18, 2017.

Jessica Shahin,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 2017–11244 Filed 5–31–17; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Solicitation of Applications for the Section 533 Housing Preservation Grants for Fiscal Year 2017

ACTION: Notice.

SUMMARY: The Rural Housing Service (RHS), an Agency within Rural Development, announces that it is soliciting competitive applications under its Housing Preservation Grant (HPG) program. This action is taken to comply with Agency regulations which requires the Agency to announce the opening and closing dates for receipt of pre-applications for HPG funds from eligible applicants. Enactment of additional continuing resolutions or an appropriations act may affect the availability or level of funding for this program.

DATES: The closing deadline for receipt of all pre-applications in response to this Notice is 5:00 P.M., local time for each Rural Development State Office on July 17, 2017. Rural Development State Office locations can be found at: *http://www.rd.usda.gov/contact-us/state-offices.* The application should be submitted to the Rural Development State Office where the project will be located. If submitting the pre-application in electronic format, the closing deadline for receipt is 5:00 P.M. Eastern Daylight Time on July 17, 2017. The application closing deadline is firm as to date and hour. RHS will not consider any application that is received after the closing deadline. Applicants intending to mail applications must provide sufficient time to permit delivery on or before the closing deadline date and time. Acceptance by the United States Postal Service or private mailer does not constitute delivery. Facsimile (FAX) and postage due applications will not be accepted.

FOR FURTHER INFORMATION CONTACT: For general information, applicants may contact Bonnie Edwards-Jackson, Finance and Loan Analyst, Multi-Family Housing Preservation and Direct Loan Division, USDA Rural Development, STOP 0781, 1400 Independence Avenue SW., Washington, DC 20250–0781, telephone (202) 690–0759 (voice) (this is not a toll free number) or (800) 877–8339 (TDD-Federal Information Relay Service) or via email at, *bonnie.edwards@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Overview

Federal Agency Name: USDA Rural Housing Service.

Funding Opportunity Title: Housing Preservation Grants.

Announcement Type: Notice.

Catalog of Federal Domestic Assistance Number: 10.433.

Dates: July 17, 2017.

Paperwork Reduction Act

The reporting requirements contained in this Notice have been approved by the Office of Management and Budget under Control Number 0575–0115.

A. Program Description

The HPG program is a grant program, authorized under 42 U.S.C. 1490m and implemented at 7 CFR part 1944, subpart N, which provides qualified public agencies, private non-profit organizations including, but not limited to, Faith-Based and neighborhood partnerships, and other eligible entities, grant funds to assist low- and very low-income homeowners in repairing and rehabilitating their homes in rural areas. In addition, the HPG program assists rental property owners and cooperative housing complexes in rural areas in repairing and rehabilitating their units if they agree to make such units available to low- and very low-income persons.

B. Federal Award Information

The funding instrument for the HPG program will be a grant agreement. The term of the grant can vary from 1 to 2 years, depending on available funds and demand. No maximum or minimum grant levels have been established at the National level. In accordance with 7 CFR 1944.652, coordination and leveraging of funding for repair and rehabilitation activities with housing and community development organizations or activities operating in the same geographic area are expected, but not required. You should contact the Rural Development State Office to determine the allocation. HPG applicants who were previously selected for HPG funds are eligible to submit new applications to apply for Fiscal Year (FY) 2017 HPG program funds. New HPG applications must be submitted for the renewal or supplementation of existing HPG repair and/or rehabilitation projects that will be completed with FY 2017 HPG funds.

For FY 2017, the amount of funding available for the HPG program can be found at the following link: *http://www.rd.usda.gov/programs-services/housing-preservation-grants.* Enactment of additional continuing resolutions or an appropriations act may affect the availability or level of funding for this program. Priorities such as Rural Economic Area Partnership Zones and other funds will be distributed under a formula allocation to states pursuant to 7 CFR part 1940, subpart L, ''Methodology and Formulas for Allocation of Loan and Grant Program Funds.'' Decisions on funding will be based on pre-application scores. Anyone interested in submitting an application for funding under this program is encouraged to consult the Rural Development website periodically for updated information regarding the status of funding authorized for this program.

The commitment of program dollars will be made to selected applicants that have fulfilled the necessary requirements for obligation.

C. Eligibility Information

1. *Eligible Applicants.* Eligible entities for these competitively awarded grants include State and local Governments, non-profit corporations, which may include, but not be limited to Faith-Based and community organizations, federally recognized Indian Tribes, and consortia of eligible entities. HPG applicants who were previously selected for HPG funds are eligible to submit new applications to apply for FY 2017 HPG program funds. More eligibility requirements can be found at 7 CFR 1944.658, 1944.661, and 1944.662.

2. *Cost Sharing or Matching.* Pursuant to 7 CFR 1944.652, grantees are expected to coordinate and leverage funding for repair and rehabilitation activities, as well as replacement housing, with housing and community development organizations or activities operating in the same geographic area. While HPG funds may be leveraged with other resources, cost sharing or matching is not a requirement for the HPG applicant as the HPG applicant would not be denied an award of HPG funds if all other project selection criteria have been met.

3. *Other.* Awards made under this Notice are subject to the provisions contained in the Consolidated and Further Appropriations Act, 2016 (Pub.L. 114–113, Dec. 18, 2015), as continued by the Further Continuing and Security Assistance Appropriations Act, 2017 (Pub.L. 114–254, Dec. 12, 2016) sections 745 and 746 regarding

corporate felony convictions and corporate Federal tax delinquencies. To comply with these provisions, only selected applicants that are or propose to be corporations will submit this form as part of their pre-application. Form AD–3030 can be found here: *http://www.ocio.usda.gov/document/ad3030.*

D. Application and Submission Information

1. *Address to Request Application Package:* Applicants wishing to submit a paper application in response to this Notice must contact the Rural Development State Office serving the State of the proposed HPG housing project in order to receive further information and copies of the paper application package. You may find the addresses and contact information for each State Office following this web link, *http://www.rd.usda.gov/contact-us/state-offices.* Rural Development will date and time stamp incoming paper applications to evidence timely receipt and, upon request, will provide the applicant with a written acknowledgment of receipt. You may access the electronic grant pre-application for Housing Preservation Grants at: *http://www.grants.gov.*

2. *Content and Form of Application:* 7 CFR part 1944, subpart N provides details on what information must be contained in the pre-application package. Entities wishing to apply for assistance should contact the Rural Development State Office to receive further information, the State allocation of funds, and copies of the pre-application package. Unless otherwise noted, applicants wishing to apply for assistance must make its statement of activities available to the public for comment. The applicant(s) must announce the availability of its statement of activities for review in a newspaper of general circulation in the project area and allow at least 15 days for public comment. The start of this 15-day period must occur no later than 16 days prior to the last day for acceptance of pre-applications by the U.S. Department of Agriculture (USDA)-Rural Development. Federally recognized Indian Tribes, pursuant to 7 CFR 1944.674, are exempt from the requirement to consult with local leaders including announcing the availability of its statement of activities for review in a newspaper.

All applicants will file an original and two copies of Standard Form (SF) 424, ''Application for Federal Assistance,'' and supporting information with the appropriate Rural Development State Office. A pre-application package, including SF–424, is available in any Rural Development State Office. All pre-applications shall be accompanied by the following information which Rural Development will use to determine the applicant's eligibility to undertake the HPG program and to evaluate the pre-application under the project selection criteria of 7 CFR 1944.679.

(a) A statement of activities proposed by the applicant for its HPG program as appropriate to the type of assistance the applicant is proposing, including:

(1) A complete discussion of the type of and conditions for financial assistance for housing preservation, including whether the request for assistance is for a homeowner assistance program, a rental property assistance program, or a cooperative assistance program;

(2) The process for selecting recipients for HPG assistance, determining housing preservation needs of the dwelling, performing the necessary work, and monitoring/inspecting work performed;

(3) A description of the process for identifying potential environmental impacts in accordance with 7 CFR 1944.672 and the provisions for compliance with Stipulation I, A–G of the Programmatic Memorandum of Agreement, also known as PMOA, (RD Instruction 2000–FF, available in any Rural Development State Office) in accordance with 7 CFR 1944.673(b);

(4) The development standard(s) the applicant will use for the housing preservation work; and, if not the Rural Development standards for existing dwellings, the evidence of its acceptance by the jurisdiction where the grant will be implemented;

(5) The time schedule for completing the program;

(6) The staffing required to complete the program;

(7) The estimated number of very low- and low-income minority and nonminority persons the grantee will assist with HPG funds; and, if a rental property or cooperative assistance program, the number of units and the term of restrictive covenants on their use for very low- and low-income;

(8) The geographical area(s) to be served by the HPG program;

(9) The annual estimated budget for the program period based on the financial needs to accomplish the objectives outlined in the proposal. The budget should include proposed direct and indirect administrative costs, such as personnel, fringe benefits, travel, equipment, supplies, contracts, and other cost categories, detailing those costs for which the grantee proposes to use the HPG grant separately from non-HPG resources, if any. The applicant budget should also include a schedule (with amounts) of how the applicant proposes to draw HPG grant funds, i.e., monthly, quarterly, lump sum for program activities, etc.;

(10) A copy of an indirect cost proposal when the applicant has another source of Federal funding in addition to the Rural Development HPG program;

(11) A brief description of the accounting system to be used;

(12) The method of evaluation to be used by the applicant to determine the effectiveness of its program which encompasses the requirements for quarterly reports to Rural Development in accordance with 7 CFR 1944.683(b) and the monitoring plan for rental properties and cooperatives (when applicable) according to 7 CFR 1944.689;

(13) The source and estimated amount of other financial resources to be obtained and used by the applicant for both HPG activities and housing development and/or supporting activities;

(14) The use of program income, if any, and the tracking system used for monitoring same;

(15) The applicant's plan for disposition of any security instruments held by them as a result of its HPG activities in the event of its loss of legal status;

(16) Any other information necessary to explain the proposed HPG program; and

(17) The outreach efforts outlined in 7 CFR 1944.671(b).

(b) Complete information about the applicant's experience and capacity to carry out the objectives of the proposed HPG program.

(c) Evidence of the applicant's legal existence, including, in the case of a private non-profit organization, which may include, but not be limited to, Faith-Based and community organizations, a copy of, or an accurate reference to, the specific provisions of State law under which the applicant is organized; a certified copy of the applicant's Articles of Incorporation and Bylaws or other evidence of corporate existence; certificate of incorporation for other than public bodies; evidence of good standing from the State when the corporation has been in existence 1 year or more; and the names and addresses of the applicant's members, directors and officers. If other organizations are members of the applicant-organization, or the applicant is a consortium, pre-applications should be accompanied by the names, addresses, and principal purpose of the other organizations. If the applicant is a consortium,

documentation showing compliance with paragraph (4)(ii) under the definition of ''organization'' in 7 CFR 1944.656 must also be included.

(d) For a private non-profit entity, which may include, but not be limited to, Faith-Based and community organizations, the most recent audited statement and a current financial statement dated and signed by an authorized officer of the entity showing the amounts and specific nature of assets and liabilities together with information on the repayment schedule and status of any debt(s) owed by the applicant.

(e) A brief narrative statement which includes information about the area to be served and the need for improved housing (including both percentage and the actual number of both low-income and low-income minority households and substandard housing), the need for the type of housing preservation assistance being proposed, the anticipated use of HPG resources for historic properties, the method of evaluation to be used by the applicant in determining the effectiveness of its efforts.

(f) A statement containing the component for alleviating any overcrowding as defined by 7 CFR 1944.656.

(g) Applicant must submit an original and one copy of an environmental document prepared in accordance with Exhibit F–1 of RD Instruction 1944–N (available in any Rural Development State Office).

(h) Applicant must also submit a description of its process for:

(1) Identifying and rehabilitating properties listed on or eligible for listing on the National Register of Historic Places;

(2) Identifying properties that are located in a floodplain or wetland;

(3) Identifying properties located within the Coastal Barrier Resources System; and

(4) Coordinating with other public and private organizations and programs that provide assistance in the rehabilitation of historic properties (Stipulation I, D, of the PMOA, RD Instruction 2000–FF, available as an electronic document and in any Rural Development State Office).

(i) The applicant must also submit evidence of the State Historic Preservation Office's (SHPO) concurrence in the proposal, or in the event of non-concurrence, a copy of SHPO's comments together with evidence that the applicant has received the Advisory Council on Historic Preservation's advice as to how the disagreement might be resolved, and a copy of any advice provided by the Council.

(j) The applicant must submit written statements and related correspondence reflecting compliance with 7 CFR 1944.674(a) and (c) regarding consultation with local Government leaders in the preparation of its program and the consultation with local and State Government pursuant to the provisions of Executive Order 12372.

(k) The applicant is to make its statement of activities available to the public for comment prior to submission to Rural Development pursuant to 7 CFR 1944.674(b). The application must contain a description of how the comments (if any were received) were addressed.

(1) The applicant must submit an original and one copy of Form RD 400–1, ''*Equal Opportunity Agreement,*'' and Form RD 400–4, ''*Assurance Agreement,*'' in accordance with 7 CFR 1944.676.

Applicants should review 7 CFR part 1944, subpart N for a comprehensive list of all application requirements.

3. *Address unique entity identifier and System for Award Management (SAM).* As part of the application, all applicants, except for individuals or agencies excepted under 2 CFR 25.110(d), must be: (1) Registered in the System for Award Management (SAM); (2) provide a valid unique entity identifier in its applications; and (3) maintain an active SAM registration with current information at all times during which it has an active Federal award or application. An award may not be made to the applicant until the applicant has complied with the unique entity identifier and SAM requirements.

4. *Intergovernmental Review.* The HPG program is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

5. *Funding Restrictions.* There are no limits on proposed direct and indirect costs. Expenses incurred in developing pre-applications will be at the applicant's risk.

6. *Other Submission Requirements.* To comply with the President's Management Agenda, USDA is participating as a partner in the Government-wide grants.gov site. Housing Preservation Grants [Catalog of Federal Domestic Assistance #10.433] is one of the programs included at this website. If you are an applicant under the HPG program, you may submit your pre-application to the Agency in either electronic or paper format. Please be mindful that the pre-application deadline for electronic format differs from the deadline for paper format. The electronic format deadline will be based on Eastern Standard Time. The paper format deadline is local time for each Rural Development State Office.

Users of *Grants.gov* will be able to download a copy of the pre-application package, complete it off line, and then upload and submit the application via the *Grants.gov* site. You may not email an electronic copy of a grant pre-application to USDA Rural Development; however, the Agency encourages your participation in *Grants.gov*.

The following are useful tips and instructions on how to use the website:

- When you enter the *Grants.gov* site, you will find information about submitting an application electronically through the site as well as the hours of operation. USDA-Rural Development strongly recommends that you do not wait until the application deadline date to begin the application process through *Grants.gov*. To use *Grants.gov*, applicants must have a DUNS number.
- You may submit all documents electronically through the website, including all information typically included on the Application for Rural Housing Preservation Grants, and all necessary assurances and certifications.
- After you electronically submit your application through the website, you will receive an automatic acknowledgement from *Grants.gov* that contains a *Grants.gov* tracking number.
- RHS may request that you provide original signatures on forms at a later date.
- If you experience technical difficulties on the closing date and are unable to meet the 5:00 P.M. (Eastern Standard Time) deadline, print out your application and submit it to your State Office, you must meet the closing date and local time deadline.
- Please note that you must locate the downloadable application package for this program by the CFDA Number or FedGrants Funding Opportunity Number, which can be found at *http://www.grants.gov.*

In addition to the electronic pre-application at the *http://www.grants.gov* website, all applicants must complete and submit the FY 2017 pre-application package, detailed later in this Notice, for the Section 533 HPG program. A copy of a suggested coversheet is included with this Notice. Applicants are encouraged to submit this pre-application coversheet electronically by accessing the website: *http://www.rd.usda.gov/programs-services/housing-preservation-grants.* Click on the Forms & Resources tab to access the ''FY 2017 Pre-application for Section

533 Housing Preservation Grants (HPG).''

Applicants are encouraged, but not required, to also provide an electronic copy of all hard copy forms and documents submitted in the pre-application/application package as requested by this Notice. The forms and documents must be submitted as read-only Adobe Acrobat PDF files on an electronic media such as CDs, DVDs or USB drives. For each electronic device that you submit, you must include a Table of Contents listing all of the documents and forms on that device. The electronic medium must be submitted to the local Rural Development State Office where the project will be located.

Please Note: If you receive a loan or grant award under this Notice, USDA reserves the right to post all information that is not protected by the Privacy Act submitted as part of the pre-application/application package on a public website with free and open access to any member of the public.

E. Application Review Information

1. *Criteria.* All paper applications for Section 533 funds must be filed with the appropriate Rural Development State Office and all paper or electronic applications must meet the requirements of this Notice and 7 CFR part 1944, subpart N. Pre-applications determined not eligible and/or not meeting the selection criteria will be notified by the Rural Development State Office.

2. *Review and Selection Process.* The Rural Development State Offices will utilize the following threshold project selection criteria for applicants in accordance with 7 CFR 1944.679:

(a) Providing a financially feasible program of housing preservation assistance. ''Financially feasible'' is defined as proposed assistance which will be affordable to the intended recipient or result in affordable housing for very low- and low-income persons.

(b) Serving eligible rural areas with a concentration of substandard housing for households with very low- and low-income.

(c) Being an eligible applicant as defined in 7 CFR 1944.658.

(d) Meeting the requirements of consultation and public comment in accordance with 7 CFR 1944.674.

(e) Submitting a complete pre-application as outlined in 7 CFR 1944.676.

3. *Scoring.* For applicants meeting all of the requirements listed above, the Rural Development State Offices will use weighted criteria in accordance with 7 CFR part 1944, subpart N as selection for the grant recipients. Each pre-application and its accompanying statement of activities will be evaluated and, based solely on the information contained in the pre-application, the applicant's proposal will be numerically rated on each criteria within the range provided. The highest-ranking applicant(s) will be selected based on allocation of funds available to the State.

(a) Points are awarded based on the percentage of very low-income persons that the applicant proposes to assist, using the following scale:

(1) More than 80%: 20 points
(2) 61% to 80%: 15 points
(3) 41% to 60%: 10 points
(4) 20% to 40%: 5 points
(5) Less than 20%: 0 points

(b) The applicant's proposal may be expected to result in the following percentage of HPG fund use (excluding administrative costs) to total cost of unit preservation. This percentage reflects maximum repair or rehabilitation with the least possible HPG funds due to leveraging, innovative financial assistance, owner's contribution or other specified approaches. Points are awarded based on the following percentage of HPG funds (excluding administrative costs) to total funds:

(1) 50% or less: 20 points
(2) 51% to 65%: 15 points
(3) 66% to 80%: 10 points
(4) 81% to 95%: 5 points
(5) 96% to 100%: 0 points

(c) The applicant has demonstrated its administrative capacity in assisting very low- and low-income persons to obtain adequate housing based on the following:

(1) The organization or a member of its staff has at least one or more years' experience successfully managing and operating a rehabilitation or weatherization type program: 10 points.

(2) The organization or a member of its staff has at least one or more years' experience successfully managing and operating a program assisting very low- and low-income persons obtain housing assistance: 10 points.

(3) If the organization has administered grant programs, there are no outstanding or unresolved audit or investigative findings which might impair carrying out the proposal: 10 points.

(d) The proposed program will be undertaken entirely in rural areas outside Metropolitan Statistical Areas, also known as MSAs, identified by Rural Development as having populations below 10,000 or in remote parts of other rural areas (i.e., rural areas contained in MSAs with less than 5,000 population) as defined in 7 CFR 1944.656: 10 points.

(e) The program will use less than 20 percent of HPG funds for administration purposes:

(1) More than 20%: Not eligible
(2) 20%: 0 points
(3) 19%: 1 point
(4) 18%: 2 points
(5) 17%: 3 points
(6) 16%: 4 points
(7) 15% or less: 5 points

(f) The proposed program contains a component for alleviating overcrowding as defined in 7 CFR 1944.656: 5 points.

In the event more than one pre-application receives the same amount of points, those pre-applications will then be ranked based on the actual percentage figure used for determining the points. Further, in the event that pre-applications are still tied, then those pre-applications still tied will be ranked based on the percentage for HPG fund use (low to high). Further, for applications where assistance to rental properties or cooperatives is proposed, those still tied will be further ranked based on the number of years the units are available for occupancy under the program (a minimum of 5 years is required). For this part, ranking will be based from most to least number of years.

Finally, if there is still a tie, then a lottery system will be used. After the award selections are made, all applicants will be notified of the status of their applications by mail.

F. Federal Award Administration Information

1. *Federal Award Notices.* The Agency will notify, in writing, applicants whose pre-applications have been selected for funding. At the time of notification, the Agency will advise the applicant what further information and documentation is required along with a timeline for submitting the additional information. If the Agency determines it is unable to select the application for funding, the applicant will be so informed in writing. Such notification will include the reasons the applicant was not selected. The Agency will advise applicants, whose pre-applications did not meet eligibility and/or selection criteria, of their review rights or appeal rights in accordance with 7 CFR 1944.682.

2. *Administrative and National Policy Requirements.* Rural Development is encouraging applications for projects that will support rural areas where, according to the American Community Survey data by census tracts, at least 20 percent of the population is living in persistent poverty. This emphasis will support Rural Development's mission of improving the quality of life for Rural

Americans and commitment to directing resources to those who most need them. A persistent poverty county is a classification for counties in the United States that have had a relatively high rate of poverty over a long period.

3. *Reporting.* Post-award reporting requirements can be found in the Grant Agreement.

G. Non-Discrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees and institutions participating in or administering USDA programs are prohibited from discrimination based on race, color, national origin, religion, sex, gender identity, (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form (PDF), found online at *http://www.ascr.usda.gov/complaint_filing_cust.html,* and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by:

(1) *Mail:* U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW., Washington, DC 20250–9410;

(2) *Fax:* (202) 690–7442; or

(3) *Email: program.intake@usda.gov.*

USDA is an equal opportunity provider, employer, and lender.

Dated: May 25, 2017.

Richard A Davis,

Acting Administrator, Rural Housing Service.

Fiscal Year 2017 Pre-Application for Section 533 Housing Preservation Grants (HPG)

Instructions

Applicants are encouraged; but not required, to submit this pre-application form electronically by accessing the Web site: *http://www.rd.usda.gov/programs-services/housing-preservation-grants.* Click on the Forms & Resources tab to access the ''Fiscal Year 2017 Pre-Application for Section 533 Housing Preservation Grants (HPG).'' Please note that electronic submittals are not on a secured Web site. If you do not wish to submit the form electronically by clicking on the *Send Form* button, you may still fill out the form, print it and submit it with your application package to the State Office. You also have the option to save the form, and submit it on an electronic media to the State Office.

Supporting documentation required by this pre-application may be attached to the email generated when you click the **Send Form** button to submit the form. However, if the attachments are too numerous or large in size, the email box will not be able to accept them. In that case, submit the supporting documentation for this pre-application to the State Office with your complete application package under item **IX. Documents Submitted** indicate the supporting documents that you are submitting either with the pre-application or to the State Office.

BILLING CODE 3410–XV–P

I. Applicant Information

a. Applicant's Name: _____

b. Applicant's Address:

Address, Line 1: _____

Address, Line 2: _____

City: _____ **State:** _____ **Zip:** _____

c. Name of Applicant's Contact Person: _____

d. Contact Person's Telephone Number: _____

e. Contact Person's E-Mail Address: _____

f. Entity Type: ☐ State Government ☐ Local Government

(Check One) ☐ Non-Profit Corporation ☐ Federally Recognized Indian Tribes

☐ Faith-Based and neighborhood partnership

☐ Community Organization

☐ Other consortia of an eligible entity

II. Project Information

a. Project Name: _____

b. Project Address:

Address, Line 1: _____

Address, Line 2: _____

City: _____ **State:** _____ **Zip:** _____

c. Organization DUNS Number: _____

d. Grant Amount Requested: $_____

e. This grant request is for one of the following types of assistance:

☐ Homeowner assistance program

☐ Rental property assistance program

☐ Cooperative assistance program

f. In response to e. above, answer one of the following:

The number of low- and very low-income persons that the grantee will assist in the Homeowner assistance program: _____ **OR**

The number of units for low- and very low-income persons in the Rental property or Cooperative assistance program: _____

g. This proposal is for one of the following:

☐ Housing Preservation Grant (HPG) program (no set-aside)

☐ Set-Aide for grant located in a Rural Economic Area Partnership (REAP) Zone

III. Low-Income Assistance

Check the percentage of very low-income persons that this pre-application proposes to assist in relation to the total population of the project:

☐ More than 80 percent (20 points)

☐ 61 percent to 80 percent (15 points)

☐ 41 percent to 60 percent (10 points)

☐ 20 percent to 40 percent (5 points)

☐ Less than 20 percent (0 points)

Points: ____

IV. Percent of HPG Fund Use

Check the percentage of HPG fund use (excluding administrative costs) in comparison to the total cost of unit preservation. This percentage reflects maximum repair or rehabilitation results with the least possible HPG funds due to leveraging, innovative financial assistance, owner's contribution or other specified approaches.

☐ 50 percent or less of HPG funds (20 points)

☐ 51 percent to 65 percent of HPG funds (15 points)

☐ 66 percent to 80 percent of HPG funds (10 points)

☐ 81 percent to 95 percent of HPG funds (5 points)

☐ 96 percent to 100 percent of HPG funds (0 points)

Points: ____

V. Administrative Capacity

The following three criteria demonstrate your administrative capacity to assist very low- and low-income persons to obtain adequate housing (30 points maximum).

a. Does this organization or a member of its staff have at least one or more years of experience successfully managing and operating a rehabilitation or weatherization type of program? (10 points) Yes ___ No ___ **Points: ____**

b. Does this organization or a member of its staff have at least one or more years of experience successfully managing and operating a program assisting very low- or low-income persons obtain housing assistance? (10 points) Yes ___ No ___ **Points: ____**

c. If this organization has administered grant programs, are there any outstanding or unresolved audit or investigative findings which might impair carrying out the proposal? (10 points for No) No ___ Yes ___ **Points: ____**

If Yes, please explain:

_____

_____

_____

VI. Area Served

Will this proposal be undertaken entirely in rural areas outside Metropolitan Statistical Areas, also known as MSAs, and identified by Rural Development as having populations below 10,000 or in remote parts of other rural areas (i.e., rural areas contained in MSAs with a population of less than 5,000) as defined in 7CFR 1944.656? (10 points)

Yes ___ No ___ **Points: ____**

VII. Percent of HPG Funds for Administration

Check the percentage of HPG funds that will be used for Administration purposes:

- ☐ More than 20 percent (Not eligible)
- ☐ 20 percent (0 points)
- ☐ 19 percent (1 point)
- ☐ 18 percent (2 points)
- ☐ 17 percent (3 points)
- ☐ 16 percent (4 points)
- ☐ 15 percent or less (5 points)

Points: ____

VIII. Alleviating Overcrowding

Does the proposed program contain a component for alleviating overcrowding as defined in 7 CFR 1944.656? (5 points) Yes ___ No ___ **Points: ____**

BILLING CODE 3410–XV–C

IX. Documents Submitted

Check if the following documents are being submitted electronically with this pre-application or will be mailed to the State Office with your complete pre-application package.

Note: You are only required to submit supporting documents for programs in which you will be participating as indicated in this pre-application. Points will be assigned for the items that you checked based on a review of the supporting documents.

Please refer to the NOSA for the complete list of documents that you are required to submit with your complete pre-application package.

Reference/Item	Submitted With This Pre-Application	Submitted to State Office
III. Low-Income Assistance		
IV. Percent of HPG Fund Use		
V. Administrative Capacity		
VI. Area Served		
VII. Percent of HPG Funds for Administration		
VIII. Alleviating Overcrowding		

B. HPG 2017 Scoring

Please Note: The scoring below is based on the responses that you have provided on this pre-application form and may not accord with the final score that the Agency assigns upon evaluating the supporting documentation that you submit. Your score may change from what you see here, if the supporting documentation does not adequately support your answer or, if required documentation is missing.

Scoring Items for HPG 2017	Points Earned
1. Low-Income Assistance (5, 10, 15, 20)	

Scoring Items for HPG 2017	Points Earned
2. Percent of HPG Fund Use (5, 10, 15, 20)	
3. Administrative Capacity (10, 20, 30)	
4. Area Served (10)	
5. Percent of HPG Funds for Administration (1, 2, 3, 4, 5)	
6. Alleviating Overcrowding (5)	
Total Score:	

Important

By submitting this electronic pre-application form and its supporting documents, you have completed one step of the application process.

You must also complete the electronic application at: *http://www.grants.gov.*

[FR Doc. 2017–11315 Filed 5–31–17; 8:45 am]

BILLING CODE 3410–XV–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Indiana Advisory Committee To Discuss Civil Rights Concerns in the State and Determine the Next Topic of Committee Study

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Indiana Advisory Committee (Committee) will hold a meeting on Monday June 19, 2017, at 3:00pm EST for the purpose of discussing civil rights concerns in the State for future Committee study.

DATES: The meeting will be held on Monday, June 19, 2017, at 3:00 p.m. EST.

ADDRESSES: Public call information: Dial: 877–681–3372, Conference ID: 6989716.

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or 312–353–8311.

SUPPLEMENTARY INFORMATION: Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number: 877–681–3372, conference ID: 6989716. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Regional Programs Unit Office, U.S. Commission on Civil Rights, 55 W. Monroe St., Suite 410, Chicago, IL 60615. They may also be faxed to the Commission at (312) 353–8324, or emailed to Carolyn Allen at *callen@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit Office at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Indiana Advisory Committee link (*http://www.facadatabase.gov/committee/meetings.aspx?cid=247*). Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Regional Programs Unit Office at the above email or street address.

Agenda

Welcome and Roll Call
Discussion: Civil Rights in Indiana
Public Comment
Future Plans and Actions
Adjournment

Dated: May 25, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–11267 Filed 5–31–17; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Michigan Advisory Committee for New Committee Member Orientation and To Discuss Civil Rights Concerns in Michigan as Potential Topics of Committee Study

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Michigan Advisory Committee (Committee) will hold a meeting on Wednesday, June 21, 2017, at 12pm EST for the purpose of hosting new Committee orientation and discussing civil rights concerns in the state.

DATES: The meeting will be held on Wednesday, June 21, 2017, at 12 p.m. EST.

Public Call Information: Dial: 888–542–0999, Conference ID: 8597567.

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or 312–353–8311.

SUPPLEMENTARY INFORMATION: Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number: 888–542–0999, conference ID: 8597567. Any interested member of the public may call this number and listen to the meeting. Note: the orientation portion of this meeting will include an online presentation. The online presentation will be available for viewing at: *https://cc.readytalk.com/r/albdfexgbb93&eom.*

An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Midwestern Regional Office, U.S. Commission on Civil Rights, 55 W. Monroe St., Suite 410, Chicago, IL 60615. They may also be faxed to the Commission at (312) 353–8324, or emailed to Carolyn Allen at *callen@usccr.gov.* Persons who desire additional information may contact the Midwestern Regional Office at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Midwestern Regional Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Michigan Advisory Committee link (*http://www.facadatabase.gov/committee/meetings.aspx?cid=255*). Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Midwestern Regional Office at the above email or street address.

Agenda

Welcome and Introductions
New Committee Orientation
Discussion: Civil Rights in Michigan
Public Comment
Future Plans and Actions
Adjournment

Dated: May 26, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–11342 Filed 5–31–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–30–2017]

Foreign-Trade Zone 124—Gramercy, Louisiana; Application for Expansion of Subzone 124D, LOOP LLC, Lafourche and St. James Parishes, Louisiana

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Port of South Louisiana, grantee of FTZ 124, requesting an expansion of Subzone 124D on behalf of LOOP LLC. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on May 8, 2017.

Subzone 124D was approved on June 1, 1995 (Board Order 748, 60 FR 30267, June 8, 1995), expanded on March 29, 2002 (Board Order 1217, 67 FR 17048, April 9, 2002) and expanded on November 29, 2016 (Board Order 2023, 81 FR 88211, December 7, 2016). The subzone currently consists of two sites located in Lafourche and St. James Parishes: *Site 1* (536.72 acres total and 37 miles of pipeline) includes the following parcels: *Parcel A* (10 acres)—Fourchon Booster Station, Highway 1, Fourchon; *Parcel B* (287 acres)—Clovelly Dome Storage Terminal, Clovelly; *Parcel D* (27 acres)—Operations Center, 224 E. 101 Place, Cut Office; *Parcel E* (103.5 acres)—Clovelly Tank Farm, South Lafourche Airport Road, Clovelly; *Parcel F* (80 acres)—Tank Farm adjacent to Parcel E, Clovelly; *Parcel G* (13.22 acres)—Small Boat Harbor, located on Bayou Lafourche, Port Fourchon; and, *Parcel H* (16 acres)—224 East 101 Place, Cut Off; and, *Site 2* (124 acres and 55 miles of pipeline)—St. James Terminal, 6695 LOCAP Road, St. James.

The applicant is requesting authority to expand Site 2 of the subzone to include an adjacent 70.761 acres located at 6695 LOCAP Road in St. James. No additional authorization for production activity has been requested at this time.

In accordance with the FTZ Board's regulations, Camille Evans of the FTZ Staff is designated examiner to review the application and make recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is July 11, 2017. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to July 26, 2017.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Camille Evans at *Camille.Evans@trade.gov* or (202) 482–2350.

Dated: May 25, 2017.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2017–11328 Filed 5–31–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–35–2017]

Foreign-Trade Zone (FTZ) 144—Brunswick, Georgia; Notification of Proposed Production Activity; Mercedes Benz USA, LLC, (Accessorizing Passenger Motor Vehicles); Brunswick, Georgia

The Brunswick and Glynn County Development Authority, grantee of FTZ 144, submitted a notification of proposed production activity to the FTZ Board on behalf of Mercedes Benz USA, LLC (MBUSA), located in Brunswick, Georgia. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on May 8, 2017.

MBUSA already has FTZ authority for accessorizing passenger motor vehicles within Site 2 of FTZ 144. The current request would add foreign-status materials/components to the scope of

authority. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt MBUSA from customs duty payments on the foreign-status components used in export production. On its domestic sales, MBUSA would be able to choose the duty rate during customs entry procedures that applies to passenger motor vehicles (duty rate—2.5%) for the foreign-status inputs noted below and in the existing scope of authority. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The components and materials sourced from abroad include plastic statuettes and other ornamental articles, carpets of man-made fibers, smart cards/memory cards for data storage, and steering wheels (duty rates range from free to 5.3%). The applicant indicates that carpets of man-made fibers would be admitted to the FTZ in privileged foreign status (19 CFR 146.41). This would preclude inverted tariff benefits on the foreign-status carpets used in its domestic sales of passenger motor vehicles.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is July 11, 2017.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Diane Finver at *Diane.Finver@trade.gov* or (202) 482–1367.

Dated: May 26, 2017.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2017–11326 Filed 5–31–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–77–2017]

Foreign-Trade Zone 75—Phoenix, Arizona; Application for Subzone Expansion; Conair Corporation; Glendale, Arizona

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the City of Phoenix, Arizona, grantee of FTZ 75, requesting expanded subzone status for the facilities of Conair Corporation, located in Glendale, Arizona. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on May 16, 2017.

Subzone 75A consists of the following site: Site 1 (100 acres) 7475 and 7811 North Glen Harbor Boulevard and 10640 and 10645 West Vista Avenue, Glendale. The applicant is now requesting authority to expand the subzone site to include an adjacent 44-acre parcel located at 7311 North Glen Harbor Boulevard, Glendale. No authorization for production activity has been requested at this time. The proposed subzone would be subject to the existing activation limit of FTZ 75.

In accordance with the FTZ Board's regulations, Christopher Kemp of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is July 11, 2017. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to July 26, 2017.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Christopher Kemp at *Christopher.Kemp@trade.gov* or (202) 482–0862.

Dated: May 26, 2017.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2017–11327 Filed 5–31–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–33–2017]

Foreign-Trade Zone (FTZ) 50—Long Beach, California; Notification of Proposed Production Activity; Mercedes Benz USA, LLC, (Accessorizing Passenger Motor Vehicles); Long Beach, California

The Port of Long Beach, California, grantee of FTZ 50, submitted a notification of proposed production activity to the FTZ Board on behalf of Mercedes Benz USA, LLC (MBUSA), located in Long Beach, California. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on May 8, 2017.

MBUSA already has FTZ authority for accessorizing passenger motor vehicles within Site 41 of FTZ 50. The current request would add foreign-status materials/components to the scope of authority. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt MBUSA from customs duty payments on the foreign-status components used in export production. On its domestic sales, MBUSA would be able to choose the duty rate during customs entry procedures that applies to passenger motor vehicles (duty rate—2.5%) for the foreign-status inputs noted below and in the existing scope of authority. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The components and materials sourced from abroad include plastic statuettes and other ornamental articles, carpets of man-made fibers, smart cards/memory cards for data storage and steering wheels (duty rates range from free to 5.3%). The applicant indicates that carpets of man-made fibers would be admitted to the FTZ in privileged foreign status (19 CFR 146.41). This would preclude inverted tariff benefits on the foreign-status carpets used in its domestic sales of passenger motor vehicles.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is July 11, 2017.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Diane Finver at *Diane.Finver@trade.gov* or (202) 482–1367.

Dated: May 26, 2017.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2017–11324 Filed 5–31–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–34–2017]

Foreign-Trade Zone (FTZ) 74—Baltimore, Maryland; Notification of Proposed Production Activity; Mercedes Benz USA, LLC (Accessorizing Passenger Motor Vehicles); Baltimore, Maryland

The City of Baltimore, Maryland, grantee of FTZ 74, submitted a notification of proposed production activity to the FTZ Board on behalf of Mercedes Benz USA, LLC (MBUSA), located in Baltimore, Maryland. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on May 8, 2017.

MBUSA already has FTZ authority for accessorizing passenger motor vehicles within Site 6 of FTZ 74. The current request would add foreign-status materials/components to the scope of authority. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt MBUSA from customs duty payments on the foreign-status components used in export production. On its domestic sales, MBUSA would be able to choose the duty rate during customs entry procedures that applies to passenger motor vehicles (duty rate—2.5%) for the foreign-status inputs noted below and in the existing scope of authority. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The components and materials sourced from abroad include plastic statuettes and other ornamental articles, carpets of man-made fiber, smart cards/memory cards for data storage, and steering wheels (duty rates range from free to 5.3%). The applicant indicates that carpets of man-made fibers would be admitted to the FTZ in privileged foreign status (19 CFR 146.41). This would preclude inverted tariff benefits on the foreign-status carpets used in its domestic sales of passenger motor vehicles.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is July 11, 2017.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Diane Finver at *Diane.Finver@trade.gov* or (202) 482–1367.

Dated: May 26, 2017.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2017–11325 Filed 5–31–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–75–2017]

Foreign-Trade Zone 12—McAllen, Texas; Application for Subzone; Universal Metal Products, Inc.; Pharr, Texas

An application has been submitted to the Foreign-Trade Zones Board (the Board) by McAllen Foreign Trade Zone Inc., grantee of FTZ 12, requesting subzone status for the facility of Universal Metal Products, Inc., located in Pharr, Texas. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally docketed on May 10, 2017.

The proposed subzone (7.4 acres) is located at 101 W. Eldora Road in Pharr. The proposed subzone would be subject to the existing activation limit of FTZ 12. No authorization for production activity has been requested at this time.

In accordance with the Board's regulations, Camille Evans of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is July 11, 2017. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to July 26, 2017.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Camille Evans at *Camille.Evans@trade.gov* or (202) 482–2350.

Dated: May 25, 2017.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2017–11329 Filed 5–31–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–820]

Prestressed Concrete Steel Wire Strand From Thailand: Final Results of Antidumping Duty Administrative Review; 2015

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

SUMMARY: The Department of Commerce (Department) has completed its administrative review of the antidumping duty order on prestressed concrete steel wire strand (PC strand) from Thailand. The review covers one producer/exporter of the subject merchandise, The Siam Industrial Wire Co., Ltd. (SIW). The period of review (POR) is January 1, 2015, through December 31, 2015. We continue to find that SIW did not make sales of subject

merchandise at prices below normal value.

DATES: Effective June 1, 2017.

FOR FURTHER INFORMATION CONTACT: Sergio Balbontin, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–6478.

SUPPLEMENTARY INFORMATION:

Background

On February 3, 2017, the Department published the *Preliminary Results* in the **Federal Register**.[1] From February 15 through February 24, 2017, and March 21 through March 23, 2017, we verified SIW's cost and sales questionnaire responses.[2] We invited interested parties to comment on the *Preliminary Results* (inclusive of verification findings). However, no interested party submitted comments or requested a hearing. For the final results, we made certain changes to our preliminary margin calculations based on verification findings.[3] The Department conducted this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (Act).

Scope of the Order[4]

The merchandise covered by the *Order* is PC strand from Thailand. The product is currently classified under subheadings 7312.10.3010 and 7312.10.3012 of the Harmonized Tariff System of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of merchandise subject to the scope is dispositive.[5]

Changes Since the Preliminary Results

We made certain changes to the preliminary margin calculations based on verification findings. As no parties commented on the *Preliminary Results,* an Issues and Decision Memorandum has not been prepared. Instead, the changes to the margin calculation are detailed in the Final Results Calculation Memorandum.

Final Results of Review

As a result of this review, the Department determines that the following weighted-average dumping margin exists for entries of subject merchandise that were produced and/or exported by the following company during the POR:

Manufacturer/exporter	Weighted-average margin (percent)
The Siam Industrial Wire Co., Ltd	0.00

Assessment Rates

The Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review, pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b). Because we calculated a zero margin for SIW in the final results of this review, we intend to instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

We intend to issue instructions to CBP 15 days after the date of publication of the final results of this review.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of these final results for all shipments of PC strand from Thailand entered, or withdrawn from warehouse, for consumption on or after the publication date as provided by section 751(a)(2) of the Act: (1) The cash deposit rate for SIW will be zero; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a completed prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation but the manufacturer is, the cash deposit rate will be the rate established for the most recently completed segment for the manufacturer of the merchandise; (4) the cash deposit rate for all other manufacturers or exporters will continue to be 12.91 percent, the all-others rate established in the *Order.* These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

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 has occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

In accordance with 19 CFR 351.305(a)(3), this notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under the 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 subject to sanction.

Notification to Interested Parties

We intend to issue and publish these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(h) and 351.221(b)(5).

Dated: May 24, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2017–11322 Filed 5–31–17; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Prestressed Concrete Steel Wire Strand from Thailand: Preliminary Results of Antidumping Duty Administrative Review; 2015,* 82 FR 9197 (February 3, 2017) and accompanying Decision Memorandum (*Preliminary Results*).

[2] *See* Memoranda, ''Verification of the Cost Response of The Siam Industrial Wire Co., Ltd. in the Antidumping Duty Administrative Review of Prestressed Concrete Steel Wire Strand from Thailand,'' dated April 10, 2017, and ''Verification of the Sales Response of the Siam Industrial Wire Co., Ltd. in the Antidumping Duty Administrative Review of Prestressed Concrete Steel Wire Strand from Thailand,'' dated April 17, 2017.

[3] *See* Memorandum, ''Final Results Calculation Memorandum for The Siam Industrial Wire Co., Ltd.,'' concurrently dated with this notice (Final Results Calculation Memorandum).

[4] *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Prestressed Concrete Steel Wire Strand from Thailand,* 69 FR 4111 (January 28, 2004) (*Order*).

[5] For a complete description of the scope of the *Order,* see the Preliminary Decision Memorandum which can be accessed directly at *http://enforcement.trade.gov/frn/.*

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–822]

Welded Line Pipe From Turkey: Rescission of Antidumping Duty Administrative Review; 2015–2016

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

SUMMARY: The Department of Commerce (the Department) is rescinding the

administrative review of the antidumping duty order on welded line pipe from Turkey for the period May 22, 2015, through November 30, 2016.

DATES: Effective June 1, 2017.

FOR FURTHER INFORMATION CONTACT: Alice Maldonado or David Crespo, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4682 or (202) 482–3693, respectively.

Background

On December 1, 2016, the Department published in the **Federal Register** a notice of ''Opportunity to Request Administrative Review'' of the antidumping duty order on welded line pipe from Turkey for the period May 22, 2015, through November 30, 2016.[1] In December 2016 and January 2017, the Department received timely requests, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), to conduct an administrative review of this antidumping duty order from Maverick Tube Corporation (Maverick), Stupp Corporation, a division of Stupp Bros., Inc. (Stupp Corp.), and American Cast Iron Pipe Company (ACIPCO) (collectively, the petitioners), and from Borusan Mannesmann Boru Sanayi ve Ticaret A.S. and Borusan Istikbal Ticaret (collectively, Borusan).[2] Based upon these requests, on February 13, 2017, in accordance with section 751(a) of the Act, the Department published in the **Federal Register** a notice of initiation listing nineteen companies for which the Department received timely requests for review.[3] On March 3 and May 9, 2017, Borusan and the petitioners, respectively, withdrew all requests for an administrative review.[4]

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 81 FR 86694 (December 1, 2016).

[2] *See* Letters from Maverick and from Stupp Corp. and ACIPCO to the Department, ''Welded Line Pipe from the Republic of Turkey: Request for Administrative Review,'' dated December 30, 2016; *see also* Letter from Borusan to the Department, ''Welded Line Pipe from Turkey, Case No. A–489–822: Request for Administrative Review,'' dated January 3, 2017.

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 82 FR 10457 (February 13, 2017).

[4] *See* Letter from Borusan to the Department, ''Welded Line Pipe from Turkey, Case No. A–489–822: Withdrawal of Request for Administrative Review,'' dated March 3, 2017; *see also* Letters from Maverick and from Stupp Corp. and ACIPCO to the Department, ''Welded Line Pipe from the Republic of Turkey: Withdrawal of Request for Administrative Review,'' dated May 9, 2017.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if a party who requested the review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review. All the aforementioned withdrawal requests were timely submitted, and no other interested party requested an administrative review of any company. Therefore, we are rescinding the administrative review of the antidumping duty order on welded line pipe from Turkey covering the period May 22, 2015, through November 30, 2016.

Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. Antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions to CBP 15 days after publication of this notice in the **Federal Register**.

Notification to Importers

This notice serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification Regarding Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with section 751 of the Act and 19 CFR 351.213(d)(4).

Dated: May 24, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2017–11206 Filed 5–31–17; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–838, A–533–840, A–570–893, A–549–822, A–552–802]

Certain Frozen Warmwater Shrimp From Brazil, India, the People's Republic of China, Thailand, and the Socialist Republic of Vietnam: Continuation of Antidumping Duty Orders (India, the People's Republic of China, Thailand, and the Socialist Republic of Vietnam) and Revocation of Antidumping Duty Order (Brazil)

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

SUMMARY: As a result of the determinations by the Department of Commerce (the Department) and the International Trade Commission (ITC) that revocation of the antidumping (AD) duty orders on certain frozen warmwater shrimp (shrimp) from India, the People's Republic of China (the PRC), Thailand, and the Socialist Republic of Vietnam (Vietnam) would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States, the Department is publishing a notice of continuation of the antidumping duty orders. In addition, as a result of the ITC's determination that revocation of the AD duty order on shrimp from Brazil is not likely to lead to continuation or recurrence of material injury to an industry in the United States, the Department is revoking the AD order on shrimp from Brazil.

DATES: AD Revocation (Brazil): Effective April 29, 2016; AD Continuation (India, the PRC, Thailand, and Vietnam): Effective June 1, 2017.

FOR FURTHER INFORMATION CONTACT: Terre Keaton Stefanova, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1280.

SUPPLEMENTARY INFORMATION:

Background

On February 1, 2005, the Department published the AD orders on shrimp from Brazil, India, the PRC, Thailand,

and Vietnam.[1] On March 1, 2016, the Department initiated [2] and the ITC instituted [3] five-year (''sunset'') reviews of the AD *Orders* on shrimp from Brazil, India, the PRC, Thailand, and Vietnam, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). As a result of its reviews, the Department determined that revocation of the AD orders on shrimp from Brazil, India, the PRC, Thailand, and Vietnam would likely lead to continuation or recurrence of dumping and notified the ITC of the magnitude of the margins of dumping likely to prevail were the orders revoked.[4]

On May 25, 2017, the ITC published its determinations, pursuant to sections 751(c) and 752(a) of the Act, that revocation of the AD orders on shrimp from India, the PRC, Thailand, and Vietnam would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time, but that revocation of the AD order on shrimp from Brazil would not be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.[5]

[1] *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from Brazil,* 70 FR 5143 (February 1, 2005); *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from India,* 70 FR 5147 (February 1, 2005); *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp From the People's Republic of China,* 70 FR 5149 (February 1, 2005); *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Dutv Order: Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam,* 70 FR 5152 (February 1, 2005); and *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from Thailand,* 70 FR 5145 (February 1, 2005) (collectively, *Orders*).

[2] *See Initiation of Five-Year (''Sunset'') Review,* 81 FR 10578 (March 1, 2016) (*Notice of Initiation*).

[3] *See Frozen Warmwater Shrimp from Brazil, China, India, Thailand, and Vietnam Institution of five-year reviews,* 81 FR 10659 (March 1, 2016).

[4] *See Certain Frozen Warmwater Shrimp From Brazil, India, the People's Republic of China and Thailand: Final Results of the Expedited Second Sunset Reviews of the Antidumping Duty Orders,* 81 FR 44275 (July 7, 2016); *see also Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Preliminary Results of the Second Five-Year Sunset Review of the Antidumping Duty Order,* 81 FR 63469 (September 15, 2016); and *Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results of the Second Five-Year Sunset Review of the Antidumping Duty Order,* 82 FR 8724 (January 30, 2017).

[5] *See Frozen Warmwater Shrimp from Brazil, China, India, Thailand, and Vietnam; Determination,* 82 FR 24144 (May 25, 2017).

Scope of the Orders

The products covered by the *Orders* include certain frozen warmwater shrimp and prawns whether wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off,[6] deveined or not deveined, cooked or raw, or otherwise processed in frozen form.

The frozen warmwater shrimp and prawn products included in the *Orders,* regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products which are processed from warmwater shrimp and prawns through freezing and which are sold in any count size.

The products described above may be processed from any species of warmwater shrimp and prawns. Warmwater shrimp and prawns are generally classified in, but are not limited to, the Penaeidae family. Some examples of the farmed and wild-caught warmwater species include, but are not limited to, whiteleg shrimp (*Penaeus vannemei*), banana prawn (*Penaeus merguiensis*), fleshy prawn (*Penaeus chinensis*), giant river prawn (*Macrobrachium rosenbergii*), giant tiger prawn (*Penaeus monodon*), redspotted shrimp *(Penaeus brasiliensis*), southern brown shrimp (*Penaeus subtilis*), southern pink shrimp (*Penaeus notialis*), southern rough shrimp (*Trachypenaeus curvirostris*), southern white shrimp (*Penaeus schmitti*), blue shrimp (*Penaeus stylirostris*), western white shrimp (*Penaeus occidentalis*), and Indian white prawn (*Penaeus indicus*).

Frozen shrimp and prawns that are packed with marinade, spices or sauce are included in the scope of the *Orders.* In addition, food preparations, which are not ''prepared meals,'' that contain more than 20 percent by weight of shrimp or prawn are also included in the scope of the orders.

Excluded from the *Orders* are: (1) Breaded shrimp and prawns (HTSUS subheading 1605.20.10.20); (2) shrimp and prawns generally classified in the *Pandalidae* family and commonly referred to as coldwater shrimp, in any state of processing; (3) fresh shrimp and prawns whether shell-on or peeled (HTSUS subheadings 0306.23.00.20 and 0306.23.00.40); (4) shrimp and prawns in prepared meals (HTSUS subheading 1605.20.05.10); (5) dried shrimp and prawns; (6) canned warmwater shrimp and prawns (HTSUS subheading 1605.20.10.40); (7) certain dusted shrimp; and (8) certain battered shrimp. Dusted shrimp is a shrimp-based product: (1) That is produced from fresh (or thawed-from-frozen) and peeled shrimp; (2) to which a ''dusting'' layer of rice or wheat flour of at least 95 percent purity has been applied; (3) with the entire surface of the shrimp flesh thoroughly and evenly coated with the flour; (4) with the non-shrimp content of the end product constituting between four and 10 percent of the product's total weight after being dusted, but prior to being frozen; and (5) that is subjected to IQF freezing immediately after application of the dusting layer. Battered shrimp is a shrimp-based product that, when dusted in accordance with the definition of dusting above, is coated with a wet viscous layer containing egg and/or milk, and par-fried.

[6] ''Tails'' in this context means the tail fan, which includes the telson and the uropods.

The products covered by the *Orders* are currently classified under the following HTSUS subheadings: 0306.13.00.03, 0306.13.00.06, 0306.13.00.09, 0306.13.00.12, 0306.13.00.15, 0306.13.00.18, 0306.13.00.21, 0306.13.00.24, 0306.13.00.27, 0306.13.00.40, 1605.20.10.10, and 1605.20.10.30. These HTSUS subheadings are provided for convenience and for customs purposes only and are not dispositive, but rather the written description of the scope of the orders is dispositive.

Continuation of the AD Orders on Shrimp From India, the PRC, Thailand, and Vietnam

As a result of the determinations by the Department and the ITC that revocation of the AD orders on shrimp from India, the PRC, Thailand, and Vietnam would likely lead to a continuation or a recurrence of dumping and of material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the AD orders on Shrimp from India, the PRC, Thailand, and Vietnam. U.S. Customs and Border Protection (CBP) will continue to collect AD cash deposits at the rates in effect at the time of entry for all imports of subject merchandise. The effective date of the continuation of the orders will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act, the Department intends to initiate the next five-year review of these orders not later than 30 days prior to the fifth anniversary of the effective date of continuation.

Revocation of the AD Order on Shrimp From Brazil

As a result of the determination by the ITC that revocation of the AD order on shrimp from Brazil would not be likely to lead to continuation or recurrence of material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department is revoking the AD order on shrimp from Brazil. Pursuant to section 751(d)(2) of the Act and 19 CFR 351.222(i)(2)(i), the effective date of revocation is April 29, 2016 (*i.e.,* the fifth anniversary of the date of publication in the **Federal Register** of the notice of continuation of the antidumping duty orders).[7]

Cash Deposits and Assessment of Duties on Shrimp From Brazil

The Department will notify CBP, 15 days after publication of this notice, to terminate the suspension of liquidation and to discontinue the collection of cash deposits on entries of shrimp from Brazil, entered or withdrawn from warehouse, on or after April 29, 2016. The Department will further instruct CBP to refund with interest all cash deposits on unliquidated entries made on or after April 29, 2016. Entries of subject merchandise prior to the effective date of revocation will continue to be subject to suspension of liquidation and AD deposit requirements and assessments.

Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return/destruction or conversion to judicial protective order of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO which may be subject to sanctions.

These five-year (sunset) reviews and notice are in accordance with sections 751(c) and (d)(2), and 777(i) the Act, and 19 CFR 351.218(f)(4).

Dated: May 25, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2017–11323 Filed 5–31–17; 8:45 am]

BILLING CODE 3510–DS–P

[7] *See Certain Frozen Warmwater Shrimp From Brazil, India, the People's Republic of China, Thailand, and the Socialist Republic of Vietnam: Continuation of Antidumping Duty Orders,* 76 FR 23972 (April 29, 2011).

DEPARTMENT OF COMMERCE

International Trade Administration

[C–122–854]

Supercalendered Paper From Canada: Amended Final Results of the Countervailing Duty Expedited Review

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

SUMMARY: The Department of Commerce (the Department) is amending the *Final Results* [1] of the expedited review of the countervailing duty order on supercalendered paper from Canada to correct a ministerial error.

DATES: Effective June 1, 2017.

FOR FURTHER INFORMATION CONTACT: Peter Zukowski, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone 202–482–0189.

SUPPLEMENTARY INFORMATION:

Background

On April 24, 2017, we received a timely ministerial error allegation from Catalyst Paper Corporation, Catalyst Pulp and Paper Sales Inc., Catalyst Paper (USA) Inc., and their affiliated companies (collectively Catalyst) regarding the Department's final subsidy rate calculations.[2]

Ministerial Errors

We analyzed Catalyst's ministerial error [3] comments and determined, in accordance with 19 CFR 351.224(e), that there was a ministerial error in our calculation of Catalyst's net subsidy rate for the *Final Results.*[4] In accordance with 19 CFR 351.224(e), we are amending the net subsidy rate for Catalyst from 0.94 percent (*de minimis*) to 0.93 percent (*de minimis*).

[1] *See Supercalendered Paper from Canada: Final Results of the Countervailing Duty Expedited Review,* 82 FR 18896 (April 24, 2017) (*Final Results*), and accompanying Issues and Decision Memorandum.

[2] *See* letter to the Department, ''Supercalendered Paper from Canada: Catalyst's Ministerial Error Comments'' (April 24, 2017) (Catalyst Ministerial Error Allegation).

[3] A ''ministerial error'' is defined by 19 CFR 351.224(f) as an error ''in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any similar type of unintentional error which the Secretary considers ministerial.''

[4] *See* ''Expedited Review of the Countervailing Duty Order on Supercalendered Paper from Canada: Allegations of Ministerial Errors,'' May 24, 2017 (Ministerial Error Memorandum).

Cash Deposit Instructions

Pursuant to 19 CFR 351.214(k)(3)(iv), because we determined a countervailable subsidy rate for Catalyst that is *de minimis,* in the final results of the expedited review we excluded Catalyst from the countervailing duty order.[5] Because Catalyst's rate remains *de minimis,* we will not issue new instructions to CBP.

Disclosure

We will disclose the calculations performed for these amended final results to interested parties within five business days of the date of the publication of this notice in accordance with 19 CFR 351.224(b)

We are issuing and publishing this notice in accordance with 19 CFR 351.214(k) and 19 CFR 351.224(e).

Dated: May 24, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2017–11204 Filed 5–31–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Alaska Region Scale and Catch Weighing Requirements

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before July 31, 2017.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *pracomments@doc.gov*).

[5] *See Final Results,* 82 FR at 18897 (explaining that only merchandise produced and exported by Catalyst is excluded from the Order, and that the exclusion does not apply to merchandise produced by Catalyst and exported by any other company or merchandise produced by any other company and exported by Catalyst).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Jennifer Watson, (907) 586–7228.

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a currently approved information collection.

Scale and catch weighing requirements address performance standards designed to ensure that all catch delivered to the processor is accurately weighed and accounted for. Scale and catch-weighing monitoring is required for Western Alaska Community Development Quota Program (CDQ) catcher/processors (C/Ps), American Fisheries Act (AFA) C/Ps, AFA motherships, AFA shoreside processors and stationary floating processors, Central Gulf of Alaska Rockfish Program trawl C/Ps, non-AFA trawl C/Ps participating in Bering Sea and Aleutian Islands (BSAI) trawl fisheries, and longline C/Ps participating in BSAI Pacific cod fisheries.

National Marine Fisheries Service (NMFS) has identified three primary objectives for monitoring catch. First, monitoring must ensure independent verification of catch weight, species composition, and location data for every delivery by a catcher vessel or every pot by a C/P. Second, all catch must be weighed accurately using NMFS-approved scales to determine the weight of total catch. Third, the system must provide a verifiable record of the weight of each delivery. To effectively manage fisheries, NMFS must have data that will provide reliable independent estimates of the total catch.

II. Method of Collection

Respondents have a choice of either electronic or paper forms. Methods of submittal include email, online, mail, and facsimile transmission. Daily flow scale and hopper scale tests are reported using an electronic logbook. Printed reports are generated automatically by software. Video monitoring systems record and store video data automatically.

III. Data

OMB Control Number: 0648–0330.

Form Number(s): None.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Business or other for-profit organizations; Individuals or households.

Estimated Number of Respondents: 140.

Estimated Time per Response: 6 minutes for at-sea flow scales inspection request; 45 minutes for record of daily flow scale test and record of daily hopper scale test; 1 minute for groundfish catch weight printed report, groundfish audit trail printed report, groundfish calibration log printed report, groundfish fault log printed report, crab catch weight printed report, crab audit trail printed report, and State of Alaska scale printed report; 1 hour for electronic bin monitoring system, record and store data; 2 hours for observer sampling station inspection request, bin video monitoring inspection request, flow scale video monitoring inspection request, Chinook salmon bycatch video monitoring inspection request, and freezer longline video monitoring inspection request; 30 minutes for notification of Pacific cod freezer longline monitoring option; 16 hours for crab catch monitoring plan (CMP); 8 hours for CMP addendum; 5 minutes for CMP inspection request and catch monitoring and control plan (CMCP) inspection request; 40 hours for CMCP; 8 hours for CMCP addendum; 2 minutes to notify observer of flow scale test and notify observer of hopper scale test; and 5 minutes to notify observer of pollock, CDQ, or rockfish program deliveries.

Estimated Total Annual Burden Hours: 11,037.

Estimated Total Annual Cost to Public: $895,706 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) 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.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 26, 2017.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2017–11316 Filed 5–31–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE201

Notice of Availability of the Deepwater Horizon Oil Spill Texas Trustee Implementation Group Draft 2017 Restoration Plan and Environmental Assessment: Restoration of Wetlands, Coastal, and Nearshore Habitats; and Oysters; Correction

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice of availability; correction.

SUMMARY: NMFS published a document in the **Federal Register** of May 18, 2017, to announce two meetings to inform the public of the availability of the Draft Restoration Plan and Environmental Assessment and to invite the public to provide written and oral comments. The document contained an error in the date for persons with disabilities to request special accommodations. This document corrects the error by clarifying that no request for American Sign Language accommodations is necessary. All other information contained in the original document remains unchanged.

FOR FURTHER INFORMATION CONTACT:

- National Oceanic and Atmospheric Administration—Jamie Schubert, *Jamie.Schubert@noaa.gov;*
- Texas Parks and Wildlife Department—Don Pitts, *Don.Pitts@tpwd.texas.gov.*

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of May 18, 2017, in FR Doc. 2017–10008, on page 22812, in the third column, under the heading, ''Public Meeting Schedule,'' the last paragraph is corrected to read:

''Written and oral comments on the Draft RP/EA may be submitted at the public meetings. American Sign Language translation services will be provided at both public meetings.''

Authority

The authority for this action is OPA (33 U.S.C. 2701 *et seq.*) and the OPA NRDA regulations at 15 CFR part 990.

Dated: May 26, 2017.

Carrie Selberg,

Deputy Director, Office of Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 2017–11317 Filed 5–26–17; 4:15 pm]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Market Risk Advisory Committee

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of meeting.

SUMMARY: The Commodity Futures Trading Commission (CFTC) announces that on June 20, 2017, from 10:00 a.m. to 12:30 p.m., the Market Risk Advisory Committee (MRAC) will hold a public meeting at the CFTC's Washington, DC, headquarters. At this meeting, the MRAC will: (1) Respond to a presentation by the CFTC's Division of Clearing and Risk on how it conducts risk surveillance of central counterparties (CCPs); (2) discuss how to better inform the CCP regulatory framework through academic research and economic analysis; and (3) advise the Commission of the potential effects of Brexit on financial markets.

DATES: The meeting will be held on June 20, 2017 from 10:00 a.m. to 12:30 p.m. Members of the public who wish to submit written statements in connection with the meeting should submit them by June 27, 2017.

ADDRESSES: The meeting will take place in the Conference Center at the CFTC's headquarters, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581. Written statements should be submitted by mail to: Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581, attention: Secretary of the Commission; or by electronic mail to: *secretary@cftc.gov.* Please use the title ''Market Risk Advisory Committee'' in any written statement you submit. Any statements submitted in connection with the committee meeting will be made available to the public, including by publication on the CFTC Web site, *www.cftc.gov.*

FOR FURTHER INFORMATION CONTACT: Petal Walker, MRAC Designated Federal Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581; (202) 418–5060.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public with seating on a first-come, first-served basis. Members of the public may also listen to the meeting by telephone by calling a domestic toll-free telephone or international toll or toll-free number to connect to a live, listen-only audio feed. Call-in participants should be prepared to provide their first name, last name, and affiliation.

Domestic Toll Free: 1–866–844–9416.

International Toll and Toll Free: Will be posted on the CFTC's Web site, *www.cftc.gov,* on the page for the meeting, under Related Links.

Pass Code/Pin Code: 4200483.

The meeting agenda may change to accommodate other MRAC priorities. For agenda updates, please visit the MRAC committee site at: *http://www.cftc.gov/About/CFTCCommittees/MarketRiskAdvisoryCommittee/mrac_meetings.*

After the meeting, a transcript of the meeting will be published through a link on the CFTC's Web site, *www.cftc.gov.* All written submissions provided to the CFTC in any form will also be published on the CFTC's Web site. Persons requiring special accommodations to attend the meeting because of a disability should notify the contact person above.

Authority: 5 U.S.C. app. 2 § 10(a)(2).

Dated: May 26, 2017.

Christopher J. Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2017–11312 Filed 5–31–17; 8:45 am]

BILLING CODE 6351–01–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB–2017–0014]

Request for Information Regarding Ability-to-Repay/Qualified Mortgage Rule Assessment

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice of assessment of Ability-to-Repay/Qualified Mortgage rule and request for public comment.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is conducting an assessment of the ATR/QM Rule under the Truth in Lending Act (Regulation Z), in accordance with section 1022(d) of the Dodd-Frank Wall Street Reform and Consumer Protection Act. The Bureau is requesting public comment on its plans for assessing this rule as well as certain recommendations and information that may be useful in conducting the planned assessment.

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

ADDRESSES: You may submit comments, identified by Docket No. CFPB–2017–0014, by any of the following methods:

- *Electronic: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: FederalRegisterComments@cfpb.gov.* Include Docket No. CFPB–2017–0014 in the subject line of the email.
- *Mail:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20552.
- *Hand Delivery/Courier:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1275 First Street NE., Washington, DC 20002.

Instructions: All submissions should include the document title and docket number. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to *http://www.regulations.gov.* In addition, comments will be available for public inspection and copying at 1275 First Street NE., Washington, DC 20002 on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect the documents by telephoning (202) 435–7275.

All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Sensitive personal information, such as account numbers or Social Security numbers, should not be included. Comments generally will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: Sergei Kulaev, Economist; Julie Vore, Originations Program Manager; Nicholas Hluchyj, Senior Counsel; Division of Research, Markets, and Regulations at 202–435–9323.

SUPPLEMENTARY INFORMATION:

I. Background

Congress established the Bureau in the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).[1] In the Dodd-Frank Act, Congress generally consolidated in the Bureau the rulemaking authority for Federal consumer financial laws previously vested in certain other Federal agencies. Congress also provided the Bureau with the authority to, among other things, prescribe rules as may be necessary or appropriate to enable the Bureau to

[1] Public Law 111–203, 124 Stat. 1376 (2010).

administer and carry out the purposes and objectives of the Federal consumer financial laws and to prevent evasions thereof.[2] Since 2011, the Bureau has issued a number of rules adopted under Federal consumer financial law.

Section 1022(d) of the Dodd-Frank Act requires the Bureau to conduct an assessment of each significant rule or order adopted by the Bureau under Federal consumer financial law. The Bureau must publish a report of the assessment not later than five years after the effective date of such rule or order. The assessment must address, among other relevant factors, the rule's effectiveness in meeting the purposes and objectives of title X of the Dodd-Frank Act and the specific goals stated by the Bureau. The assessment also must reflect available evidence and any data that the Bureau reasonably may collect. Before publishing a report of its assessment, the Bureau must invite public comment on recommendations for modifying, expanding, or eliminating the significant rule or order.[3]

In January 2013, the Bureau issued a rule titled ''Ability-to-Repay and Qualified Mortgage Standards Under the Truth in Lending Act (Regulation Z)'' to implement sections 1411, 1412, and 1414 of the Dodd-Frank Act with an effective date of January 10, 2014.[4] This document refers to this rule as the ''January 2013 Rule.'' The Bureau amended the January 2013 Rule on several occasions before its effective date.[5] This document refers to the rule as amended when it took effect on January 10, 2014 as ''the ATR/QM Rule.'' As discussed further below, the Bureau has determined that the ATR/QM Rule is a significant rule and it will conduct an assessment of this rule. Furthermore, the Bureau will consider certain amendments to the rule that the Bureau issued after its January 10, 2014, effective date to the extent that doing so will facilitate a more meaningful assessment of the ATR/QM Rule and data is available.[6] In this document, the Bureau is requesting public comment on the issues identified below regarding the ATR/QM Rule and these subsequent amendments.

II. Assessment Process

Assessments pursuant to section 1022(d) of the Dodd-Frank Act are for informational purposes only and are not part of any formal or informal rulemaking proceedings under the Administrative Procedure Act. The Bureau plans to consider relevant comments and other information received as it conducts the assessment and prepares an assessment report. The Bureau does not, however, expect that it will respond in the assessment report to each comment received pursuant to this document. Furthermore, the Bureau does not anticipate that the assessment report will include specific proposals by the Bureau to modify any rules, although the findings made in the assessment will help to inform the Bureau's thinking as to whether to consider commencing a rulemaking proceeding in the future.[7] Upon completion of the assessment, the Bureau plans to issue an assessment report not later than January 10, 2019.

III. The Ability-to-Repay/Qualified Mortgage Rule

Congress adopted the Dodd-Frank Act in response to an unprecedented cycle of expansion and contraction in the mortgage market that sparked the most severe U.S. recession since the Great Depression. In the Dodd-Frank Act, Congress enacted a significant number of new provisions governing the origination and servicing of consumer mortgages. Among them is the ability-to-repay requirement for mortgage loans, which was implemented by the Bureau in its January 2013 Rule. The major provisions of the rule are summarized below.

A. Major Provisions of the ATR/QM Rule

The ATR/QM Rule prohibits a creditor from making a mortgage loan unless the creditor makes a reasonable and good faith determination, based on verified and documented information, that the consumer will have a reasonable ability to repay the loan, including any mortgage-related obligations (such as property taxes).[8] The requirement does not apply to investment loans, open-end home equity lines of credit, timeshare plans, reverse mortgages, or temporary loans.

The ATR/QM Rule describes certain minimum requirements for creditors making ability-to-repay determinations, but does not dictate that they follow particular underwriting standards. At a minimum, creditors generally must consider eight underwriting factors: (i) Current or reasonably expected income or assets; (ii) current employment status, if the creditor relies on income from employment in determining repayment ability; (iii) the monthly payment on the covered transaction; (iv) the monthly payment on any simultaneous loan(s) that the creditor knows or has reason to know will be made; (v) the monthly payment for mortgage-related obligations; (vi) current debt obligations, alimony, and child support; (vii) the monthly debt-to-income ratio or residual income; and (viii) credit history.[9] Creditors generally must use reasonably reliable third-party records to verify the information they use to determine repayment ability.[10]

The ATR/QM Rule also provides for a class of ''qualified mortgage'' (QM) loans, for which compliance with the ATR requirement is presumed.[11] That presumption of compliance can be either conclusive, *i.e.* a safe harbor, for QM loans that are not ''higher-priced'', or rebuttable, for QM loans that are ''higher-priced.''[12]

The ATR/QM Rule defines QM loans by establishing general underwriting criteria, as well as restrictions on product features and costs. Specifically, restrictions on product features include prohibitions against negative amortization, balloon payments, interest-only payments, and terms greater than 30 years.[13] In addition, the total points and fees payable in connection with a QM Loan must not exceed a certain percentage of the loan amount.[14]

There are several categories of QM loans. One category is referred to as ''General QM Loans.'' In its determination of borrower's income and debt obligations for a General QM Loan,

[2] 12 U.S.C. 5512(b)(1).

[3] 12 U.S.C. 5512(d).

[4] 78 FR 6408 (Jan. 30, 2013).

[5] When the January 2013 Rule was issued, the Bureau concurrently issued a proposal to amend it, and that proposal was finalized on May 29, 2013. *See* 78 FR 6621 (Jan. 30, 2013) (January 2013 ATR Proposal) and 78 FR 35429 (June 12, 2013) (May 2013 ATR Final Rule). The Bureau issued additional corrections and clarifications in the summer and fall of 2013. See 78 FR 44685 (July 24, 2013) and 78 FR 60381 (Oct. 1, 2013).

[6] In the fall of 2014, the Bureau made further amendments to the ATR/QM Rule related to nonprofit entities and provided a cure mechanism for the points and fees limit that applies to qualified mortgages. 79 FR 65300 (Nov. 3, 2014). The definitions of small creditor and rural area were revised in the fall of 2015. 80 FR 49945 (Oct. 2, 2015). The rural area definition was further revised in the spring of 2016. 81 FR 16074 (March 25, 2016).

[7] The Bureau announces its rulemaking plans in semiannual updates of its rulemaking agenda, which are posted as part of the federal government's Unified Agenda of Regulatory and Deregulatory Actions. *http://www.reginfo.gov/public/do/eAgendaMain.*

[8] TILA section 129C(a); 15 U.S.C. 1639c(a). Prior to the Dodd-Frank Act, existing Regulation Z provided ability-to-repay requirements for high cost and higher-priced mortgage loans. The Dodd-Frank Act expanded the scope of the ability-to-repay requirement to cover all residential mortgage loans.

[9] 12 CFR 1026.43(c)(2).

[10] 12 CFR 1026.43(c)(3), (4).

[11] TILA section 129C(b); 15 U.S.C. 1639c(b); 12 CFR 1026.43(c)

[12] 12 CFR 1026.43(e)(1).

[13] 12 CFR 1026.43(e)(2).

[14] 12 CFR 1026.43(e)(3).

a creditor must adhere to requirements provided in Appendix Q, and it must ensure that the ratio of the consumer's total monthly debt to total monthly income does not exceed 43% (DTI ceiling).[15] The criteria for General QM Loans further require that creditors calculate mortgage payments based on the highest payment that will apply in the first five years of the loan.[16]

The ATR/QM Rule provides a separate, temporary category of QM loans for loans eligible to be purchased or guaranteed by either the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation (collectively, the GSEs) while they operate under Federal conservatorship or receivership (''Temporary GSE QM'' loans). This category of Temporary GSE QM loans will continue to be in effect until the earlier of: (i) The end of conservatorship; or (ii) January 10, 2021.[17]

The rule also provided a temporary category of QM loans for loans eligible to be insured by the U.S. Department of Housing and Urban Development (FHA Loans); guaranteed by the U.S Department of Veterans Affairs (VA Loans); guaranteed by the U.S. Department of Agriculture (USDA Loans); or insured by the Rural Housing Service (RHS Loans) (collectively, ''Temporary Federal Agency QM'' loans).[18] The category of Temporary Federal Agency QM loans no longer exists and has been replaced by the category of Federal Agency QM loans because the relevant Federal agencies (*i.e.,* FHA, VA, and USDA/RHS) have all issued their own qualified mortgage rules since 2014.[19] The Bureau is not including these Federal Agency QM rules in the assessment, which is limited to the Bureau's own ATR/QM Rule.

A fourth category of qualified mortgages provides more flexible underwriting standards for small creditor portfolio loans,[20] and a fifth category allows small creditors that operate in rural or underserved areas to make balloon-payment portfolio loans that are qualified mortgages.[21]

B. Significant Rule Determination

The Bureau has determined that the ATR/QM Rule is a significant rule for purposes of Dodd-Frank Act section 1022(d). The Bureau believes that the initial impact of the rule on costs was muted given market conditions prevailing at the time and the Bureau's decision to create a broad temporary category of QM loans, particularly the Temporary GSE QM loans. The Bureau understands, however, that the industry's strong preference to obtain a presumption of compliance with the ATR/QM Rule by originating QM loans has resulted in meaningful changes in originations operations across the market. The Bureau also takes into consideration the possible impact of the rule on access to credit in particular submarkets and possible impacts on innovation, overall product design and competition. Considering these factors, coupled with the Bureau's more general interest to better understand how the rule's impacts vary under different market conditions, the Bureau concludes that the ATR/QM Rule is a significant rule for purposes of section 1022(d).

IV. The Assessment Plan

Because the Bureau has determined that the ATR/QM Rule is a significant rule for purposes of section 1022(d), the Bureau will assess the rule's effectiveness in meeting the general purposes and objectives of title X of the Dodd-Frank Act and the specific goals of the ATR/QM Rule as stated by the Bureau.

Purposes and Objectives. Section 1021 of the Dodd-Frank Act states that the Bureau shall seek to implement and, where applicable, enforce Federal consumer financial law consistently for the purpose of ensuring that all consumers have access to markets for consumer financial products and services and that markets for consumer financial products and services are fair, transparent, and competitive. Section 1021 also sets forth the Bureau's objectives, which are to exercise its authorities under Federal consumer financial law for the purposes of ensuring that, with respect to consumer financial products and services:

(a) Consumers are provided with timely and understandable information to make responsible decisions about financial transactions;

(b) Consumers are protected from unfair, deceptive, or abusive acts and practices and from discrimination;

(c) Outdated, unnecessary, or unduly burdensome regulations are regularly identified and addressed in order to reduce unwarranted regulatory burdens;

(d) Federal consumer financial law is enforced consistently, without regard to the status of a person as a depository institution, in order to promote fair competition; and

(e) Markets for consumer financial products and services operate transparently and efficiently to facilitate access and innovation.

Specific goals of the ATR/QM Rule. Section 1402 of the Dodd-Frank Act states that Congress created new TILA section 129C upon a finding that ''economic stabilization would be enhanced by the protection, limitation, and regulation of the terms of residential mortgage credit and the practices related to such credit, while ensuring that responsible, affordable mortgage credit remains available to consumers.''[22] Section 1402 of the Dodd-Frank Act further states that the purpose of TILA section 129C is to ''assure that consumers are offered and receive residential mortgage loans on terms that reasonably reflect their ability to repay the loans and that are understandable and not unfair, deceptive or abusive.''[23]

In its January 2013 Rule implementing these TILA amendments, the Bureau recognized that ''a primary goal of the statute was to prevent a repeat of the deterioration of lending standards that contributed to the financial crisis, which harmed consumers in various ways and significantly curtailed their access to credit.''[24] The Dodd Frank Act achieves these goals in part by requiring that, for residential mortgages, creditors must make a reasonable and good faith determination based on verified and documented information that the consumer has a reasonable ability to repay the loan according to its terms.

However, as the Bureau recognized in its January 2013 Rule, neither the statutory text nor legislative history of the Dodd-Frank Act provide any indication that Congress intended to replace proprietary underwriting standards with underwriting standards dictated by governmental or government-sponsored entities as part of the ability-to-repay requirements.[25] Recognizing that a variety of underwriting standards could yield a reasonable, good faith ability-to-repay determination, the Bureau promulgated the ATR/QM Rule with the goal of preserving creditor flexibility to develop underwriting standards, which is ''necessary given the wide range of creditors, consumers, and mortgage products to which this rule applies.''[26]

[15] 12 CFR 1026.43(e)(2)(vi).
[16] 12 CFR 1026.43(e)(2(iv).
[17] 12 CFR 1026.43(e)(4)(ii)(A).
[18] 12 CFR 1026.43(e)(4)(ii)(B) through (E).
[19] *See, e.g.,* 24 CFR 203.19 for HUD rules.
[20] 12 CFR 1026.43(e)(5).
[21] 12 CFR 1026.43(f).
[22] TILA section 129B(a)(1), 15 U.S.C. 1639b(a)(1).
[23] TILA section 129B(a)(2), 15 U.S.C. 1639b(a)(2).
[24] 78 FR 6408, 6570 (Jan. 30, 2013).
[25] 78 FR 6408, 6461 (Jan. 30, 2013).
[26] 78 FR 6408, 6579 (Jan. 30, 2013).

The Dodd-Frank Act also establishes a category of QM loans and provides that QM loans are entitled to a presumption that the creditor making the loan satisfied the ability-to-repay requirement. In promulgating regulations to implement the statutory requirement, ''the Bureau has sought to balance creating new protections for consumers and new responsibilities for creditors with preserving consumers' access to credit and allowing for appropriate lending and innovation.'' [27] For example, by establishing the categories of temporary QM loans, the Bureau sought to ''preserve access to credit during a transition period while the mortgage industry adjusts to this final rule and during a time when the market is especially fragile.'' [28] By providing for most of the conventional market to continue to originate higher debt-to-income loans as QM loans, but making that provision temporary (i.e, the Temporary GSE QM), the Bureau sought, over the long term, to encourage innovation and responsible lending on an individual basis under the ability-to-repay criteria.[29]

Related objectives of the rule include ensuring accurate verification procedures and that creditors and the secondary market can readily determine whether a particular loan is a QM loan.[30]

Scope and approach. To assess the effectiveness of the ATR/QM Rule in meeting these goals, the Bureau will examine the impact of major provisions of the rule on a set of consumer outcomes, including: (i) Mortgage cost; (ii) origination volumes; (iii) approval rates; and (iv) subsequent loan performance. In addition to these measurable outcomes, the Bureau will also consider changes in creditors' underwriting policies and procedures that were made in connection with the rule and which might affect consumer outcomes. The major provisions to be examined are: (i) The ATR requirements, including the eight underwriting factors a creditor must consider; (ii) the QM provisions, with a focus on the DTI threshold, the points and fees threshold, the small creditor threshold and the Appendix Q requirements; and (iii) the applicable verification and third-party documentation requirements.

As a part of this assessment, the Bureau will evaluate the effectiveness and impacts of the Temporary GSE QM category, to the extent that available data and resources allow, and the Bureau may consider potential consequences of the January 10, 2021, expiration or earlier termination of this provision.

In analyzing the impact of the rule on consumer outcomes, certain categories of borrowers are of special interest (in no particular order): (i) Borrowers generating income from self-employment (including those working as ''contract'' or ''1099'' employees); (ii) borrowers anticipated to rely on income from assets to repay the loan; (iii) borrowers who rely on intermittent, supplemental, part-time, seasonal, bonus, or overtime income; (iv) borrowers seeking smaller-than-average loan amounts; (v) borrowers with a debt-to-income ratio exceeding 43%; (vi) low and moderate income borrowers; (vii) minority borrowers; and (viii) rural borrowers. The Bureau will also examine any differential impact the rule may have on these categories of borrowers, to the extent available data allow. The Bureau will also examine differential impacts of the rule on different types of creditors to the extent the data allow.

As a general matter, the assessment will associate rule requirements with observed outcomes of interest and consider counterfactual outcomes, to the extent possible. These include outcomes that did not actually occur but were considered reasonable possibilities at the time the rule was issued, and outcomes that might have occurred if only some (but not all) rule requirements had taken effect. The presence of multiple confounding factors that affect loan performance and access to credit independently of the rule do not generally allow for exact measures of the impact of the rule. In general, any statistical association between observed outcomes and requirements of the rule, while informative on the effectiveness of the rule, is not a proof of causal relationship. However, the Bureau will consider plausible scenarios, specific to each requirement, using existing mortgage datasets and data that the Bureau may reasonably collect (see more detail below regarding the Bureau's research activities and comment requests).

The Bureau anticipates that the assessment will primarily focus on the ATR/QM Rule's requirements in achieving the goal of preserving consumer access to responsible, affordable credit. The Bureau stated with the January 2013 Rule its belief that the ATR/QM Rule ''will not lead to a significant reduction in consumers' access to consumer financial products and services, namely mortgage credit.'' [31] The Bureau took into consideration, however, the potential that the rule ''may have a disproportionate impact on access to credit for consumers with atypical financial characteristics, such as income streams that are inconsistent over time or particularly difficult to document.'' [32] Likewise, in defining a QM loan, the Bureau observed that ''it is not possible by rule to define every instance in which a mortgage is affordable,'' [33] and that ''an overly broad definition of qualified mortgage could stigmatize non-qualified mortgages or leave insufficient liquidity for such loans.'' [34]

The Bureau would ideally be able to assess the effectiveness of the rule in preventing unaffordable lending. The challenge for this analysis is that credit conditions were already fairly tight at the time the ATR/QM Rule went into effect. Before the ATR/QM Rule took effect, the type of nontraditional products that had been offered prior to the Great Recession were no longer being offered, document requirements were stringent, and many creditors were applying credit overlays on top of secondary market standards. Default rates on loans originated after the start of the Great Recession through the period preceding the effective date of the ATR/QM Rule were very low.

In these market conditions, there were likely few if any loans originated where the borrower was demonstrably lacking the ability to repay or creditors failed to use underwriting factors or conduct verification in a manner that would have been generally consistent with 1026.43(c), nor is there a method of reliable identification of such loans. The Bureau seeks suggestions (and associated data) for how to study the potential effectiveness of the requirements, possibly in other market conditions, in reducing the origination of mortgage loans for which consumers lack the ability to repay.

Specific research activities. The Bureau plans to conduct or has begun conducting several research activities in connection with this assessment. Other research activities may also be considered as appropriate.

1. *Quantitative research on loan originations, rejection rates, and loan performance, using available mortgage data and data that the Bureau may reasonably collect.*

The currently available data includes HMDA, third party servicing data,

[27] 78 FR 6408, 6505 (Jan. 30, 2013).
[28] 78 FR 6408, 6536 (Jan. 30, 2013).
[29] 78 FR 6408, 6527–6528 (Jan. 30, 2013).
[30] 78 FR 6408, 6527 (Jan. 30, 2013).
[31] 78 FR 6408, 6570 (Jan. 30, 2013).
[32] 78 FR 6408, 6570 (Jan. 30, 2013).
[33] 78 FR 6408, 6505 (Jan. 30, 2013).
[34] 78 FR 6408, 6505 (Jan. 30, 2013).

Fannie/Freddie public loan level data, and the National Mortgage Database (NMDB).[35] In addition, the Bureau is planning a limited request of data directly from creditors and other stakeholders. As a preliminary matter, the following types of analyses might be informative of the impact of the rule (the Bureau will consider other analyses as well):

(a) The Bureau will utilize HMDA for an analysis of both broad market trends in origination volumes and trends for particular sub-populations, as well as any changes in the frequency of rejected applications and causes for rejections, including before and after the introduction of the rule. This analysis, although not directly informative of the impact of the rule, may indicate whether there were any significant changes in the market right after the introduction of the rule.

(b) The Bureau will use datasets, such as NMDB or servicing datasets, that contain information about debt-to-income ratios to analyze changes in origination volumes of jumbo loans with debt-to-income ratios around the 43% cutoff for QM loans.

(c) The Bureau may conduct a similar analysis with respect to the points and fees threshold, provided the available data allow. The Bureau may perform this analysis for both jumbo loans and conforming loans because conforming loans also must satisfy the points and fees test in order to receive QM status.

(d) To the extent the existing data and resources allow, the Bureau will examine rates of delinquency and default among major categories of loans: Non-QM loans; General QM Loans, and Temporary GSE QM Loans. Although the absolute default rates might have been affected by factors other than the rule, changes in relative default rates between different types of QM loans and between QM loans and non-QM loans may be informative regarding the impact of the rule.

[35] The NMDB is an ongoing project, jointly undertaken by the Federal Housing Finance Agency (FHFA) and the Bureau, with the goal of providing the public and regulatory agencies with data that does not include any personally identifiable information but that otherwise may serve as a comprehensive resource about the U.S. residential mortgage market. The core data in the NMDB are drawn from a random, personally anonymous, 1-in-20 sample of all credit bureau records associated with a closed-end, first-lien mortgage, updated quarterly. Mortgages, after being unlinked from any personally identifiable information or characteristics that could be traced back to any borrower, are followed in the NMDB database until they terminate through prepayment (including refinancing), foreclosure, or maturity. The information available to the FHFA, CFPB, or any other authorized user of the NMDB data never includes any personally identifiable information.

2. *Analysis of cost of credit before and after the rule, as well as recent trends.*

Among other datasets that provide insight in mortgage pricing, of particular value are data procured by the Bureau from Informa Research Services, which includes daily rate sheets for thirty to fifty top creditors, depending on the period. These data present a unique opportunity to study changes in cost of credit as well as changes in eligibility requirements that may have occurred after the introduction of the rule.

3. *Interviews with creditors regarding their activities undertaken to comply with the requirements of the ATR/QM Rule.*

Through interviews with creditors, the Bureau will obtain information on: (a) The changes that creditors might have made to their business practices in connection with the requirements of the rule, including leaving the market; (b) any reported challenges in meeting the rule's requirements, as experienced by creditors in the three years since the rule has become effective; and (c) creditors' experience with the Temporary GSE QM, including their consideration of the eventual expiration of this provision. The primary goal of the research is to understand any changes in pricing and underwriting strategies made by creditors in connection with the requirements of the rule and the possible impact on access to credit for consumers.

4. *Consultations with government regulatory agencies, government sponsored enterprises, and private market participants.*

The Bureau believes that a non-trivial share of current GSE-eligible and FHA/VA/RHA-eligible loans have a debt-to-income ratio exceeding 43 percent. Additionally, there may exist a yet unspecified quantity of GSE or government-eligible loans that meet GSE or government underwriting guidelines but do not meet Appendix Q requirements on documentation and calculation of income and debt. Many such loans would not have been QM if not for the temporary provision (although potentially a subset of those loans could have been QM if documented consistent with Appendix Q and if the DTI ratio calculated consistent with Appendix Q were at or below 43%). In consultations with regulators, GSEs, and private market participants, the Bureau seeks to obtain data to analyze, or otherwise develop an understanding, of how many loans fall within this category, how effective the provision has been in preserving access to credit, and anticipated market responses if the temporary provision were to expire.

V. Request for Comment

To inform the assessment, the Bureau hereby invites members of the public to submit information and other comments relevant to the issues identified below, as well as any information relevant to assessing the effectiveness of the ATR/QM Rule in meeting the purposes and objectives of Title X of the Dodd-Frank Act (section 1021) and the specific goals of the Bureau (enumerated above). In particular, the Bureau invites the public, including consumers and their advocates, housing counselors, mortgage creditors and other industry representatives, industry analysts, and other interested persons to submit the following:

(1) Comments on the feasibility and effectiveness of the assessment plan, the objectives of the ATR/QM Rule that the Bureau intends to emphasize in the assessment, and the outcomes, metrics, baselines, and analytical methods for assessing the effectiveness of the rule as described in part IV above;

(2) Data and other factual information that may be useful for executing the Bureau's assessment plan, as described in part IV above;

(3) Recommendations to improve the assessment plan, as well as data, other factual information, and sources of data that would be useful and available to execute any recommended improvements to the assessment plan;

(4) Data and other factual information about the benefits and costs of the ATR/QM Rule for consumers, creditors, and other stakeholders in the mortgage industry; and about the impacts of the rule on transparency, efficiency, access, and innovation in the mortgage market;

(5) Data and other factual information about the rule's effectiveness in meeting the purposes and objectives of Title X of the Dodd-Frank Act (section 1021), which are listed in part IV above;

(6) Recommendations for modifying, expanding, or eliminating the ATR/QM Rule.

Dated: May 23, 2017.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2017–11218 Filed 5–31–17; 8:45 am]

BILLING CODE 4810–AM–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

Fair Lending Report of the Consumer Financial Protection Bureau, April 2017

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Fair Lending Report of the Consumer Financial Protection Bureau.

SUMMARY: The Bureau of Consumer Financial Protection (CFPB or Bureau) is issuing its fifth Fair Lending Report of the Consumer Financial Protection Bureau (Fair Lending Report) to Congress. We are committed to ensuring fair access to credit and eliminating discriminatory lending practices. This report describes our fair lending activities in prioritization, supervision, enforcement, rulemaking, interagency coordination, and outreach for calendar year 2016.

DATES: The Bureau released the April 2017 Fair Lending Report on its Web site on April 14, 2017.

FOR FURTHER INFORMATION CONTACT: Anita Visser, Senior Policy Advisor to the Director of Fair Lending, Office of Fair Lending and Equal Opportunity, Consumer Financial Protection Bureau, 1–855–411–2372.

SUPPLEMENTARY INFORMATION:

1. Fair Lending Report of the Consumer Financial Protection Bureau, April 2017

Message From Richard Cordray, Director of the CFPB

For over five years, the Consumer Financial Protection Bureau has pursued its statutory mandate to provide ''oversight and enforcement'' of the fair lending laws under our jurisdiction. I am proud of all we have accomplished in ensuring that creditworthy consumers are not denied credit or charged more because of their race or ethnicity or any other prohibited basis.

Our fair lending guidance, supervisory activity, and enforcement actions have three goals: To strengthen industry compliance programs, root out illegal activity, and ensure that harmed consumers are remediated. Over these past five years, we have engaged in robust fair lending dialogue with industry and this dialogue has served to significantly strengthen industry compliance programs. Members of our Fair Lending Office have logged over 300 outreach meetings and events, not to mention preparing responses to the many calls and emails received from compliance officials. We have invested significant efforts toward strengthening industry compliance management systems because they are critical first-line measures to protect consumers from discriminatory lending policies and practices. As a result, our examiners now often find that lenders have already implemented sound policies and procedures to identify and address potential fair lending violations, based on our prior guidance.

We also have achieved remarkable success in our fair lending enforcement activities during this time period, reaching historic resolution of the largest redlining, auto finance, and credit card fair lending cases, and instituting relief that has halted illegal practices. Our fair lending supervision and enforcement activities have resulted in over $400 million in remediation to harmed consumers.

In the coming years, we will increase our focus on markets or products where we see significant or emerging fair lending risk to consumers, including redlining, mortgage loan servicing, student loan servicing, and small business lending. Discrimination on prohibited grounds in the financial marketplace, though squarely against the law, is by no means a thing of the past. The Consumer Bureau will continue to enforce existing fair lending laws at a steady and vigorous pace, taking care to ensure broad-based industry engagement and consistent oversight.

I am proud to present our 2016 Fair Lending Report.

Sincerely,

Richard Cordray

Message From Patrice Alexander Ficklin, Director, Office of Fair Lending and Equal Opportunity

When I left private practice to join the CFPB in 2011, I carried with me my experiences as industry counsel, advising bank and nonbank clients on fair lending compliance. I knew from my work that many lenders are interested in building and maintaining robust fair lending self-monitoring systems that reflect best practices in consumer protection. I advised my clients on their efforts to evaluate and address fair lending risk not only in mortgage origination, but also in mortgage servicing, credit cards, and other areas that had not been a traditional fair lending focus. Together we enhanced the existing methods of proxying for race and ethnicity; an essential step to allow my clients to *fully* implement the mandate contained in the Equal Credit Opportunity Act (ECOA), which prohibits discrimination in all manner of consumer credit, not simply mortgages.

Shortly after arriving at the CFPB in 2011, I led a handful of other public servants in founding the CFPB's Fair Lending Office, which the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) charged with ''oversight and enforcement'' of ECOA. We drew from our experiences and dialogue with industry, the information transferred to us from our sister prudential regulators, civil rights and consumer advocate groups' perspectives, and the expertise of the Bureau's markets teams to establish our first three fair lending priorities: mortgage origination, auto finance, and credit cards. We have accomplished much in these markets over these past five years, not the least of which are the $400 million in remediation to harmed consumers *and* the remarkable and robust dialogue we enjoy with many financial services providers in support of their efforts to treat all of their customers in a fair and responsible manner.

As outlined in my December 2016 blog post,[1] my team has again looked to our statutory mandate and relevant data to refresh the Bureau's fair lending priorities. In 2017 we will increase our focus in the areas of redlining and mortgage and student loan servicing to ensure that creditworthy consumers have access to mortgage loans and to the full array of appropriate options when they have trouble paying their mortgages or student loans, regardless of their race or ethnicity. In addition, we will focus more fully on pursuing our statutory mandate to promote fair credit access for minority- and women-owned businesses. We know that these businesses play an important role in job creation for communities of color, while also strengthening our economy.

The Dodd-Frank Act mandated the creation of the CFPB's Office of Fair Lending and Equal Opportunity and charged it with ensuring fair, equitable, and nondiscriminatory access to credit to consumers; coordinating our fair lending efforts with Federal and State agencies and regulators; working with private industry, fair lending, civil rights, consumer and community advocates to promote fair lending compliance and education; and annually reporting to Congress on our efforts.

I am proud to say that the Office continues to fulfill our Dodd-Frank mandate and looks forward to continuing to work together with all stakeholders in protecting America's consumers. To that end, I am excited to share our progress in this, our fifth, Fair Lending Report.[2]

[1] Patrice Ficklin, *Fair Lending priorities in the new year*, Consumer Financial Protection Bureau (Dec. 16, 2016), *http:www.consumerfinance.gov/about-us/blog/fair-lending-priorities-new-year/*.

[2] *See* Dodd-Frank Act section 1013(c)(2)(D), Public Law 111–203, 124 Stat. 1376 (2010) (codified at 12 U.S.C. 5493(c)(2)(D)).

Sincerely,
Patrice Alexander Ficklin

Executive Summary

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank or Dodd-Frank Act) [3] established the Bureau as the Nation's first Federal agency with a mission focused solely on consumer financial protection and making consumer financial markets work for all Americans. Dodd-Frank established the Office of Fair Lending and Equal Opportunity (the Office of Fair Lending) within the CFPB, and charged it with ''providing oversight and enforcement of Federal laws intended to ensure the fair, equitable, and nondiscriminatory access to credit for both individuals and communities.'' [4]

• Prioritization. The Bureau's risk-based prioritization process allows the Office of Fair Lending to focus our supervisory and enforcement efforts on the markets, products, and institutions that represent the greatest fair lending risk for consumers. Based on the risks we identified, our market-level focus for the past five years has been on ensuring that consumers are not excluded from or made to pay more for mortgages, indirect auto loans, and credit cards because of their race, ethnicity, sex, or age.

Going forward, because of emerging fair lending risks in other areas, we are increasing our focus on redlining, mortgage and student loan servicing, and small business lending. We remain committed to assessing and evaluating fair lending risk in all credit markets under the Bureau's jurisdiction. *See* Section 1 for more information.

• Supervision and enforcement activity. In 2016, our fair lending supervisory and public enforcement actions resulted in approximately $46 million in remediation to harmed consumers.[5] Mortgage lending continues to be a key priority for the Office of Fair Lending for both supervision and enforcement. We have focused in particular on redlining risk, evaluating whether lenders have intentionally discouraged prospective applicants in minority neighborhoods from applying for credit. Although statistics play an important role in this work, we never look at numbers alone or in a vacuum, but rather consider multiple factors, including potentially nondiscriminatory explanations for differential lending patterns. *See* Sections 2.1.6 and 3.1.1 for more information. Through 2016, our mortgage origination work has covered institutions responsible for close to half of the transactions reported pursuant to the Home Mortgage Disclosure Act (HMDA), and more than 60% of the transactions reported by institutions subject to the CFPB's supervision and enforcement authority.[6]

In 2016, the Bureau continued its work in overseeing and enforcing compliance with ECOA in indirect auto lending through both supervisory and enforcement activity, including monitoring compliance with our previous supervisory and enforcement actions. Our indirect auto lending work has covered institutions responsible for approximately 60% of the auto loan market share by volume.[7]

The Bureau also continued fair lending supervisory and enforcement work in the credit card market. We have focused in particular on the quality of fair lending compliance management systems (CMS) and on fair lending risks in underwriting, line assignment, and servicing. Our work in this highly-concentrated market has covered institutions responsible for more than 85% of outstanding credit card balances in the United States.[8]

The Bureau has conducted supervision and enforcement work in other markets as well. For example, this year we continued targeted ECOA reviews of small-business lending, focusing in particular on the quality of fair lending compliance management systems and on fair lending risks in underwriting, pricing, and redlining. Our supervisory work to date in small business lending has covered institutions responsible for approximately 10% of the non-agricultural small business market share. *See* Sections 2 and 3 for more information.

• Rulemaking. In January 2016, in response to ongoing conversations with industry about compliance with Regulation C, HMDA's implementing Regulation, the Bureau issued a Request for Information (RFI) on the Bureau's HMDA data resubmission guidelines, and is considering whether to adjust its existing HMDA resubmission guidelines and if so, how.[9] On September 23, 2016, the Bureau published a Bureau Official Approval pursuant to section 706(e) of the ECOA concerning the new Uniform Residential Loan Application and the collection of expanded HMDA information about ethnicity and race in 2017. On March 24, 2017, the Bureau published a proposed rule concerning amendments to Regulation B's ethnicity and race information collection provisions.[10] *See* Section 4 for more information.

• Interagency coordination and collaboration. The Bureau continues to coordinate with the Federal Financial Institutions Examination Council (FFIEC) agencies,[11] as well as the Department of Justice (DOJ), the Federal Trade Commission (FTC), and the Department of Housing and Urban Development (HUD), as we each play a role in ensuring compliance with and enforcing our nation's fair lending laws and regulations. *See* Section 5 for more information on our interagency coordination and collaboration in 2016.

• Outreach to industry, advocates, consumers, and other stakeholders. The Bureau continues to initiate and encourage industry and consumer engagement opportunities to discuss fair lending compliance and access to credit issues, including through speeches, presentations, blog posts, webinars, rulemaking, and public comments. *See* Section 6 for more information on our outreach activities in 2016.

This report generally covers the Bureau's fair lending work during calendar year 2016.

1. Fair Lending Prioritization

1.1 Risk-Based Prioritization: A Data-Driven Approach to Prioritizing Areas of Potential Fair Lending Harm to Consumers

To use the CFPB's fair lending resources most effectively, the Office of Fair Lending, working with other offices in the Bureau, has developed and

[3] Public Law 111–203, 124 Stat. 1376 (2010).

[4] Dodd-Frank Act section 1013(c)(2)(A) (codified at 12 U.S.C. 5493(c)(2)(A)).

[5] Figures represent estimates of monetary relief for consumers ordered or required by the Bureau or a court as a result of supervisory or enforcement actions on fair lending matters in 2016, as well as other monetary payments such as loan subsidies, increased consumer financial education, and civil money penalties.

[6] CFPB analysis of HMDA data for 2015.

[7] CFPB analysis of 2015 AutoCount data from Experian Automotive.

[8] CFPB analysis of 3Q 2016 call reports.

[9] Consumer Financial Protection Bureau, *Request for Information Regarding Home Mortgage Disclosure Act Resubmission Guidelines 2015–0058* (Jan. 7, 2016), *http://files.consumerfinance.gov/f/201601_cfpb_request-for-information-regarding-home-mortgage-disclosure-act-resubmission.pdf.*

[10] Consumer Financial Protection Bureau, *Amendments to Equal Credit Opportunity Act (Regulation B) Ethnicity and Race Information Collection 2017–0009* (March 24, 2017), *http://files.consumerfinance.gov/f/documents/201703_cfpb_NPRM-to-amend-Regulation-B.pdf.*

[11] The FFIEC member agencies are the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), the Office of the Comptroller of the Currency (OCC), and the Consumer Financial Protection Bureau (CFPB). The State Liaison Committee was added to FFIEC in 2006 as a voting member.

refined a risk-based prioritization approach that determines how best to address areas of potential fair-lending-related consumer harm in the entities, products, and markets under our jurisdiction.

One critical piece of information that we consider in the fair lending prioritization process is the quality of an institution's compliance management system, which the Bureau typically ascertains through its supervisory work. The Bureau has previously identified common features of a well-developed fair lending compliance management system,[12] though we recognize that the appropriate scope of an institution's fair lending compliance management system will vary based on its size, complexity, and risk profile. In our experience, the higher the quality of an institution's fair lending compliance management system, the lower the institution's fair lending risk to consumers, other things being equal.

As part of the prioritization process the Office of Fair Lending also works closely with the Bureau's special population offices, including the Office for Students and Young Consumers, the Office of Older Americans, and the Bureau's Markets offices, which identify emerging developments and trends by monitoring key consumer financial markets. If this market intelligence identifies fair lending risks in a particular market that require further attention, we incorporate that information into our prioritization process to determine the type and extent of attention required to address those risks. For instance, Fair Lending's work with the Office of Consumer Lending, Reporting, and Collections Markets and the Office for Students and Young Consumers highlighted potential steering risks in student loan servicing, which resulted in the prioritization of this market in our supervisory work.

The fair lending prioritization process incorporates a number of additional factors as well, including; consumer complaints; tips and leads from advocacy groups, whistleblowers, and government agencies; supervisory and enforcement history; and results from analysis of HMDA and other data.

Once the Bureau has evaluated these inputs to prioritize institutions, products, and markets based on an assessment of fair lending risk posed to consumers, the Office of Fair Lending considers how best to address those risks as part of its strategic planning process. For example, we can schedule an institution for a supervisory review or, where appropriate, open an enforcement investigation. We can also commit to further research, policy development, and/or outreach, especially for new issues or risks. Once this strategic planning process is complete, we regularly coordinate with other regulators so we can inform each other's work, complement each other's efforts, and reduce any burden on subject institutions.

Risk-based prioritization is an ongoing process, and we continue to receive and evaluate relevant information even after priorities are identified. At an institution level, such information may include new tips and leads, consumer complaints, additional risks identified in current supervisory and enforcement activities, and compliance issues identified and brought to our attention by institutions themselves. In determining how best to address this additional information, the Office of Fair Lending considers several factors, including (1) the nature and extent of the fair lending risk, (2) the degree of consumer harm, and (3) whether the risk was self-identified and/or self-reported to the Bureau. Fair Lending takes account of responsible conduct as set forth in CFPB Bulletin 2013–06, Responsible Business Conduct: Self-Policing, Self-Reporting, Remediation, and Cooperation.[13]

1.2 Fair Lending Priorities

Because the CFPB is responsible for overseeing so many products and so many lenders, we re-prioritize our work from time to time to make sure that we are focused on the areas of greatest risk to consumers. In the coming year, we will increase our focus on the markets or products listed below, which present substantial risk of credit discrimination for consumers.

Redlining. We will continue to evaluate whether lenders have intentionally discouraged prospective applicants in minority neighborhoods from applying for credit.

Mortgage and Student Loan Servicing. We will evaluate whether some borrowers who are behind on their mortgage or student loan payments may have more difficulty working out a new solution with the servicer because of their race, ethnicity, sex, or age.

Small Business Lending. Congress expressed concern that women-owned and minority-owned businesses may experience discrimination when they apply for credit, and has required the CFPB to take steps to ensure their fair access to credit. Small business lending supervisory activity will also help expand and enhance the Bureau's knowledge in this area, including the credit process; existing data collection processes; and the nature, extent, and management of fair lending risk. The Bureau remains committed to ensuring that consumers are protected from discrimination in all credit markets under its authority.

2. Fair Lending Supervision

The CFPB's Fair Lending Supervision program assesses compliance with ECOA and HMDA at banks and nonbanks over which the Bureau has supervisory authority. Supervision activities range from assessments of institutions' fair lending compliance management systems to in-depth reviews of products or activities that may pose heightened fair lending risks to consumers. As part of its Fair Lending Supervision program, the Bureau continues to conduct three types of fair lending reviews at Bureau-supervised institutions: ECOA baseline reviews, ECOA targeted reviews, and HMDA data integrity reviews.

When the CFPB identifies situations in which fair lending compliance is inadequate, it directs institutions to establish fair lending compliance programs commensurate with the size and complexity of the institution and its lines of business. When fair lending violations are identified, the CFPB may direct institutions to provide remediation and restitution to consumers, and may pursue other appropriate relief. The CFPB also refers a matter to the Justice Department when it has reason to believe that a creditor has engaged in a pattern or practice of lending discrimination in violation of ECOA.[14] The CFPB may also refer other potential ECOA violations to the Justice Department.

2.1 Fair Lending Supervisory Observations

Although the Bureau's supervisory process is confidential, the Bureau publishes regular reports called *Supervisory Highlights,* which provide information on supervisory trends the Bureau observes without identifying specific entities. The Bureau may also draw on its supervisory experience to publish compliance bulletins in order to remind the institutions that we supervise of their legal obligations.

[12] *See* Consumer Financial Protection Bureau, *Fair Lending Report of the Consumer Financial Protection Bureau* at 13–14 (Apr. 2014), *http://files.consumerfinance.gov/f/201404_cfpb_report_fair-lending.pdf.*

[13] Consumer Financial Protection Bureau, *Responsible Business Conduct: Self-Policing, Self-Reporting, Remediation, and Cooperation,* CFPB Bulletin 2013–06 (June 25, 2013), *http://files.consumerfinance.gov/f/201306_cfpb_bulletin_responsible-conduct.pdf.*

[14] 15 U.S.C. 1691e(g).

Industry participants can use this information to inform and assist in complying with ECOA and HMDA.

2.1.1 Evaluating Mortgage Servicing Compliance Programs

Our supervisory work has included use of the ECOA Baseline Modules, which are part of the CFPB Supervision and Examination Manual. Examination teams use these modules to conduct ECOA Baseline Reviews, which evaluate how well institutions' compliance management systems identify and manage fair lending risks. The Mortgage Servicing Special Edition of *Supervisory Highlights,*[15] published in June 2016, reminded institutions that Module 4 of the ECOA baseline review modules, ''Fair Lending Risks Related to Servicing,'' is used by Bureau examiners to evaluate compliance management systems under ECOA. Among other things, Module 4 contains questions regarding fair lending training of servicing staff, fair lending monitoring of servicing, and servicing of consumers with limited English proficiency.

2.1.2 Reporting Actions Taken for Conditionally-Approved Applications With Unmet Underwriting Conditions

The Summer 2016 edition of *Supervisory Highlights,*[16] published in June 2016, highlighted findings from examinations where institutions improperly coded actions taken in reported HMDA data. Among other things, Regulation C requires covered depository and non-depository institutions to submit to the appropriate Federal agency data they collect and record pursuant to Regulation C, including the type of action taken on reportable transactions.[17] As reported in *Supervisory Highlights,* examiners found that after issuing a conditional approval subject to underwriting conditions, the institutions did not accurately report the action taken on the loans or applications. As a result, Supervision directed one or more institutions to enhance their policies and procedures regarding their HMDA reporting of the actions taken on loans and applications and, where necessary, provide adverse action notices. Supervision also required one or more institutions to resubmit their HMDA Loan Application Register (LAR) where the number of errors exceeded the CFPB's HMDA resubmission thresholds.

2.1.3 Expanding Credit Through the Use of Special Purpose Credit Programs

• The Summer 2016 edition of *Supervisory Highlights*[18] discussed supervisory observations of special purpose credit programs, which are established and administered to extend credit to a class of persons who otherwise probably would not receive such credit or would receive it on less favorable terms. ECOA[19] and Regulation B[20] permit a creditor to extend special purpose credit to applicants who meet eligibility requirements for certain types of credit programs.[21] Regulation B specifically confers special purpose credit program status upon:

Any special purpose credit program offered by a for-profit organization, or in which such an organization participates to meet special social needs, if:

(i) The program is established and administered pursuant to a written plan that identifies the class of persons that the program is designed to benefit and sets forth the procedures and standards for extending credit pursuant to the program; and

(ii) The program is established and administered to extend credit to a class of persons who, under the organization's customary standards of creditworthiness, probably would not receive such credit or would receive it on less favorable terms than are ordinarily available to other applicants applying to the organization for a similar type and amount of credit.[22]

The commentary to Regulation B clarifies that, in order to satisfy these requirements, ''a for-profit organization must determine that the program will benefit a class of people who would otherwise be denied credit or would receive it on less favorable terms. This determination can be based on a broad analysis using the organization's own research or data from outside sources, including governmental reports and studies.''[23]

As *Supervisory Highlights* noted, during the course of the Bureau's supervisory activity, examination teams have observed credit decisions made pursuant to the terms of programs that for-profit institutions have described as special purpose credit programs. Examination teams have reviewed the terms of the programs, including the written plan required by Regulation B, and the institution's determination that the program would benefit a class of people who would otherwise be denied credit or would receive it on less favorable terms.

In every case, special purpose credit program status depends upon adherence to the ECOA and Regulation B requirements for special purpose credit programs. A program, for example, offering more favorable pricing or products exclusively to a particular class of persons without evidence that such individuals would otherwise be denied credit or would receive it on less favorable terms would not satisfy the ECOA and Regulation B requirements for a special purpose credit program. With that in mind, however, the Bureau generally takes a favorable view of conscientious efforts that institutions may undertake to develop special purpose credit programs to promote extensions of credit to any class of persons who would otherwise be denied credit or would receive it on less favorable terms.

2.1.4 Offering Language Services to Limited English Proficient (LEP) Consumers

The Fall 2016 edition of *Supervisory Highlights,*[24] published in October 2016, discussed supervisory observations about the provision of language services to consumers with limited English proficiency (LEP). The Dodd-Frank Act, ECOA,[25] and Regulation B[26] mandate that the Office of Fair Lending ''ensure the fair, equitable, and nondiscriminatory access to credit''[27] and ''promote the availability of credit.''[28] Consistent with that mandate, the CFPB, including through its Office of Fair Lending, continues to encourage lenders to provide assistance to LEP consumers.[29] Financial institutions may

[15] Consumer Financial Protection Bureau, *Supervisory Highlights Mortgage Servicing Special Edition 2016* at 5 (June 22, 2016), *http://files.consumerfinance.gov/f/documents/Mortgage_Servicing_Supervisory_Highlights_11_Final_web_.pdf.*

[16] Consumer Financial Protection Bureau, *Supervisory Highlights Summer 2016* at 13–16 (June 30, 2016), *http://files.consumerfinance.gov/f/documents/Supervisory_Highlights_Issue_12.pdf.*

[17] 12 CFR 1003.4(a), (a)(8); 12 CFR 1003.5(a)(1).

[18] Consumer Financial Protection Bureau, *Supervisory Highlights Summer 2016* at 16–18 (June 30, 2016), *http://files.consumerfinance.gov/f/documents/Supervisory_Highlights_Issue_12.pdf.*

[19] 15 U.S.C. 1691 *et seq.*

[20] 12 CFR part 1002.

[21] 15 U.S.C. 1691(c)(3) (providing that ECOA's prohibitions against discrimination are not violated when a creditor refuses to extend credit offered pursuant to certain special purpose credit programs satisfying Regulation B-prescribed standards); 12 CFR 1002.8 (special purpose credit program standards).

[22] 12 CFR 1002.8(a)(3).

[23] 12 CFR part 1002, Suppl. I, 1002.8, comment 8(a) at 5.

[24] Consumer Financial Protection Bureau, *Supervisory Highlights Fall 2016* at 20 (Oct. 31, 2016), *http://files.consumerfinance.gov/f/documents/Supervisory_Highlights_Issue_13__Final_10.31.16.pdf.*

[25] 12 U.S.C. 1691 *et seq.*

[26] 12 CFR part 1002 *et seq.*

[27] 12 U.S.C. 5493(c)(2)(A).

[28] 12 CFR 1002.1(b).

[29] According to recent American Community Survey estimates, there are approximately 25 million people in the United States who speak English less than ''very well.'' U.S. Census Bureau,

provide access to credit in languages other than English in a manner that is beneficial to consumers as well as the institution, while taking steps to ensure their actions are compliant with ECOA and other applicable laws.

As reported in *Supervisory Highlights,* in the course of conducting supervisory activity, examiners have observed one or more financial institutions providing services in languages other than English, including to consumers with limited English proficiency,[30] in a manner that did *not* result in any adverse supervisory or enforcement action under the facts and circumstances of the reviews. Specifically, examiners observed:

- Marketing and servicing of loans in languages other than English;
- Collection of customer language information to facilitate communication with LEP consumers in a language other than English;
- Translation of certain financial institution documents sent to borrowers, including monthly statements and payment assistance forms, into languages other than English;
- Use of bilingual and/or multilingual customer service agents, including single points of contact,[31] and other forms of oral customer assistance in languages other than English; and
- Quality assurance testing and monitoring of customer assistance provided in languages other than English.

Examiners have observed a number of factors that financial institutions consider in determining whether to provide services in languages other than English and the extent of those services, some of which include: Census Bureau data on the demographics or prevalence of non-English languages within the financial institution's footprint; communications and activities that most significantly impact consumers (*e.g.,* loss mitigation and/or default servicing); and compliance with Federal, State, and other regulatory provisions that address obligations pertaining to languages other than English.[32] Factors relevant in the compliance context may vary depending on the institution and circumstances.

Examiners also have observed situations in which financial institutions' treatment of LEP and non-English-speaking consumers posed fair lending risk. For example, examiners observed one or more institutions marketing only some of their available credit card products to Spanish-speaking consumers, while marketing several additional credit card products to English-speaking consumers. One or more such institutions also lacked documentation describing how they decided to exclude those products from Spanish language marketing, raising questions about the adequacy of their compliance management systems related to fair lending. To mitigate any compliance risks related to these practices, one or more financial institutions revised their marketing materials to notify consumers in Spanish of the availability of other credit card products and included clear and timely disclosures to prospective consumers describing the extent and limits of any language services provided throughout the product lifecycle. Institutions were not required to provide Spanish language services to address this risk beyond the Spanish language services they were already providing.

As reported in *Supervisory Highlights,* the Bureau's supervisory activity resulted in public enforcement actions related to the treatment of LEP and non-English-speaking consumers, including actions against Synchrony Bank and American Express Centurion Bank. The Fall 2016 edition of *Supervisory Highlights* also discussed common features of a well-developed compliance management system that can mitigate fair lending and other risks associated with providing services to LEP and non-English-speaking consumers.

2.1.5 HMDA Data Collection and Reporting Reminders for 2017

The Fall 2016 edition of *Supervisory Highlights*[33] noted HMDA data collection and reporting reminders for 2017. Please see Section 4.1.4 for detail on changes to HMDA data collection and reporting in 2017 and later years.

2.1.6 Assessing Redlining Risks

The Fall 2016 edition of *Supervisory Highlights*[34] noted that the Office of Fair Lending has identified redlining as a priority area in the Bureau's fair lending work. Redlining is a form of unlawful lending discrimination under ECOA. Historically, actual red lines were drawn on maps around neighborhoods to which credit would not be provided, giving this practice its name. The Federal prudential banking regulators have collectively defined redlining as ''a form of illegal disparate treatment in which a lender provides unequal access to credit, or unequal terms of credit, because of the race, color, national origin, or other prohibited characteristic(s) of the residents of the area in which the credit seeker resides or will reside or in which the residential property to be mortgaged is located.''[35]

The Bureau considers various factors, as appropriate, in assessing redlining risk in its supervisory activity. These factors, and the scoping process, are described in detail in the Interagency Fair Lending Examination Procedures. These factors generally include (but are not limited to):

Language Spoken at Home, 2011–2015 American Community Survey 5-Year Estimates, https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_15_5YR_S1601&prodType=table.

[30] The Bureau recently updated its ECOA baseline review modules. *See* Consumer Financial Protection Bureau, *Supervisory Highlights: Winter 2016* at 28–29 (Mar. 8, 2016), *http://files.consumerfinance.gov/f/201603_cfpb_supervisory-highlights.pdf.* Among other updates, the modules include new questions related to the provision of language services, including to LEP consumers, in the context of origination and servicing. *See* Consumer Financial Protection Bureau, *CFPB Examination Procedures, ECOA Baseline Review Modules* 13, 21–22 (Oct. 2015), *http://files.consumerfinance.gov/f/201510_cfpb_ecoa-baseline-review-modules.pdf.* These modules are used by examiners during ECOA baseline reviews to identify and analyze risks of ECOA violations, to facilitate the identification of certain types of ECOA and Regulation B violations, and to inform fair lending prioritization decisions for future CFPB reviews. *Id.* at 1.

[31] *See* 12 CFR 1024.40(a)(1) & (2) (requiring mortgage servicers to assign personnel to a delinquent borrower within a certain time after delinquency and make assigned personnel available by phone in order to respond to borrower inquiries and assist with loss mitigation options, as applicable).

[32] *See, e.g.,* 12 CFR 1005.31(g)(1)(i) (requiring disclosures in languages other than English in certain circumstances involving remittance transfers); 12 CFR 1026.24(i)(7) (addressing obligations relating to advertising and disclosures in languages other than English for closed-end credit); 12 CFR 1002.4(e) (providing that disclosures made in languages other than English must be available in English upon request); Cal. Civ. Code Sec.1632(b) (requiring that certain agreements ''primarily'' negotiated in Spanish, Chinese, Tagalog, Vietnamese, or Korean must be translated to the language of the negotiation under certain circumstances); Or. Rev. Stat. § 86A.198 (requiring a mortgage banker, broker, or originator to provide translations of certain notices related to the mortgage transaction if the banker, broker, or originator advertises and negotiates in a language other than English under certain circumstances); Tex. Fin. Code Ann. Sec. 341.502(a–1) (providing that for certain loan contracts negotiated in Spanish, a summary of the loan terms must be made available to the debtor in Spanish in a form identical to required TILA disclosures for closed-end credit).

[33] Consumer Financial Protection Bureau, *Supervisory Highlights Fall 2016* at 25–26 (Oct. 31, 2016), *http://files.consumerfinance.gov/f/documents/Supervisory_Highlights_Issue_13__Final_10.31.16.pdf.*

[34] Consumer Financial Protection Bureau, *Supervisory Highlights Fall 2016* at 27 (Oct. 31, 2016), *http://files.consumerfinance.gov/f/documents/Supervisory_Highlights_Issue_13__Final_10.31.16.pdf.*

[35] FFIEC Interagency Fair Lending Examination Procedures Manual (Aug. 2009), *https://www.ffiec.gov/pdf/fairlend.pdf.* CFPB Supervision and Examination Manual (Oct. 2012), *http://files.consumerfinance.gov/f/201210_cfpb_supervision-and-examination-manual-v2.pdf.*

- Strength of an institution's CMS, including underwriting guidelines and policies;
- Unique attributes of relevant geographic areas (population demographics, credit profiles, housing market);
- Lending patterns (applications and originations, with and without purchased loans);
- Peer and market comparisons;
- Physical presence (full service branches, ATM-only branches, brokers, correspondents, loan production offices), including consideration of services offered;
- Marketing;
- Mapping;
- Community Reinvestment Act (CRA) assessment area and market area more generally;
- An institution's lending policies and procedures record;
- Additional evidence (whistleblower tips, loan officer diversity, testing evidence, comparative file reviews); and
- An institution's explanations for apparent differences in treatment.

The Bureau has observed that institutions with strong compliance programs examine lending patterns regularly, look for any statistically-significant disparities, evaluate physical presence, monitor marketing campaigns and programs, and assess CRA assessment areas and market areas more generally. Our supervisory experience reveals that institutions may reduce fair lending risk by documenting risks they identify and by taking appropriate steps in response to identified risks, as components of their fair lending compliance management programs.

Examination teams typically assess redlining risk, at the initial phase, at the Metropolitan Statistical Area (MSA) level for each supervised entity, and consider the unique characteristics of each MSA (population demographics, etc.).

To conduct the initial analysis, examination teams use HMDA data and Census data [36] to assess the lending patterns at institutions subject to the Bureau's supervisory authority. To date, examination teams have used these publicly available data to conduct this initial risk assessment. These initial analyses typically compare a given institution's lending patterns to other lenders in the same MSA to determine whether the institution received significantly fewer applications from minority [37] areas [38] relative to other lenders in the MSA. Examination teams may consider the difference between the subject institution and other lenders in the percentage of their applications or originations that come from minority areas, both in absolute terms (for example, 10% vs. 20%) and relative terms (for example, the subject institution is half as likely to have applications or originations in minority areas as other lenders).[39]

Examination teams may also compare an institution to other more refined groups of peer institutions. Refined peers can be defined in a number of ways, and past Bureau redlining examinations and enforcement matters have relied on multiple peer comparisons. The examination team often starts by compiling a refined set of peer institutions to find lenders of a similar size—for example, lenders that received a similar number of applications or originated a similar number of loans in the MSA. The examination team may also consider an institution's mix of lending products. For example, if an institution participates in the Federal Housing Administration (FHA) loan program, it may be compared to other institutions that also originate FHA loans; if not, it may be compared to other lenders that do not offer FHA loans. Additional refinements may incorporate loan purpose (for example, focusing only on home purchase loans) or action taken (for example, incorporating purchased loans into the analysis). Examination teams have also taken suggestions, as appropriate, from institutions about appropriate peers in specific markets.

In considering lending patterns, examination teams generally consider marketing activities and physical presence, including locations of branches, loan production offices, ATMs, brokers, or correspondents. As noted in *Supervisory Highlights,* in one or more supervisory matters, the institutions concentrated marketing in majority-White suburban counties of a Metropolitan Statistical Area (MSA) and avoided a more urban county with the greatest minority population in the MSA. In one or more other exams, examiners observed that, although there were disparities in branch locations, the location of branches did not affect access to credit in that case because, among other things, the branches did not accept ''walk-in'' traffic and all applications were submitted online. The results of the examinations were also dependent on other factors that showed equitable access to credit, and there could be cases in which branch locations in combination with other risk-based factors escalate redlining risk.

For redlining analyses, examination teams generally map information, including data on lending patterns (applications and originations), marketing, and physical presence, against census data to see if there are differences based on the predominant race/ethnicity of the census tract, county, or other geographic designation. Additionally, examination teams will consider any other available evidence about the nature of the lender's business that might help explain the observed lending patterns.

Examination teams have considered numerous factors in each redlining examination, and have invited institutions to identify explanations for any apparent differences in treatment.

Although redlining examinations are generally scheduled at institutions where the Bureau has identified statistical disparities, statistics are never considered in a vacuum. The Bureau will always work with institutions to understand their markets, business models, and other information that could provide nondiscriminatory explanations for lending patterns that would otherwise raise a fair lending risk of redlining.

2.1.7 Enforcement Actions Arising From Supervisory Activity

In addition to providing information on supervisory trends, *Supervisory Highlights* also provides information on enforcement actions that resulted from supervisory activity. *See* Section 3.3.1

[36] The Bureau uses the most current United States national census data that apply to the HMDA data—for example, to date it has used 2010 census data for HMDA data 2011 and later. Specifically, the ''Demographic Profiles'' are used.

[37] For these purposes, the term ''minority'' ordinarily refers to anyone who identifies with any combination of race or ethnicity other than non-Hispanic White. Examination teams have also focused on African-American and Hispanic consumers, and could foreseeably focus on other more specific minority communities such as Asian, Native Hawaiian, or Native Alaskan populations, if appropriate for the specific geography. In one examination that escalated to an enforcement matter, the statistical evidence presented focused on African-American and Hispanic census tracts, rather than all minority consumers, because the harmed consumers were primarily African-American and Hispanic.

[38] Examination teams typically look at majority minority areas (>50% minority) and high minority areas (>80% minority), although sometimes one metric is more appropriate than another, and sometimes other metrics need to be used to account for the population demographics of the specific MSA.

[39] This relative analysis may be expressed as an odds ratio: The given lender's odds of receiving an application or originating a loan in a minority area divided by other lenders' comparable odds. An odds ratio greater than one means that the institution is more likely to receive applications or originate loans in minority areas than other lenders; an odds ratio lower than one means that the institution is less likely do so. Odds ratios show greater risk as they approach zero.

for more information on such public enforcement actions.

3. Fair Lending Enforcement

The Bureau conducts investigations of potential violations of HMDA and ECOA, and if it believes a violation has occurred, can file a complaint either through its administrative enforcement process or in Federal court. Like the other Federal bank regulators, the Bureau refers matters to the DOJ when it has reason to believe that a creditor has engaged in a pattern or practice of lending discrimination.[40] However, when the Bureau makes a referral to the DOJ, the Bureau can still take its own independent action to address a violation. In 2016, the Bureau announced two fair lending enforcement actions in mortgage origination and indirect auto lending. The Bureau also has a number of ongoing fair lending investigations and has authority to settle or sue in a number of matters. In addition, the Bureau issued warning letters to mortgage lenders and mortgage brokers that may be in violation of HMDA requirements to report on housing-related lending activity.

3.1 Fair Lending Public Enforcement Actions

3.1.1 Mortgage

BancorpSouth Bank

On June 29, 2016, the CFPB and the DOJ announced a joint action against BancorpSouth Bank (BancorpSouth) for discriminatory mortgage lending practices that harmed African Americans and other minorities. The complaint filed by the CFPB and DOJ[41] alleged that BancorpSouth engaged in numerous discriminatory practices, including illegal redlining in Memphis; denying certain African Americans mortgage loans more often than similarly situated non-Hispanic White applicants; charging African-American borrowers more for certain mortgage loans than non-Hispanic White borrowers with similar loan qualifications; and implementing an explicitly discriminatory loan denial policy. The consent order, which was entered by the court on July 25, 2016, requires BancorpSouth to pay $4 million in direct loan subsidies in minority neighborhoods[42] in Memphis, at least $800,000 for community programs, advertising, outreach, and credit repair, $2.78 million to African-American consumers who were unlawfully denied or overcharged for loans, and a $3 million penalty.[43]

BancorpSouth is a regional depository institution headquartered in Tupelo, Mississippi that operates branches in eight States: Alabama, Arkansas, Florida, Louisiana, Mississippi, Missouri, Tennessee, and Texas. In the complaint, CFPB and DOJ alleged that BancorpSouth:

- Illegally redlined in Memphis: The agencies alleged that, at least from 2011 to 2013, BancorpSouth illegally redlined in the Memphis area—the market from which the bank received the most applications—by structuring its business to avoid and discourage consumers in minority neighborhoods from accessing mortgages. Specifically, the agencies alleged that the bank placed its branches outside of minority neighborhoods, excluded nearly all minority neighborhoods from the area it chose to serve under the Community Reinvestment Act, and directed nearly all of its marketing away from minority neighborhoods. As a result, BancorpSouth generated relatively few applications from minority neighborhoods as compared to its peers.
- Discriminated in underwriting certain mortgages: The agencies also alleged that one of BancorpSouth's lending units discriminated against African-American applicants by denying them mortgage loans—including loans with consumer as well as business purposes—more often than similarly situated non-Hispanic White applicants. Specifically, the agencies alleged that BancorpSouth granted its employees wide discretion to make credit decisions on mortgage loans. This discretion resulted in African-American applicants being denied certain mortgages at rates more than two times higher than expected if they had been non-Hispanic White.
- Discriminated in pricing certain mortgage loans: The agencies also alleged that one of BancorpSouth's lending units discriminated against African-American borrowers that it did approve by charging them higher annual percentage rates than non-Hispanic White borrowers with similar loan qualifications. Specifically, the agencies alleged that BancorpSouth granted its employees wide discretion to set the prices of mortgage loans. This discretion resulted in African-American borrowers paying significantly higher annual percentage rates than similarly situated non-Hispanic White borrowers, costing African-American consumers hundreds of dollars more each year they held the loan.
- Implemented an explicitly discriminatory denial policy: The complaint alleged that BancorpSouth required its employees to deny applications from minorities and other ''protected class'' applicants more quickly than those from other applicants and not to provide credit assistance to ''borderline'' applicants, which may have improved their chances of getting a loan. The bank generally permitted loan officers to assist marginal applicants, but the explicitly race-based denial policy departed from that practice. An audio recording of a 2012 internal meeting at BancorpSouth clearly articulates this discriminatory policy, as well as negative and stereotyped perceptions of African Americans.

The consent order requires BancorpSouth to take a number of remedial measures, including paying $4 million into a loan subsidy program to increase access to affordable credit, by offering qualified applicants in majority-minority neighborhoods in Memphis mortgage loans on a more affordable basis than otherwise available from BancorpSouth. The loan subsidies can include interest rate reductions, closing cost assistance, and down payment assistance. In addition, the consent order requires BancorpSouth to spend $500,000 to partner with community-based or governmental organizations that provide education, credit repair, and other assistance in minority neighborhoods in Memphis, and to spend at least $300,000 on a targeted advertising and outreach campaign to generate applications for mortgage loans from qualified consumers in majority-minority neighborhoods in Memphis. The consent order also requires BancorpSouth to pay $2.78 million to African-American consumers who were improperly denied mortgage loans or overcharged for their loans because of BancorpSouth's allegedly discriminatory pricing and underwriting policies. Finally, BancorpSouth paid a $3 million penalty to the CFPB's Civil Penalty Fund.

In addition to the monetary requirements, the court decree orders BancorpSouth to expand its physical presence by opening one new branch or loan production office in a high-minority neighborhood (a census tract with a minority population greater than 80%) in Memphis. The bank is also

[40] 15 U.S.C. 1691e(g).

[41] Complaint, *United States* v. *BancorpSouth Bank,* No. 1:16–cv–00118–GHD–DAS (N.D. Miss. June 29, 2016), ECF No. 1, *http://files.consumerfinance.gov/f/documents/201606_cfpb_bancorpsouth-joint-complaint.pdf.*

[42] Majority-minority neighborhoods or minority neighborhoods refers to census tracts with a minority population greater than 50%.

[43] Consent Order, *United States* v. *BancorpSouth Bank,* No. 1:16–cv–00118–GHD–DAS (N.D. Miss. July 25, 2016), ECF No. 8, *http://files.consumerfinance.gov/f/documents/201606_cfpb_bancorpSouth-consent-order.pdf.*

required to offer African-American consumers who were denied mortgage loans while BancorpSouth's allegedly discriminatory underwriting policy was in place the opportunity to apply for a new loan at a subsidized interest rate. Among other revisions to its policies, BancorpSouth is also required by the consent order to implement policies that require its employees to provide equal levels of information and assistance to individuals who inquire about mortgage loans, regardless of race or any other prohibited characteristic.

When investigating identified redlining risks, the Bureau's approach is consistent with that of other Federal agencies, including other Federal law enforcement agencies and bank regulators. For example, the Bureau looks to risk indicators described in the Interagency Fair Lending Examination Procedures, which were initially issued by the prudential regulators and later adopted by the Bureau.[44] The Bureau also looks to the types of evidence that DOJ has cited in support of its complaints alleging redlining. These sources identify multiple factors that the Bureau considers during a redlining investigation, detailed above in Section 2.1.6 on Redlining.

As part of its investigation, the CFPB also sent testers to several BancorpSouth branches to inquire about mortgages, and the results of that testing support the CFPB and DOJ allegations. The agencies alleged that, in several instances, a BancorpSouth loan officer treated the African-American tester less favorably than a non-Hispanic White counterpart. Specifically, the complaint alleged that BancorpSouth employees treated African-American testers who sought information about mortgage loans worse than non-Hispanic White testers with similar credit qualifications. For example, BancorpSouth employees provided information that would restrict African-American consumers to smaller loans than non-Hispanic White testers. This investigation was the CFPB's first use of testing to support an allegation of discrimination. Testing is a tool the Bureau employs in its enforcement investigative activity. Other government agencies, including the DOJ and HUD, as well as private fair housing organizations and State and local agencies, have used testers for decades as a method of identifying discrimination. Courts have long recognized testing as a reliable investigative tool.

3.1.2 Auto Finance

Toyota Motor Credit Corporation

On February 2, 2016, the CFPB resolved an action with Toyota Motor Credit Corporation (Toyota Motor Credit)[45] that requires Toyota Motor Credit to change its pricing and compensation system by substantially reducing or eliminating discretionary markups to minimize the risks of discrimination. On that same date, the DOJ also filed a complaint and proposed consent order in the U.S. District Court for the Central District of California addressing the same conduct. That consent order was entered by the court on February 11, 2016. Toyota Motor Credit's past practices resulted in thousands of African-American and Asian and Pacific Islander borrowers paying higher interest rates than similarly-situated non-Hispanic White borrowers for their auto loans. The consent order requires Toyota Motor Credit to pay up to $21.9 million in restitution to affected borrowers.

Toyota Motor Credit is the U.S. financing arm of Toyota Financial Services, which is a subsidiary of Toyota Motor Corporation. As of the second quarter of 2015, Toyota Motor Credit was the largest captive auto lender[46] in the United States and the fifth largest auto lender overall. As an indirect auto lender, Toyota Motor Credit sets risk-based interest rates, or ''buy rates,'' that it conveys to auto dealers. Indirect auto lenders like Toyota Motor Credit then allow auto dealers to charge a higher interest rate when they finalize the deal with the consumer. This policy or practice is typically called ''discretionary markup.'' Markups can generate compensation for dealers while giving them the discretion to charge similarly-situated consumers different rates. Over the time period under review, Toyota Motor Credit permitted dealers to mark up consumers' interest rates as much as 2.5%.

The enforcement action was the result of a joint CFPB and DOJ investigation that began in April 2013. The agencies investigated Toyota Motor Credit's indirect auto lending activities' compliance with ECOA. The Bureau found that Toyota Motor Credit violated ECOA by adopting policies that resulted in African-American and Asian and Pacific Islander borrowers paying higher interest rates for their auto loans than non-Hispanic White borrowers as a result of the dealer markups that Toyota Motor Credit permitted and incentivized. Toyota Motor Credit's pricing and compensation structure meant that for the period covered in the order, thousands of African-American borrowers were charged, on average, over $200 more for their auto loans, and thousands of Asian and Pacific Islander borrowers were charged, on average, over $100 more for their auto loans.

The CFPB's administrative action and DOJ's consent order require Toyota Motor Credit to reduce dealer discretion to mark up the interest rate to only 1.25% above the buy rate for auto loans with terms of five years or less, and 1% for auto loans with longer terms, or to move to non-discretionary dealer compensation. Toyota Motor Credit is also required to pay $19.9 million in remediation to affected African-American and Asian and Pacific Islander borrowers whose auto loans were financed by Toyota Motor Credit between January 2011 and February 2, 2016. Toyota Motor Credit is required to pay up to an additional $2 million into the settlement fund to compensate any affected African-American and Asian and Pacific Islander borrowers in the time period between February 2, 2016, and when Toyota Motor Credit implements its new pricing and compensation structure. The Bureau did not assess penalties against Toyota Motor Credit because of its responsible conduct, namely the proactive steps the institution is taking to directly address the fair lending risk of discretionary pricing and compensation systems by substantially reducing or eliminating that discretion altogether. In addition, Toyota Motor Credit is required to hire a settlement administrator who will contact consumers, distribute the funds, and ensure that affected borrowers receive compensation.

3.2 HMDA Warning Letters—Potential Mortgage Lending Reporting Failures

On October 27, 2016, the CFPB issued warning letters to 44 mortgage lenders and mortgage brokers. The Bureau had information that appeared to show these financial institutions may be required to collect, record, and report data about their housing-related lending activity, and that they may be in violation of those requirements. The CFPB, in sending these letters, made no determination that a legal violation did, in fact, occur.

HMDA, which was originally enacted in 1975, requires many financial

[44] *See* CFPB Supervision and Examination Manual (Oct. 2012), *http://files.consumerfinance.gov/f/201210_cfpb_supervision-and-examination-manual-v2.pdf* (CFPB Examination Procedures, Equal Credit Opportunity Act Baseline Review Modules).

[45] Consent Order, *In re Toyota Motor Credit Corp.*, CFPB No. 2016–CFPB–0002 (Feb. 2, 2016), *http://files.consumerfinance.gov/f/201602_cfpb_consent-order-toyota-motor-credit-corporation.pdf.*

[46] Captive auto lenders are indirect auto lenders that are directly affiliated with a particular automobile manufacturer.

institutions to collect data about their housing-related lending activity, including home purchase loans, home improvement loans, and refinancings that they originate or purchase, or for which they receive applications. Annually, these financial institutions must report to the appropriate Federal agencies and make the data available to the public. The public and regulators can use the information to monitor whether financial institutions are serving the housing needs of their communities, to assist in distributing public-sector investment so as to attract private investment to areas where it is needed, and to identify possible discriminatory lending patterns.

Data transparency helps to ensure that financial institutions are not engaging in discriminatory lending or failing to meet the credit needs of the entire community, including low- and moderate-income neighborhoods. Financial institutions that avoid their responsibility to collect and report mortgage loan data hinder regulatory efforts to enforce fair lending laws.

The CFPB identified the 44 companies by reviewing available bank and nonbank mortgage data. The warning letters flag that entities that meet certain requirements are required to collect, record, and report mortgage lending data. The letters say that recipients should review their practices to ensure they comply with all relevant laws. The companies are encouraged to respond to the Bureau to advise if they have taken, or will take, steps to ensure compliance with the law. They can also tell the Bureau if they think the law does not apply to them.[47]

3.3 Implementing Enforcement Orders

When an enforcement action is resolved through a public enforcement order, the Bureau (and the DOJ, when relevant) takes steps to ensure that the respondent or defendant complies with the requirements of the order. As appropriate to the specific requirements of individual public enforcement orders, the Bureau may take steps to ensure that borrowers who are eligible for compensation receive remuneration and that the defendant has implemented a comprehensive fair lending compliance management system. Throughout 2016, the Office of Fair Lending worked to implement and oversee compliance with the pending public enforcement orders that were entered by Federal courts or entered by the Bureau's Director in prior years.

3.3.1 Settlement Administration

Ally Financial Inc. and Ally Bank

On December 19, 2013, working in close coordination with the DOJ, the CFPB ordered Ally Financial Inc. and Ally Bank (Ally) to pay $80 million in damages to harmed African-American, Hispanic, and Asian and/or Pacific Islander borrowers. The DOJ simultaneously filed a consent order in the United States District Court for the Eastern District of Michigan, which was entered by the court on December 23, 2013. This public enforcement action represented the Federal government's largest auto loan discrimination settlement in history.[48]

On January 29, 2016, approximately 301,000 harmed borrowers participating in the settlement—representing approximately 235,000 loans—were mailed checks by the Ally settlement administrator, totaling $80 million plus interest, which the Bureau announced in a blog post in English and Spanish.[49] [50] In addition, and pursuant to its continuing obligations under the terms of the orders, Ally has also made ongoing payments to consumers affected after the consent orders were entered. Specifically, Ally paid approximately $38.9 million in September 2015 and an additional $51.5 million in May 2016, to consumers that Ally determined were both eligible and overcharged on auto loans issued during 2014 and 2015, respectively.

Provident Funding Associates

As previously reported, on May 28, 2015, the CFPB and the DOJ filed a joint complaint against Provident Funding Associations (Provident) for discrimination in mortgage lending, along with a proposed order to settle the complaint in the United States District Court for the Northern District of California. The complaint alleged that from 2006 to 2011, Provident discriminated in violation of ECOA by charging over 14,000 African-American and Hispanic borrowers more in brokers' fees than similarly situated non-Hispanic White borrowers on the basis of race and national origin. The consent order, which the court entered on June 18, 2015, requires Provident to pay $9 million in damages to harmed borrowers, to hire a settlement administrator to distribute funds to the harmed borrowers identified by the CFPB and DOJ, and not to discriminate against borrowers in assessing total broker fees.[51]

In Fall 2016, the Bureau published a blog post in English and Spanish announcing the selection of the settlement administrator and its mailing of participation packets to eligible consumers.[52] [53] The blog post also provided information to consumers on how to contact the administrator, participate in the settlement, and submit settlement forms.

American Honda Finance Corporation

As previously reported, on July 14, 2015, the CFPB and the DOJ resolved an action with American Honda Finance Corporation (Honda) to put new measures in place to address discretionary auto loan pricing and compensation practices. Honda's past practices resulted in thousands of African-American, Hispanic, and Asian and Pacific Islander borrowers paying higher interest rates than non-Hispanic White borrowers for their auto loans between January 1, 2011, and July 14, 2015, without regard to their creditworthiness. The consent order requires Honda to change its pricing and compensation system to substantially reduce dealer discretion and minimize the risks of discrimination, and pay $24 million in restitution to affected borrowers.[54]

In October 2016, the Bureau published a blog post in English and Spanish announcing that the settlement administrator was mailing participation

[47] More information on HMDA reporting requirements and a sample warning letter are available at *http://www.consumerfinance.gov/about-us/newsroom/cfpb-warns-financial-institutions-about-potential-mortgage-lending-reporting-failures/.*

[48] Consent Order, *In re Ally Financial Inc.,* CFPB No. 2013–CFPB–0010 (Dec. 20, 2013), *http://files.consumerfinance.gov/f/201312_cfpb_consent-order_ally.pdf.*

[49] Patrice Ficklin, *Harmed Ally Borrowers Have Been Sent $80 Million in Damages,* Consumer Financial Protection Bureau (Jan. 29, 2016), *http://www.consumerfinance.gov/blog/harmed-ally-borrowers-have-been-sent-80-million-in-damages/.*

[50] Patrice Ficklin, *Prestatarios perjudicados por Ally reciben $80 millones en daños,* Consumer Financial Protection Bureau (Feb. 4, 2016), *http://www.consumerfinance.gov/about-us/blog/prestatarios-perjudicados-por-ally-reciben-80-millones-en-danos/.*

[51] Consent Order, *United States* v. *Provident Funding Assocs., L.P.,* No. 3:15–cv–023–73 (N.D. Cal. May 28, 2015), ECF No. 2, *http://files.consumerfinance.gov/f/201505_cfpb_consent-order-provident-funding-associates.pdf.*

[52] Patrice Ficklin, *Provident Settlement Administrator to Contact Eligible Borrowers Soon,* Consumer Financial Protection Bureau (Sept. 28, 2016), *http://www.consumerfinance.gov/about-us/blog/provident-settlement-administrator-contact-eligible-borrowers-soon/.*

[53] Patrice Ficklin, Administrador del Acuerdo de Provident planea ponerse en contacto con prestatarios elegibles próximamente, Consumer Financial Protection Bureau (Oct. 6, 2016), *http://www.consumerfinance.gov/about-us/blog/administrador-del-acuerdo-de-provident-planea-ponerse-en-contacto-con-prestatarios-elegibles-proximamente/.*

[54] Consent Order, *In re American Honda Finance Corp.,* CFPB No. 2015–CFPB–0014 (July 14, 2015), *http://files.consumerfinance.gov/f/201507_cfpb_consent-order_honda.pdf.*

packets to potentially eligible consumers, and providing information to consumers on how to contact the administrator, participate in the settlement, and submit settlement forms.[55] [56]

3.4 Equal Credit Opportunity Act Referrals to the Department of Justice

The CFPB must refer to the DOJ a matter when it has reason to believe that a creditor has engaged in a pattern or practice of lending discrimination in violation of ECOA.[57] The CFPB also may refer other potential ECOA violations to the DOJ. In 2016, the CFPB referred eight matters to the DOJ. In four of the eight matters, the DOJ declined to open an independent investigation and deferred to the Bureau's handling of the matter. The CFPB's referrals to the DOJ in 2016 covered a variety of practices, specifically discrimination in mortgage lending on the bases of the age, marital status, receipt of public assistance income, and sex; discrimination in indirect auto lending on the bases of national origin, race, and receipt of public assistance income; and discrimination in credit card account management on the bases of national origin and race.

3.5 Pending Fair Lending Investigations

In 2016, the Bureau had a number of ongoing fair lending investigations and authorized enforcement actions against a number of institutions involving a variety of consumer financial products. Consistent with the Bureau's priorities and the Office of Fair Lending's risk-based prioritization, one key area on which the Bureau focused its fair lending enforcement efforts was addressing potential discrimination in mortgage lending, including the unlawful practice of redlining. Redlining occurs when a lender provides unequal access to credit, or unequal terms of credit, because of the racial or ethnic composition of a neighborhood. At the end of 2016, the Bureau had a number of pending investigations in this area. Additionally, at the end of 2016, the Bureau had a number of pending investigations in other areas.

4. Rulemaking and Related Guidance

4.1 Home Mortgage Disclosure Act and Regulation C

On October 2015, the Bureau issued and published in the **Federal Register** a final rule to implement the Dodd-Frank amendments to HMDA.[58] The rule also finalizes certain amendments that the Bureau believes are necessary to improve the utility of HMDA data, further the purposes of HMDA, improve the quality of HMDA data, and create a more transparent mortgage market.

4.1.1 HMDA History

HMDA, as implemented by Regulation C, is intended to provide the public with loan data that can be used to help determine whether financial institutions are serving the housing needs of their communities; to assist public officials in distributing public-sector investment to attract private investment in communities where it is needed; and to assist in identifying possible discriminatory lending patterns and enforcing anti-discrimination statutes.[59] HMDA data are also used for a range of mortgage market monitoring purposes by community groups, public officials, the financial industry, economists, academics, social scientists, regulators, and the media. Bank regulators and other agencies use HMDA to monitor compliance with and enforcement of the CRA and Federal anti-discrimination laws, including ECOA and the Fair Housing Act (FHA).

The Dodd-Frank Act transferred rulemaking authority for HMDA to the Bureau, effective July 2011. It also amended HMDA to require financial institutions to report new data points and authorized the Bureau to require financial institutions to collect, record, and report additional information.

4.1.2 Summary of Regulation C Changes

The HMDA Rule changes institutional coverage in two phases. First, to reduce burden on industry, certain lower-volume depository institutions will no longer be required to collect and report HMDA data beginning in 2017. A bank, savings association, or credit union will not be subject to Regulation C in 2017 unless it meets the asset-size, location, federally related, and loan activity tests under current Regulation C and it originates at least 25 home purchase loans, including refinancings of home purchase loans, in both 2015 and 2016. Second, effective January 1, 2018, the HMDA Rule adopts a uniform loan-volume threshold for all institutions. Beginning in 2018, an institution will be subject to Regulation C if it originated at least 25 covered closed-end mortgage loan originations in each of the two preceding calendar years or at least 100 covered open-end lines of credit in each of the two preceding calendar years. Other applicable coverage requirements will apply, depending on the type of covered entity.

The Rule also modifies the types of transactions covered under Regulation C. In general, the HMDA Rule adopts a dwelling-secured standard for transactional coverage. Beginning on January 1, 2018, covered loans under the HMDA Rule generally will include closed-end mortgage loans and open-end lines of credit secured by a dwelling and will not include unsecured loans.

For HMDA data collected on or after January 1, 2018, covered institutions will collect, record, and report additional information on covered loans. New data points include those specifically identified in Dodd-Frank as well as others the Bureau determined will assist in carrying out HMDA's purposes. The HMDA Rule adds new data points for applicant or borrower age, credit score, automated underwriting system information, debt-to-income ratio, combined loan-to-value ratio, unique loan identifier, property value, application channel, points and fees, borrower-paid origination charges, discount points, lender credits, loan term, prepayment penalty, non-amortizing loan features, interest rate, and loan originator identifier as well as other data points. The HMDA Rule also modifies several existing data points.

For data collected on or after January 1, 2018, the HMDA Rule amends the requirements for collection and reporting of information regarding an applicant's or borrower's ethnicity, race, and sex. First, a covered institution will report whether or not it collected the information on the basis of visual observation or surname. Second, covered institutions must permit applicants to self-identify their ethnicity and race using disaggregated ethnic and racial subcategories. However, the HMDA Rule will not require or permit covered institutions to use the disaggregated subcategories when identifying the applicant's or borrower's ethnicity and race based on visual observation or surname.

[55] Patrice Ficklin, *What you need to know to get money from the settlement with Honda Finance for overcharging minorities,* Consumer Financial Protection Bureau (Oct. 3, 2016), *http://www.consumerfinance.gov/about-us/blog/what-you-need-know-get-money-settlement-honda-finance-overcharging-minorities/.*

[56] Patrice Ficklin, *Lo que necesita saber para recibir dinero del acuerdo de compensación con Honda Finance por cobrarles de más a las minorías,* Consumer Financial Protection Bureau (Oct. 11, 2016), *https://www.consumerfinance.gov/about-us/blog/lo-que-necesita-saber-para-recibir-dinero-del-acuerdo-de-compensacion-con-honda-finance-por-cobrarles-de-mas-las-minorias/.*

[57] 15 U.S.C. 1691e(g).

[58] Home Mortgage Disclosure, 80 FR 66128 (Oct. 28, 2015) (codified at 12 CFR pt. 1003), *https://www.gpo.gov/fdsys/pkg/FR-2015-10-28/pdf/2015-26607.pdf.*

[59] 12 U.S.C. 2801; 12 CFR 1003.1(b).

The Bureau is developing a new web-based submission tool for reporting HMDA data, which covered institutions will use beginning in 2018. Regulation C's appendix A is amended effective January 1, 2018 to include new transition requirements for data collected in 2017 and reported in 2018. Covered institutions will be required to electronically submit their loan application registers (LARs). Beginning with data collected in 2018 and reported in 2019, covered institutions will report the new dataset required by the HMDA Rule, using revised procedures that will be available at *www.consumerfinance.gov/hmda.*

Beginning in 2020, the HMDA Rule requires quarterly reporting for covered institutions that reported a combined total of at least 60,000 applications and covered loans in the preceding calendar year. An institution will not count covered loans that it purchased in the preceding calendar year when determining whether it is required to report on a quarterly basis. The first quarterly submission will be due by May 30, 2020.

Beginning in 2018, covered institutions will no longer be required to provide a disclosure statement or a modified LAR to the public upon request. Instead, in response to a request, a covered institution will provide a notice that its disclosure statement and modified LAR are available on the Bureau's Web site. These revised disclosure requirements will apply to data collected on or after January 1, 2017 and reported in or after 2018.

For data collected in or after 2018 and reported in or after 2019, the Bureau will use a balancing test to determine whether and, if so, how HMDA data should be modified prior to its disclosure in order to protect applicant and borrower privacy while also fulfilling HMDA's disclosure purposes. At a later date, the Bureau will provide a process for the public to provide input regarding the application of this balancing test to determine the HMDA data to be publicly disclosed.

4.1.3 Reducing Industry Burden

The Bureau took a number of steps to reduce industry burden while ensuring HMDA data are useful and reflective of the current housing finance market. A key part of this balancing is ensuring an adequate implementation period. Most provisions of the HMDA Rule go into effect on January 1, 2018—more than two years after publication of the Rule—and apply to data collected in 2018 and reported in 2019 or later years. At the same time, an institutional coverage change that will reduce the number of depository institutions that need to report is effective earlier: On January 1, 2017. Institutions subject to the new quarterly reporting requirement will have additional time to prepare: That requirement is effective on January 1, 2020, and the first quarterly submission will be due by May 30, 2020.

As with all of its rules, the Bureau continues to look for ways to help the mortgage industry implement the new mortgage lending data reporting rules, and has created regulatory implementation resources that are available online. These resources include an overview of the final rule, a plain-language compliance guide, a timeline with various effective dates, a decision tree to help institutions determine whether they need to report mortgage lending data, a chart that provides a summary of the reportable data, a chart that describes when to report data as not applicable, a chart that describes what transactions are reportable, a webinar on the HMDA Rule, and a Technology Preview for the Bureau's new web-based submission tool. In addition, the Bureau has published Filing Instruction Guides (FIG) for 2017 and 2018 that include file specifications. The Bureau will monitor implementation progress and will be publishing additional regulatory implementation tools and resources on its Web site to support implementation needs.[60] Since the HMDA rule was issued on October 15, 2015, the Bureau has focused on outreach by sharing information about the regulatory changes, including webinars, responding to industry inquiries, and issuing press releases and emails to stakeholder groups. In addition, Bureau staff has spoken at numerous industry-focused conferences and mortgage events. Since the HMDA rule has been released, the Bureau's Web site has had over 50,000 visits to the HMDA implementation page and over 18,000 downloads of our plain-language HMDA compliance guide.

4.1.4 Filing 2017 HMDA Data

Beginning with the HMDA data collected in 2017 and submitted in 2018, responsibility to receive and process HMDA data will transfer from the Federal Reserve Board (FRB) to the CFPB. The HMDA agencies have agreed that a covered institution filing HMDA data collected in or after 2017 with the CFPB will be deemed to have submitted the HMDA data to the appropriate Federal agency.[61] The effective date of the change in the Federal agency that receives and processes the HMDA data does not coincide with the effective date for the new HMDA data to be collected and reported under the Final Rule amending Regulation C published in the **Federal Register** on October 28, 2015. The Final Rule's new data requirements will apply to data collected beginning on January 1, 2018. The data fields for data collected in 2017 have not changed.

Also beginning with data collected in 2017, filers will submit their HMDA data using a web interface referred to as the ''HMDA Platform.'' In addition, beginning with the data collected in 2017, as part of the submission process, a HMDA reporter's authorized representative with knowledge of the data submitted shall certify to the accuracy and completeness of the data submitted. Additional information about HMDA, the FIG, and other data submission resources is located at the Bureau's Web site.[62]

4.1.5 HMDA Data Resubmission RFI

In response to dialogue with industry and other stakeholders, the Bureau is considering modifications to its current HMDA resubmission guidelines. In comments on the Bureau's proposed changes to Regulation C, some stakeholders asked that the Bureau adjust its existing HMDA resubmission guidelines to reflect the expanded data the Bureau will collect under the HMDA Rule.

Accordingly, on January 7, 2016, the Bureau published on its Web site a Request for Information (RFI) asking for public comment on the Bureau's HMDA resubmission guidelines.[63] Specifically, the Bureau requested feedback on the Bureau's use of resubmission error thresholds; how they should be calculated; whether they should vary with the size of the HMDA submission or kind of data; and the consequences for exceeding a threshold, among other

[60] These resources are available at Consumer Financial Protection Bureau, *Home Mortgage Disclosure Act rule implementation, http://www.consumerfinance.gov/regulatory-implementation/hmda/.*

[61] The HMDA agencies refer collectively to the CFPB, the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), the FRB, the National Credit Union Administration (NCUA), and the Department of Housing and Urban Development (HUD).

[62] *See* Consumer Financial Protection Bureau, *Filing instructions guide for HMDA data collected in 2017* (July 2016), *http://www.consumerfinance.gov/data-research/hmda/static/for-filers/2017/2017-HMDA-FIG.pdf.*

[63] *See* Consumer Financial Protection Bureau, *CFPB Seeks Public Input on Mortgage Lending Information Resubmission Guidelines* (Jan. 7, 2016), *http://www.consumerfinance.gov/newsroom/cfpb-seeks-public-input-on-mortgage-lending-information-resubmission-guidelines/.*

topics. Some examples of questions posed to the public include:

- Should the Bureau continue to use error percentage thresholds to determine the need for data resubmission? If not, how else may the Bureau ensure data integrity and compliance with HMDA and Regulation C?
- If the Bureau retains error percentage thresholds, should the thresholds be calculated differently than they are today? If so, how and why?
- If the Bureau retains error percentage thresholds, should it continue to maintain separate error thresholds for the entire HMDA LAR sample and individual data fields within the LAR sample? If not, why?

The RFI was published in the **Federal Register** on January 12, 2016.[64] The 60-day comment period ended on March 14, 2016. As of this report's publication date, in light of feedback received, the Bureau was considering whether to adjust its existing HMDA resubmission guidelines and if so, how.

4.1.6 HMDA Rule Technical Corrections and Clarifying Amendments

Since issuing the 2015 HMDA Final Rule, the Bureau has identified and received information about some areas of uncertainty about requirements under the rule. This spring, the Bureau plans to seek comment on a proposal to amend certain provisions of Regulation C to make technical corrections and to clarify certain requirements under Regulation C.

4.2 ECOA and Regulation B

In 2016, with regard to ECOA, the CFPB published a Bureau Official Approval and was in the proposed rule stage to amend certain sections of Regulation B.

4.2.1 Status of New Uniform Residential Loan Application and Collection of Expanded Home Mortgage Disclosure Act Information About Ethnicity and Race in 2017 Under Regulation B

On September 23, 2016, the Bureau published a Bureau Official Approval pursuant to section 706(e) of the ECOA concerning the new Uniform Residential Loan Application and the collection of expanded HMDA information about ethnicity and race in 2017.[65]

In accordance with the request by Federal Housing Finance Agency and the Federal Home Loan Mortgage Corporation (Freddie Mac) and the Federal National Mortgage Association (Fannie Mae), the Bureau reviewed the revised and redesigned Uniform Residential Loan Application issued on August 23, 2016 (2016 URLA). Under the terms provided in the Bureau's notice, the Bureau determined that the relevant language in the 2016 URLA is in compliance with the specified provisions of Regulation B. A creditor's use of the 2016 URLA is not required under Regulation B. However, the notice provides that, a creditor that uses the 2016 URLA without any modification that would violate § 1002.5(b) through (d) would act in compliance with § 1002.5(b) through (d).

The notice also addressed collection of information concerning the ethnicity and race of applicants in conformity with Regulation B from January 1, 2017, through December 31, 2017. The Bureau's official approval provided that at any time from January 1, 2017, through December 31, 2017, a creditor may, at its option, permit applicants to self-identify using disaggregated ethnic and racial categories as instructed in appendix B to Regulation C, as amended by the 2015 HMDA final rule. The Bureau believes such authorization may provide creditors time to begin to implement the regulatory changes and improve their compliance processes before the new requirement becomes effective, and therefore mandatory, on January 1, 2018. Allowing for this increased implementation period will, in the Bureau's view, reduce compliance burden and further the purposes of HMDA and Regulation C.

4.2.2 Amendments to the Equal Credit Opportunity Act (Regulation B) Ethnicity and Race Information Collection

Regulation C currently requires financial institutions to collect and report information about the ethnicity and race, as well as certain other characteristics, of applicants and borrowers. Regulation C, as amended by 2015 HMDA Final Rule, generally effective January 1, 2018, will require financial institutions to permit applicants and borrowers to self-identify using disaggregated ethnic and racial categories beginning January 1, 2018. Regulation B also currently requires creditors to request and retain information about the ethnicity and race, as well as certain other characteristics, of applicants for certain dwelling-secured loans, but uses only aggregate ethnic and racial categories. On March 24, 2017, the Bureau issued a proposed rule seeking comment on amendments to Regulation B to permit creditors additional flexibility in complying with Regulation B in order to facilitate compliance with Regulation C, to add certain model forms and remove others from Regulation B, and to make various other amendments to Regulation B and its commentary to facilitate the collection and retention of information about the ethnicity, sex, and race of certain mortgage applicants.[66]

4.3 Small Business Data Collection

Section 1071 of the Dodd-Frank Act requires financial institutions to compile, maintain, and submit to the Bureau certain data on credit applications for women-owned, minority-owned, and small businesses.[67] Congress enacted section 1071 for the purpose of facilitating enforcement of fair lending laws and identifying business and community development needs and opportunities for women-owned, minority-owned, and small businesses. The amendments to ECOA made by the Dodd-Frank Act require that certain data be collected and maintained, including the number of the application and date the application was received; the type and purpose of loan or credit applied for; the amount of credit applied for and approved; the type of action taken with regard to each application and the date of such action; the census tract of the principal place of business; the gross annual revenue of the business; and the race, sex, and ethnicity of the principal owners of the business. The Bureau's Fall 2016 Unified Agenda and Regulatory Plan indicates that rulemaking pursuant to Section 1071 is now in the pre-rule stage.[68] This first stage of the Bureau's work will be focused on outreach and research and on the potential ways to implement section 1071, after which the Bureau will begin developing proposed rules concerning the data to be collected and determining the appropriate operational procedures and privacy protections needed for information-gathering and public disclosure.

[64] Request for Info. Regarding Home Mortgage Disclosure Act Resubmission Guidelines, 81 F.R. 1405 (Jan. 12, 2016), *https://www.gpo.gov/fdsys/pkg/FR-2016-01-12/pdf/2016-00442.pdf.*

[65] Consumer Financial Protection Bureau, *Status of New Uniform Residential Loan Application and Collection of Expanded Home Mortgage Disclosure Act Information about Ethnicity and Race in 2017 under Regulation B* (Sept. 23, 2016), *https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/092016_cfpb_HMDAEthinicityRace.pdf.*

[66] Consumer Financial Protection Bureau, *Amendments to Equal Credit Opportunity Act (Regulation B) Ethnicity and Race Information Collection 2017–0009* (March 24, 2017), *http://files.consumerfinance.gov/f/documents/201703_cfpb_NPRM-to-amend-Regulation-B.pdf.*

[67] Dodd-Frank Act section 1071 (codified at 15 U.S.C. 1691c–2).

[68] Semiannual Regulatory Agenda, 81 FR 94844, 94846 (Dec. 23, 2016).

The Bureau has begun to explore some of the issues involved in the rulemaking, including through ongoing engagement with industry and other stakeholders. In addition, current and future small business lending supervisory activity will help expand and enhance the Bureau's knowledge in this area, including the credit application process; existing data collection processes; and the nature, extent, and management of fair lending risk. The Bureau is also considering how best to work with other agencies to, in part, gain insight into existing business lending data collection efforts and to explore possible ways to cooperate in future efforts.

4.4 Amicus Program

The Bureau's Amicus Program files amicus, or friend-of-the-court, briefs in court cases concerning the Federal consumer financial protection laws that the Bureau is charged with implementing, including ECOA. These amicus briefs provide the courts with our views on significant consumer financial protection issues and help ensure that consumer financial protection statutes and regulations are correctly and consistently interpreted by the courts.

In 2016, the Bureau filed an amicus brief in *Alexander* v. *AmeriPro Funding, Inc.,* in which a group of consumer plaintiffs appealed the dismissal by the United States District Court for the Southern District of Texas of an ECOA complaint alleging discrimination by mortgage lenders on the basis that all or part of the plaintiffs' income derived from a public assistance program. The District Court held that the complaint failed to allege facts that gave rise to a *prima facie* showing of discrimination under the *McDonnell-Douglas* framework and also failed to allege direct evidence of discrimination because the allegations were ''conclusory'' and did not allege hostility or animus.[69] The Bureau filed its amicus brief on February 23, 2016, and argued that the District Court's decision imposed pleading burdens on ECOA plaintiffs that were not required by ECOA or the Federal Rules of Civil Procedure.[70]

On February 16, 2017, in a unanimous decision, the United States Court of Appeals for the Fifth Circuit reversed the dismissal with respect to some of the plaintiffs but affirmed the dismissal with respect to others.[71] Reversing the District Court, the court held that one set of plaintiffs stated an ECOA claim because they alleged that they applied for credit, that the creditor refused to consider public assistance income in considering their credit applications, and that the applicants as a result received less favorable mortgages. Unlike the District Court's decision, the court did not require the plaintiffs to also allege hostility or animus or to make a *prima facie* showing of discrimination under the *McDonnell-Douglas* framework. Affirming the District Court, the court also held that another set of plaintiffs failed to state a claim under ECOA because they either failed to allege sufficient facts of discriminatory conduct, failed to allege facts indicating that they had applied for credit, or failed to allege facts indicating that one defendant was a ''creditor'' under ECOA.

5. Interagency Coordination

5.1 Interagency Coordination and Engagement

The Office of Fair Lending regularly coordinates the CFPB's fair lending regulatory, supervisory and enforcement activities with those of other Federal agencies and State regulators to promote consistent, efficient, and effective enforcement of Federal fair lending laws.[72] Through our interagency engagement, we work to address current and emerging fair lending risks.

On November 14, 2016, along with other members of the FFIEC, the Bureau issued an updated Uniform Interagency Consumer Compliance Rating System.[73] The revisions reflect the regulatory, supervisory, technological, and market changes that have occurred since the system was established. The previous rating system was adopted in 1980, and the proposed revisions aim to address the broad array of risks in the market that can cause consumer harm, including fair lending violations. The Bureau plans to implement the updated rating system on consumer compliance examinations that begin on or after March 31, 2017.

The CFPB, along with the FTC, DOJ, HUD, FDIC, FRB, NCUA, OCC, and the Federal Housing Finance Agency, comprise the Interagency Task Force on Fair Lending. The Task Force meets regularly to discuss fair lending enforcement efforts, share current methods of conducting supervisory and enforcement fair lending activities, and coordinate fair lending policies.

The CFPB belongs to a standing working group of Federal agencies—with the DOJ, HUD, and FTC—that meets regularly to discuss issues relating to fair lending enforcement. These agencies comprise the Interagency Working Group on Fair Lending Enforcement. The agencies use these meetings to discuss fair lending developments and trends, methodologies for evaluating fair lending risks and violations, and coordination of fair lending enforcement efforts. In addition to these interagency working groups, we meet periodically and on an ad hoc basis with the prudential regulators to coordinate our fair lending work.

The CFPB takes part in the FFIEC HMDA/Community Reinvestment Act Data Collection Subcommittee, which is a subcommittee of the FFIEC Task Force on Consumer Compliance, as its work relates to the collection and processing of HMDA data, and the Bureau is one of the agencies to which HMDA data is submitted by financial institutions.

6. Outreach: Promoting Fair Lending Compliance and Education

Pursuant to Dodd-Frank,[74] the Office of Fair Lending regularly engages in outreach with industry, bar associations, consumer advocates, civil rights organizations, other government agencies, and other stakeholders to help educate and inform about fair lending. The Bureau is committed to communicating directly with all stakeholders on its policies, compliance expectations, and fair lending priorities. As part of this commitment to outreach and education in the area of fair lending, equal opportunity, and ensuring fair access to credit, Bureau personnel have engaged in dialogue with stakeholders on issues including the use of public assistance income in underwriting, redlining, disparate treatment, disparate impact, HMDA data collection and reporting, indirect auto financing, the use of proxy methodology, and the unique challenges facing LEP and lesbian, gay, bisexual and transgender (LGBT) consumers in accessing credit. Outreach is accomplished through issuance of Reports to Congress, Interagency

[69] *Alexander* v. *AmeriPro Funding, Inc.,* No. H–14–2947, 2015 WL 4545625 at *4–5 (S.D. Tex. July 28, 2015).

[70] Br. of Amicus Curiae Consumer Financial Protection Bureau in Supp. of Appellants and Reversal, *Alexander, et al.* v. *AmeriPro Funding, Inc., et al.,* No. 15–20710 (5th Cir. Feb. 23, 2016), ECF No. 00513394181, *https://www.consumerfinance.gov/policy-compliance/amicus/briefs/alexander-ameripro-funding/*

[71] *Alexander* v. *AmeriPro Funding, Inc.,* 848 F.3d 698 (5th Cir. 2017).

[72] Dodd-Frank Act section 1013(c)(2)(B) (codified at 12 U.S.C. 5493(c)(2)(B)).

[73] Uniform Interagency Consumer Compliance Rating System, 81 FR 79473 (Nov. 14, 2016), *https://www.federalregister.gov/documents/2016/11/14/2016-27226/uniform-interagency-consumer-compliance-rating-system.*

[74] Dodd-Frank Act section 1013(c)(2)(C) (codified at 12 U.S.C. 5493(c)(2)(C)).

Statements, *Supervisory Highlights,* Compliance Bulletins, letters, blog posts, speeches and presentations at conferences and trainings, and participation in meetings to discuss fair lending and access to credit matters.

6.1 Blog Posts

The Bureau firmly believes that an informed consumer is the best defense against discriminatory lending practices. When issues arise that consumers need to know about, the Bureau uses many tools to aid consumers in financial decision-making.[75] [76] The Bureau regularly uses its blog as a tool to communicate effectively to consumers on timely issues, emerging areas of concern, Bureau initiatives, and more. In 2016 we published 14 blog posts related to two main fair lending topics: Providing consumers updated information about our fair lending enforcement actions and providing consumer education on fair lending. Our enforcement update blog posts included the announcement (in both English and Spanish) of the BancorpSouth Bank settlement,[77] [78] updates on the Ally Financial Inc. and Ally Bank settlement,[79] [80] updates on the Provident Funding Association, L.P. settlement [81] [82] and updates on the American Honda Finance Corporation settlement.[83] [84] Our consumer education blog posts included reminding consumers of their rights for fair treatment in the financial marketplace,[85] [86] a series of two blog posts about the history of ECOA [87] and what it means for consumers,[88] a blog post outlining the 2017 priorities for Fair Lending,[89] and a blog post about shopping for an auto loan.[90]

The blog posts may be accessed any time at *www.consumerfinance.gov/blog.*

6.2 Supervisory Highlights

Supervisory Highlights reports anchor the Bureau's efforts to communicate about the Bureau's supervisory activity. Because the Bureau's supervisory process is confidential, *Supervisory Highlights* reports provide information on supervisory trends the Bureau observes, without identifying specific entities, as well as information on public enforcement matters that arise from supervisory reviews. In 2016, *Supervisory Highlights* covered many topical issues pertaining to fair lending, including mortgage servicing, HMDA examinations where institutions improperly coded actions taken on conditionally-approved applications with unmet underwriting conditions, LEP consumers, redlining, and settlement updates for recent enforcement actions that originated in the supervisory process.

More information about the topics discussed this year in *Supervisory Highlights* can be found in Section 2.1 of this Report. As with all Bureau resources, all editions of *Supervisory Highlights* are available on *www.consumerfinance.gov/reports.*

6.3 Speaking Engagements & Roundtables

To meet our mission of educating and informing stakeholders about fair lending, the Office of Fair Lending and Equal Opportunity had the opportunity to participate in a number of outreach speaking events and roundtables throughout 2016. In these events, we shared information on fair lending priorities, emerging issues, and heard feedback from our stakeholders on the work we do.

Fair Lending staff attended numerous roundtables throughout the year on a variety of issues related to fair lending. Some examples of the topics covered include student lending, language access issues, HMDA, small business lending, mortgage servicing, and credit reporting.

7. Interagency Reporting

Pursuant to ECOA, the CFPB is required to file a report to Congress describing the administration of its functions under ECOA, providing an assessment of the extent to which compliance with ECOA has been achieved, and giving a summary of public enforcement actions taken by other agencies with administrative enforcement responsibilities under

[75] For helpful information on shopping for auto loans, please see the Bureau's Know Before You Owe: Auto Loans toolkit, at Consumer Financial Protection Bureau, *Take control of your auto loan, http://www.consumerfinance.gov/consumer-tools/auto-loans/.*

[76] For helpful information on shopping for home loans, please see the Bureau's toolkit, at Consumer Financial Protection Bureau, *Owning a Home: Tools and resources for homebuyers, http://www.consumerfinance.gov/owning-a-home/.*

[77] Patrice Ficklin & Daniel Dodd-Ramirez, *Redlining: CFPB and DOJ action requires BancorpSouth Bank to pay millions to harmed consumers,* Consumer Financial Protection Bureau (June 29, 2016), *http://www.consumerfinance.gov/about-us/blog/redlining-cfpb-and-doj-action-requires-bancorpsouth-bank-pay-millions-harmed-consumers/.*

[78] Patrice Ficklin & Daniel Dodd-Ramirez, *La delimitación ilegal: Acción del CFPB y del Departamento de Justicia requiere que el banco BancorpSouth pague millones de dólares a consumidores perjudicados,* Consumer Financial Protection Bureau (July 6, 2016), *http://www.consumerfinance.gov/about-us/blog/la-delimitacion-ilegal-accion-del-cfpb-y-del-departamento-de-justicia-requiere-que-el-banco-bancorpsouth-pague-millones-de-dolares-consumidores-perjudicados/.*

[79] Patrice Ficklin, *Harmed Ally borrowers have been sent $80 million in damages,* Consumer Financial Protection Bureau (Jan. 29, 2016), *http://www.consumerfinance.gov/about-us/blog/harmed-ally-borrowers-have-been-sent-80-million-in-damages/.*

[80] Patrice Ficklin, *Prestatarios perjudicados por Ally reciben $80 millones en daños,* Consumer Financial Protection Bureau (Feb. 4, 2016), *http://www.consumerfinance.gov/about-us/blog/prestatarios-perjudicados-por-ally-reciben-80-millones-en-danos/.*

[81] Patrice Ficklin, Provident Settlement Administrator to contact eligible borrowers soon, Consumer Financial Protection Bureau (Sept. 28, 2016), *http://www.consumerfinance.gov/about-us/blog/provident-settlement-administrator-contact-eligible-borrowers-soon/.*

[82] Patrice Ficklin, *Administrador del Acuerdo de Provident planea ponerse en contacto con prestatarios elegibles próximamente,* Consumer Financial Protection Bureau (Oct. 6, 2016), *http://www.consumerfinance.gov/about-us/blog/administrador-del-acuerdo-de-provident-planea-ponerse-en-contacto-con-prestatarios-elegibles-proximamente/.*

[83] Patrice Ficklin, *What you need to know to get money from the settlement with Honda Finance for overcharging minorities,* Consumer Financial Protection Bureau (Oct. 3, 2016), *http://www.consumerfinance.gov/about-us/blog/what-you-need-know-get-money-settlement-honda-finance-overcharging-minorities/.*

[84] Patrice Ficklin, Lo que necesita saber para recibir dinero del acuerdo de compensación con Honda Finance por cobrarles de más a las minorías, Consumer Financial Protection Bureau (Oct. 11, 2016), *http://www.consumerfinance.gov/about-us/blog/lo-que-necesita-saber-para-recibir-dinero-del-acuerdo-de-compensacion-con-honda-finance-por-cobrarles-de-mas-las-minorias/.*

[85] Patrice Ficklin, *You have the right to be treated fairly in the financial marketplace,* Consumer Financial Protection Bureau (Apr. 29, 2016), *http://www.consumerfinance.gov/about-us/blog/you-have-right-be-treated-fairly-financial-marketplace/.*

[86] Patrice Ficklin, Usted tiene derecho a que lo traten de manera justa en el mercado financiero, Consumer Financial Protection Bureau (May 2, 2016), *http://www.consumerfinance.gov/about-us/blog/usted-tiene-derecho-que-lo-traten-de-manera-justa-en-el-mercado-financiero/.*

[87] Brian Kreiswirth & Anna-Marie Tabor, *What you need to know about the Equal Credit Opportunity Act and how it can help you: Why it was passed and what it is,* Consumer Financial Protection Bureau (Oct. 31, 2016), *http://www.consumerfinance.gov/about-us/blog/what-you-need-know-about-equal-credit-opportunity-act-and-how-it-can-help-you-why-it-was-passed-and-what-it/.*

[88] Rebecca Gelfond & Frank Vespa-Papaleo, *What you need to know about the Equal Credit Opportunity Act and how it can help you: Know your rights,* Consumer Financial Protection Bureau (Nov. 2, 2016), *http://www.consumerfinance.gov/about-us/blog/what-you-need-know-about-equal-credit-opportunity-act-and-how-it-can-help-you-know-your-rights/.*

[89] Patrice Ficklin, *Fair Lending priorities in the new year,* Consumer Financial Protection Bureau (Dec. 16, 2016), *http://www.consumerfinance.gov/about-us/blog/fair-lending-priorities-new-year/.*

[90] Patrice Ficklin & Daniel Dodd-Ramirez, *Don't get taken for a ride; protect yourself from an auto loan you can't afford,* Consumer Financial Protection Bureau (July 5, 2016), *http://www.consumerfinance.gov/about-us/blog/dont-get-taken-ride-protect-yourself-auto-loan-you-cant-afford/.*

ECOA.[91] This section of this report provides the following information:

- A description of the CFPB's and other agencies' ECOA enforcement efforts; and
- an assessment of compliance with ECOA.

In addition, the CFPB's annual HMDA reporting requirement calls for the CFPB, in consultation with HUD, to report annually on the utility of HMDA's requirement that covered lenders itemize certain mortgage loan data.[92]

7.1 Equal Credit Opportunity Act Enforcement

The enforcement efforts and compliance assessments made by all the agencies assigned enforcement authority under section 704 of ECOA are discussed in this section.

7.1.1 Public Enforcement Actions

In addition to the CFPB, the agencies charged with administrative enforcement of ECOA under section 704 include: The FRB, the FDIC, the OCC, and the NCUA (collectively, the FFIEC agencies);[93] the FTC, the Farm Credit Administration (FCA), the Department of Transportation (DOT), the Securities and Exchange Commission (SEC), the Small Business Administration (SBA), and the Grain Inspection, Packers and Stockyards Administration (GIPSA) of the Department of Agriculture.[94] In 2016, CFPB had two public enforcement actions for violations of ECOA, and the OCC issued one public enforcement action for violations of ECOA and/or Regulation B.

7.1.2 Violations Cited During ECOA Examinations

Among institutions examined for compliance with ECOA and Regulation B, the FFIEC agencies reported that the most frequently cited violations were:

TABLE 1—MOST FREQUENTLY CITED REGULATION B VIOLATIONS BY FFIEC AGENCIES: 2016

FFIEC agencies reporting	Regulation B violations: 2016
CFPB, FDIC, FRB, NCUA, OCC	12 CFR 1002.4(a): Discrimination on a prohibited basis in a credit transaction. 12 C.F.R. 1002.6(b): Improperly considering age, receipt of public assistance, certain other income, or another prohibited basis in a system of evaluating applicant creditworthiness. 12 C.F.R. 1002.7(d)(1): Improperly requiring the signature of an applicant's spouse or other person. 12 C.F.R. 1002.9(a)(1), (a)(1)(i), (a)(2), (b), (b)(2), (c): Failure to timely notify an applicant when an application is denied; failure to provide notice to the applicant 30 days after receiving a completed application concerning the creditor's approval of, counteroffer or adverse action on the application; failure to provide sufficient information in an adverse action notification, including the specific reasons the application was denied; failure to timely and/or appropriately notify an applicant of either action taken or of incompleteness after receiving an application that is incomplete. 12 C.F.R. 1002.12(b)(1), (b)(1)(ii)(A): Failure to preserve records on actions taken on an application or of incompleteness. 12 C.F.R. 1002.13(a)(1)(i): Failure to request information on an application pertaining to an applicant's ethnicity. 12 C.F.R. 14(a), (a)(1): Failure to routinely provide an applicant with a copy of all appraisals and other written valuations developed in connection with an application for credit that is to be secured by a first lien on a dwelling, and/or failure to provide an applicant with a notice in writing of the applicant's right to receive a copy of all written appraisals developed in connection with the application.

TABLE 2—MOST FREQUENTLY CITED REGULATION B VIOLATIONS BY OTHER ECOA AGENCIES, 2016

Other ECOA agencies	Regulation B violations: 2016
FCA	12 CFR 1002.9: Failure to timely notify an applicant when an application is denied; failure to provide sufficient information in an adverse action notification, including the specific reasons the application was denied. 12 CFR 1002.13(a)(1): Failure to request and collect information about the race, ethnicity, sex, marital status, and age of applicants seeking certain types of mortgage loans.

The GIPSA, the SEC, and the SBA reported that they received no complaints based on ECOA or Regulation B in 2016. In 2016, the DOT reported that it received a ''small number of consumer inquiries or complaints concerning credit matters possibly covered by ECOA,'' which it ''processed informally.'' The FTC is an enforcement agency and does not conduct compliance examinations.

7.2 Referrals to the Department of Justice

In 2016, the FFIEC agencies including the CFPB referred a total of 20 matters to the DOJ. The FDIC referred four matters to the DOJ. These matters alleged discriminatory treatment of persons in credit transactions due to protected characteristics, including age, race, national origin, and receipt of public assistance income. The FRB referred seven matters to the DOJ. These matters alleged discriminatory treatment of persons in credit transactions due to protected characteristics, including race, national origin, and marital status. The OCC referred one matter to the DOJ on the basis of marital status discrimination. The CFPB referred eight matters to the DOJ during 2016, finding discrimination in credit transactions on the following prohibited bases: Race, national origin, age, receipt of public assistance income, sex, and marital status.

[91] 15 U.S.C. 1691f.

[92] 12 U.S.C. 2807.

[93] The FFIEC is a ''formal interagency body empowered to prescribe uniform principles, standards, and report forms for the Federal examination of financial institutions'' by the member agencies listed above and the State Liaison Committee ''and to make recommendations to promote uniformity in the supervision of financial institutions.'' Federal Financial Institutions Examination Council, *http://www.ffiec.gov* (last visited March 31, 2017).

[94] 15 U.S.C. 1691c.

7.3 Reporting on the Home Mortgage Disclosure Act

The CFPB's annual HMDA reporting requirement calls for the CFPB, in consultation with the Department of Housing and Urban Development (HUD), to report annually on the utility of HMDA's requirement that covered lenders itemize loan data in order to disclose the number and dollar amount of certain mortgage loans and applications, grouped according to various characteristics.[95] The CFPB, in consultation with HUD, finds that itemization and tabulation of these data further the purposes of HMDA. For more information on the Bureau's proposed amendments to HMDA's implementing regulation, Regulation C, please see the Rulemaking section of this report (Section 4).

8. Conclusion

In this, our fifth Fair Lending Report to Congress, we outline our work in furtherance of our statutory mandate to ensure fair, equitable, and nondiscriminatory access to credit. Our work continues to reflect the areas that pose the greatest risk of consumer harm, and we continue to reprioritize our approach to better position our work to understand and address emerging issues. Our multipronged approach uses the full variety of tools at our disposal—supervision, enforcement, rulemaking, outreach, research, data-driven prioritization, interagency coordination, and more. We are pleased to present this report as we continue to fulfill our statutory mandate as well as the Bureau's mission to help consumer finance markets work by making rules more effective, by consistently and fairly enforcing these rules, and by empowering consumers to take more control over their economic lives.

Appendix A: Defined Terms

Term	Definition
Bureau	The Consumer Financial Protection Bureau.
CFPB	The Consumer Financial Protection Bureau.
CMS	Compliance Management System.
CRA	Community Reinvestment Act.
Dodd-Frank Act	The Dodd-Frank Wall Street Reform and Consumer Protection Act.
DOJ	The U.S. Department of Justice.
DOT	The U.S. Department of Transportation.
ECOA	The Equal Credit Opportunity Act.
FCA	Farm Credit Administration.
FDIC	The U.S. Federal Deposit Insurance Corporation.
Federal Reserve Board	The U.S. Board of Governors of the Federal Reserve System.
FFIEC	The U.S. Federal Financial Institutions Examination Council—the FFIEC member agencies are the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), the Office of the Comptroller of the Currency (OCC), and the Consumer Financial Protection Bureau (CFPB). The State Liaison Committee was added to FFIEC in 2006 as a voting member.
FRB	The U.S. Board of Governors of the Federal Reserve System.
FTC	The U.S. Federal Trade Commission.
GIPSA	Grain Inspection, Packers and Stockyards Administration (GIPSA) of the U.S. Department of Agriculture.
HMDA	The Home Mortgage Disclosure Act.
HUD	The U.S. Department of Housing and Urban Development.
LEP	Limited English Proficiency.
LGBT	Lesbian, gay, bisexual and transgender.
NCUA	The National Credit Union Administration.
OCC	The U.S. Office of the Comptroller of the Currency.
SBA	Small Business Administration.
SEC	U.S. Securities and Exchange Commission.

[2]. Regulatory Requirements

This Fair Lending Report of the Consumer Financial Protection Bureau summarizes existing requirements under the law, and summarizes findings made in the course of exercising the Bureau's supervisory and enforcement authority. It is therefore exempt from notice and comment rulemaking requirements under the Administrative Procedure Act pursuant to 5 U.S.C. 553(b). Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis. 5 U.S.C. 603(a), 604(a). The Bureau has determined that this Fair Lending Report does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring OMB approval under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*

Dated: May 24, 2017.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2017–11318 Filed 5–31–17; 8:45 am]

BILLING CODE 4810–AM–P

[95] *See* 12 U.S.C. 2807.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (CNCS), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This

program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed.

Currently, CNCS is soliciting comments concerning its proposed renewal of AmeriCorps National Civilian Community Corp's NCCC Team Leader Application. This Application was developed to collect applicant information for the hiring of NCCC Team Leaders at each of the five NCCC campuses. The application will be completed by prospective NCCC Team Leaders, during each campus hire cycle. Completion of this information collection is required to be selected as an NCCC Team Leader.

Copies of the information collection request can be obtained by contacting the office listed in the **ADDRESSES** section of this Notice.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by July 31, 2017.

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

(1) *By mail sent to:* Corporation for National and Community Service, National Civilian Community Corps; Attention: Doug Hale, Selection and Placement Coordinator, Room 9811B, 250 E Street SW., Washington, DC 20525.

(2) By hand delivery or by courier to the CNCS mailroom at Room 8100 at the mail address given in paragraph (1) above, between 9:00 a.m. and 4:00 p.m. Eastern Time, Monday through Friday, except Federal holidays.

(3) Electronically through *www.regulations.gov.*

Individuals who use a telecommunications device for the deaf (TTY–TDD) may call 1–800–833–3722 between 8:00 a.m. and 8:00 p.m. Eastern Time, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Doug Hale, 202–606–7530, or by email at *dhale@cns.gov.*

SUPPLEMENTARY INFORMATION: CNCS is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are expected to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.,* permitting electronic submissions of responses).

Background

This NCCC Team Leader application was developed to provide information pertinent to the selection of Team Leaders for AmeriCorps NCCC. Specifically, NCCC engages approximately 2800 corps members each year in community service. In order to achieve this goal, NCCC utilizes Team Leaders and Support Team Leaders as project leaders and project developers, as well as on site team supervision and reporting. There is at least one Team Leader for each team of approximately ten Corps Members. The application is available electronically for all Team Leader applicants.

Current Action

The Corporation seeks to renew the current information collection. The information collection will otherwise be used in the same manner as the existing application. The Corporation also seeks to continue using the current application until the revised application is approved by OMB. The current application is due to expire on 6/30/2014.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: NCCC Team Leader Application.

OMB Number: 3045–0005.

Agency Number: None.

Affected Public: AmeriCorps NCCC Team Leader applicants.

Total Respondents: 800.

Frequency: Bi-annual application.

Average Time per Response: Averages 2 hours.

Estimated Total Burden Hours: 1,600 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: May 25, 2017.

Katrina Mathis,

Assistant Director of Recruitment and Partnerships, AmeriCorps National Civilian Community Corps.

[FR Doc. 2017–11330 Filed 5–31–17; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Indian Education Discretionary Grants Programs—Native American Language (NAL@ED) Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice; amendment.

SUMMARY: On May 4, 2017, we published in the **Federal Register** a notice inviting applications (NIA) for the NAL@ED fiscal year (FY) 2017 competition, Catalog of Federal Domestic Assistance (CFDA) number 84.415B. In this notice, the Department changes the information in the NIA on the estimated available funds, estimated range of awards, estimated average size of awards, maximum award, and estimated number of awards. All other information in the NIA for this competition remains the same.

DATES: This action is effective June 1, 2017.

FOR FURTHER INFORMATION CONTACT: John Cheek, U.S. Department of Education, 400 Maryland Avenue SW., Room 3W207, Washington, DC 20202–6335. Telephone: (202) 401–0274 or by email: *john.cheek@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The estimated funding amounts in the NIA for the NAL@ED FY 2017 competition were based on the Further Continuing and Security Assistance Appropriations Act, 2017, which provided $5,554,421 on an annualized basis for Indian Education National Activities, of which we anticipated using $1,100,000 for this NAL@ED competition. The Consolidated Appropriations Act, 2017 provided $6,565,000 for Indian Education National Activities. Public Law 115–31, 131 Stat. 135, 546 (May 5, 2017).

We will use $2,000,000 for this year's NAL@ED competition. As a result of the increase in funding available for this NAL@ED competition, we are amending the *Award Information* section of the

NIA, including the maximum award amount.

Amendments

In FR 2017–09043, published in the May 4, 2017, edition of the **Federal Register** (82 FR 20869), on page 20872, in the middle column, we amend the Award Information section to read as follows:

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $2,000,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in subsequent years from the list of unfunded applications from this competition.

Estimated Range of Awards: $125,000–$500,000 per year.

Estimated Average Size of Awards: $300,000 per year.

Maximum Award: We will reject any application that proposes a budget exceeding $500,000 for a single budget period of 12 months.

Estimated Number of Awards: 3–7.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

All other information in the NIA for this competition remains the same.

Program Authority: 20 U.S.C. 7453.

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

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

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: May 25, 2017.

Jason Botel,

Acting Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2017–11339 Filed 5–31–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Nevada

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

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

DATES: Wednesday, June 21, 2017—4:00 p.m.

ADDRESSES: Frank H. Rogers Science and Technology Building, 755 East Flamingo, Las Vegas, Nevada 89119.

FOR FURTHER INFORMATION CONTACT: Barbara Ulmer, Board Administrator, 232 Energy Way, M/S 167, North Las Vegas, Nevada 89030. Phone: (702) 630–0522; Fax (702) 295–2025 or Email: *NSSAB@nnsa.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1. Briefing for Groundwater Communication—Work Plan Item #7
2. Briefing for Long-term Monitoring at Closed Industrial and Soils Sites—Work Plan Item #3

Public Participation: The EM SSAB, Nevada, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Barbara Ulmer at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral presentations pertaining to agenda items should contact Barbara Ulmer at the telephone number listed above. The request must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments can do so during the 15 minutes allotted for public comments.

Minutes: Minutes will be available by writing to Barbara Ulmer at the address listed above or at the following Web site: *http://www.nnss.gov/NSSAB/pages/MM_FY17.html.*

Issued at Washington, DC, on May 25, 2017.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2017–11314 Filed 5–31–17; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Idaho National Laboratory

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

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

DATES: Thursday, June 22, 2017: 8:00 a.m.–4:15 p.m.

The opportunity for public comment is at 10:30 a.m. and 3:15 p.m.

This time is subject to change; please contact the Federal Coordinator (below) for confirmation of times prior to the meeting.

ADDRESSES: Hilton Garden Inn, 700 Lindsay Boulevard, Idaho Falls, ID 83402.

FOR FURTHER INFORMATION CONTACT: Robert L. Pence, Federal Coordinator, Department of Energy, Idaho Operations Office, 1955 Fremont Avenue, MS–1203, Idaho Falls, Idaho 83415. Phone (208) 526–6518; Fax (208) 526–8789 or email: *pencerl@id.doe.gov* or visit the Board's Internet home page at: *http://inlcab.energy.gov/.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Topics (agenda topics may change up to the day of the meeting; please contact Robert L. Pence for the most current agenda):

- Recent Public Outreach
- Idaho Cleanup Project (ICP) Overview
- Update on Integrated Waste Treatment Unit (IWTU)
- Update on Waste Isolation Pilot Plant (WIPP)
- Update on Calcine Progress
- Subsurface Disposal Area CAP Design
- Idaho Department of Environmental Quality and Environmental Protection Agency Regulatory Insights
- New Site Process
- Three Mile Island, Unit 2 License Renewal
- EM SSAB Chairs Meeting Report and Recommendations
- Board Recommendation: WIPP

Public Participation: The EM SSAB, Idaho National Laboratory, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Robert L. Pence at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral presentations pertaining to agenda items should contact Robert L. Pence at the address or telephone number listed above. The request must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Robert L. Pence, Federal Coordinator, at the address and phone number listed above. Minutes will also be available at the following Web site: *http://inlcab.energy.gov/pages/meetings.php.*

Issued at Washington, DC, on May 25, 2017.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2017–11313 Filed 5–31–17; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 2364–042; 2365–054]

Notice of Application for Transfer of Licenses and Soliciting Comments, Motions To Intervene, and Protests: Madison Paper Industries; Eagle Creek Madison Hydro, LLC

On May 8, 2017, Madison Paper Industries (transferor) and Eagle Creek Madison Hydro, LLC (transferee) filed an application for the transfer of licenses of the Abenaki Hydroelectric Project No. 2364 and the Anson Hydroelectric Project No. 2365. The projects are located on the Kennebec River in Somerset County, Maine. The projects do not occupy Federal lands.

The transferor and transferee seek Commission approval to transfer the licenses for the Abenaki Hydroelectric Project and the Anson Hydroelectric Project from the transferor to the transferee.

Applicant's Contacts: For Transferor: Mr. Matthew D. Manahan, Esq., Pierce Atwood LLP, Merrill's Wharf, 254 Commercial Street, Portland, ME 04101, Phone: 207–791–1189, email: *mmanahan@PierceAtwood.com.*

For Transferee: Mr. Donald H. Clarke and Mr. Joshua E. Adrian, Duncan, Weinberg, Genzer & Pembroke, P.C., 1615 M Street NW., Suite 800, Washington, DC 20036, Phone: 202–467–6370, Emails: *dhc@dwgp.com* and *jea@dwgp.com.*

FERC Contact: Patricia W. Gillis, (202) 502–8735, *patricia.gillis@ferc.gov.*

Deadline for filing comments, motions to intervene, and protests: 30 days from the date that the Commission issues this notice. The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests 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,* (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–2364–042 or P–2365–054.

Dated: May 25, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–11274 Filed 5–31–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14816–000]

Merchant Hydro Developers, LLC, Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On January 11, 2017, Merchant Hydro Developers, 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 Nockamixon Pumped Storage Hydroelectric Project to be located near the unincorporated town of Kintnersville in Bucks County, Pennsylvania. 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 new upper reservoir with a surface area of 150 acres and a storage capacity of 2,250 acre-feet at a surface elevation of approximately 700 feet above mean sea level (msl) created through construction of a new roller-compacted concrete or rock-filled dam; (2) a lower reservoir using the existing Delaware Canal with a surface elevation of 170 feet msl; (3) a new 3,575-foot-long, 48-inch-diameter penstock connecting the upper and lower reservoirs; (5) a new 150-foot-long, 50-foot-wide powerhouse containing two turbine-generator units with a total rated capacity of 125 megawatts; (6) a new transmission line connecting the powerhouse to a nearby electric grid interconnection point with options to evaluate multiple grid interconnection locations; and (7) appurtenant facilities. The proposed project would have an annual generation of 356,839 megawatt-hours.

Applicant Contact: Adam Rousselle, Merchant Hydro Developers, LLC, 5710

Oak Crest Drive, Doylestown, PA 18902; phone: (267) 254–6107.

FERC Contact: Tim Looney; phone: (202) 502–6096.

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,* (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–14816–000.

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–14816) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: May 25, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–11275 Filed 5–31–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF17–5–000]

Port Arthur Pipeline, LLC; Notice of Intent To Prepare an Environmental Impact Statement for the Planned Louisiana Connector Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Sessions

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental impact statement (EIS) that will discuss the environmental impacts of the Port Arthur Louisiana Connector Project involving construction and operation of facilities by Port Arthur Pipeline, LLC (PAPL) in Jefferson County, Texas and Cameron, Calcasieu, Beauregard, Allen, Evangeline, and St. Landry Parishes, Louisiana. The Commission will use this EIS in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the EIS. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before June 24, 2017.

If you sent comments on this project to the Commission before the opening of this docket on February 24, 2017, you will need to file those comments in Docket No. PF17–5–000 to ensure they are considered as part of this proceeding.

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

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the planned facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' is available for viewing on the FERC Web site (*www.ferc.gov*). This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings.

Public Participation

For your convenience, there are four methods you can use to submit your comments to the Commission. The Commission will provide equal consideration to all comments received, whether filed in written form or provided verbally. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the *eComment* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* This is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* With *eFiling,* you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister.*'' If you are filing a comment on a particular project, please select ''Comment on a Filing'' as the filing type; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the project docket number (PF17–5–000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

(4) In lieu of sending written or electronic comments, the Commission invites you to attend one of the public scoping sessions its staff will conduct in the project area, scheduled as follows:

Date and time	Location
Monday, June 12, 2017, 4:30 p.m. to 7:30 p.m.	West-Cal Arena & Events Center, Exhibit Hall B and Cyprus Meeting Room, 401 Arena Road, Sulphur, LA 70665, 337–528–9378.
Tuesday, June 13, 2017, 4:30 p.m. to 7:30 p.m.	Coushatta Casino Resort—Koasati Pines Golf Course, Veranda Room, 300 Koasati Drive, Kinder, LA 70648, 1–800–584–7263.
Wednesday, June 14, 2017, 4:30 p.m. to 7:30 p.m.	Louisiana State University—Eunice, Community Education Building, Room C118, LSUE Campus Dr., Eunice, LA 70535, 337–550–1390.

The primary goal of these scoping sessions is to have you identify the specific environmental issues and concerns that should be considered in the EIS to be prepared for this project. Individual verbal comments will be taken on a one-on-one basis with a court reporter. This format is designed to receive the maximum amount of verbal comments, in a convenient way during the timeframe allotted.

Each scoping session is scheduled from 4:30 p.m. to 7:30 p.m. central daylight time. You may arrive at any time after 4:30 p.m. There will not be a formal presentation by Commission staff when the session opens. If you wish to speak, the Commission staff will hand out numbers in the order of your arrival. Comments will be taken until 7:30 p.m. However, if no additional numbers have been handed out and all individuals who wish to provide comments have had an opportunity to do so, staff may conclude the session at 7 p.m. Please see appendix 1 for additional information on the session format and conduct.[1]

Your scoping comments will be recorded by the court reporter (with FERC staff or representative present) and become part of the public record for this proceeding. Transcripts will be publicly available on FERC's eLibrary system (see below for instructions on using eLibrary). If a significant number of people are interested in providing verbal comments in the one-on-one settings, a time limit of 3 to 5 minutes may be implemented for each commentor.

It is important to note that verbal comments hold the same weight as written or electronically submitted comments. Although there will not be a formal presentation, Commission staff will be available throughout the comment session to answer your questions about the environmental review process. Representatives from PAPL will also be present to answer project-specific questions.

Please note this is not your only public input opportunity; please refer to the review process flow chart in appendix 2.

Summary of the Planned Project

PAPL plans to construct and operate an interstate natural gas transmission system in Texas and Louisiana. The project would provide about 2.0 billion square cubic feet per day of natural gas to supply a proposed natural gas liquefaction and export project in Jefferson County, Texas.[2]

The Port Arthur Louisiana Connector Project would consist of the following facilities:

- A 131-mile-long, 42-inch-diameter pipeline in Jefferson County, Texas and Cameron, Calcasieu, Beauregard, Allen, Evangeline, and St. Landry Parishes, Louisiana;
- a new compressor station in Allen Parish, Louisiana;
- eight interconnects and meter stations in Jefferson County, Texas and Allen, Evangeline, and St. Landry Parishes, Louisiana; and
- appurtenant underground and aboveground facilities.

The general location of the project facilities is shown in appendix 3.

Land Requirements for Construction

Construction of the planned project would disturb about 1,980 acres of land for the pipeline and aboveground facilities. Following construction, PAPL would maintain about 790 acres for permanent operation of the pipeline project; the remaining acreage would be restored and revert to former uses. About 83 percent of the planned pipeline route parallels existing pipeline, utility, or road rights-of-way.

The EIS Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us[3] to discover and address concerns the public may have about proposals. This process is referred to as scoping. The main goal of the scoping process is to focus the analysis in the EIS on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EIS. We will consider all filed comments during the preparation of the EIS.

In the EIS we will discuss impacts that could occur as a result of the construction and operation of the planned project under these general headings:

- Geology and soils;
- land use;
- water resources, fisheries, and wetlands;
- cultural resources;
- vegetation and wildlife;
- socioeconomics;
- air quality and noise;
- endangered and threatened species;
- public safety; and
- cumulative impacts.

We will also evaluate possible alternatives to the planned project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Although no formal application has been filed, we have already initiated our NEPA review under the Commission's pre-filing process. The purpose of the pre-filing process is to encourage early involvement of interested stakeholders and to identify and resolve issues before the FERC receives an application. As part of our pre-filing review, we have begun to contact some federal and state agencies to discuss their involvement in the scoping process and the preparation of the EIS.

The EIS will present our independent analysis of the issues. We will publish

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[2] This export project is referred to as the Port Arthur Liquefaction Project. It, along with the Port Arthur Pipeline Project, is also being reviewed by FERC under Docket Nos. CP17–20–000 and CP17–21–000 and will be evaluated in the same EIS as the Louisiana Connector Project. The Port Arthur Liquefaction Project would involve the installation of a liquefaction facility for the exportation of natural gas near Port Arthur in Jefferson County, Texas. The Port Arthur Pipeline Project would involve the construction and operation of about 34 miles of 42-inch-diameter pipeline in Orange and Jefferson Counties, Texas and Cameron Parish, Louisiana, and would also provide a source of gas for the liquefaction facility.

[3] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Commission's Office of Energy Projects.

and distribute the draft EIS for public comment. After the comment period, we will consider all timely comments and revise the document, as necessary, before issuing a final EIS. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section, beginning on page 2.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues related to this project to formally cooperate with us in the preparation of the EIS.[4] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice. Currently, the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers have expressed their intention to participate as cooperating agencies in the preparation of the EIS to satisfy their NEPA responsibilities related to this project.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the applicable State Historic Preservation Offices (SHPO), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[5] We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPOs as the project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EIS for this project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the planned facilities, the environmental information provided by PAPL, comments received at PAPL's open houses, and those comments filed to date. This preliminary list of issues may change based on your additional comments and our analysis:

- Impacts on wetlands;
- construction in and potential impacts on aquatic resources in Sabine Lake;
- colocation with existing pipelines; and
- utilization of the same or similar rights-of-way as other proposed pipeline projects.

Environmental Mailing List

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

Copies of the completed draft EIS will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (appendix 4).

Becoming an Intervenor

Once PAPL files its application with the Commission, you may want to become an ''intervenor'' which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Motions to intervene are more fully described at *http://www.ferc.gov/resources/guides/how-to/intervene.asp.* Instructions for becoming an intervenor are in the ''Document-less Intervention Guide'' under the ''*e-filing*'' link on the Commission's Web site. Please note that the Commission will not accept requests for intervenor status at this time. You must wait until the Commission receives a formal application for the project.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number, excluding the last three digits in the Docket Number field (*i.e.,* PF17–5). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

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

Finally, public sessions or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: May 25, 2017.

Kimberly D. Bose,

Secretary.

[4] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

[5] The Advisory Council on Historic Preservation regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

Appendix 1

Docket No. PF17-5-000 Appendix 1

FERC SESSION FORMAT AND CONDUCT

Session Format

FERC is conducting the session to solicit your scoping comments. There will not be a formal presentation by Commission staff; however, FERC staff is available to answer questions about the environmental review process. The session format is as follows:

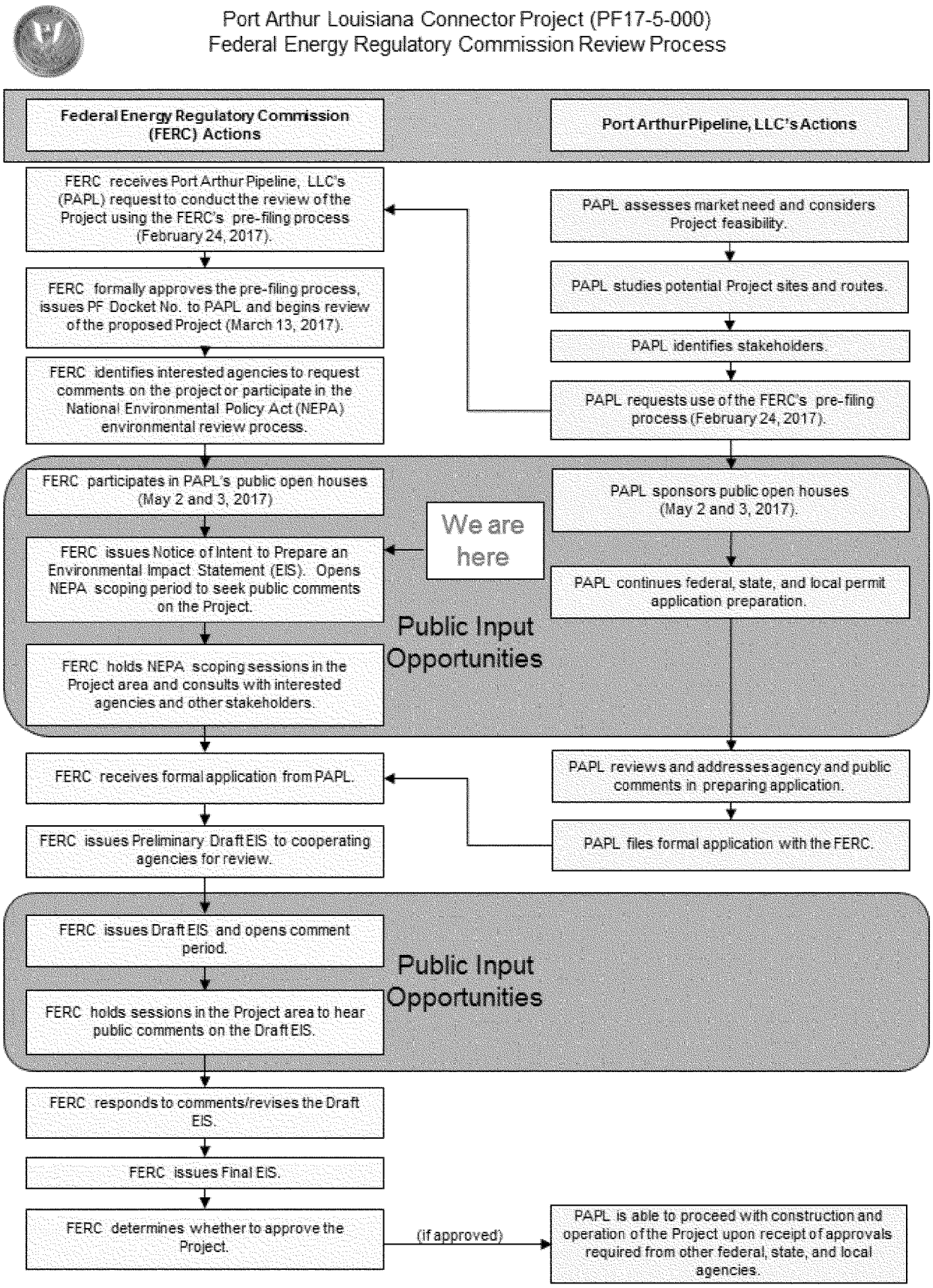
- Tickets are handed out on a "first come, first serve" basis starting at the time listed in the Notice.
- Individuals are called in ticket number order to provide verbal comments to be transcribed by a court reporter for the public record.
- Time limits on verbal comments may be enforced to ensure that all those wishing to comment have the opportunity to do so within the designated session time.
- Written comments may be submitted in addition to, or in lieu of, verbal comments.
- Additional materials about FERC and the environmental review process are available at information stations at the session.

Session Conduct

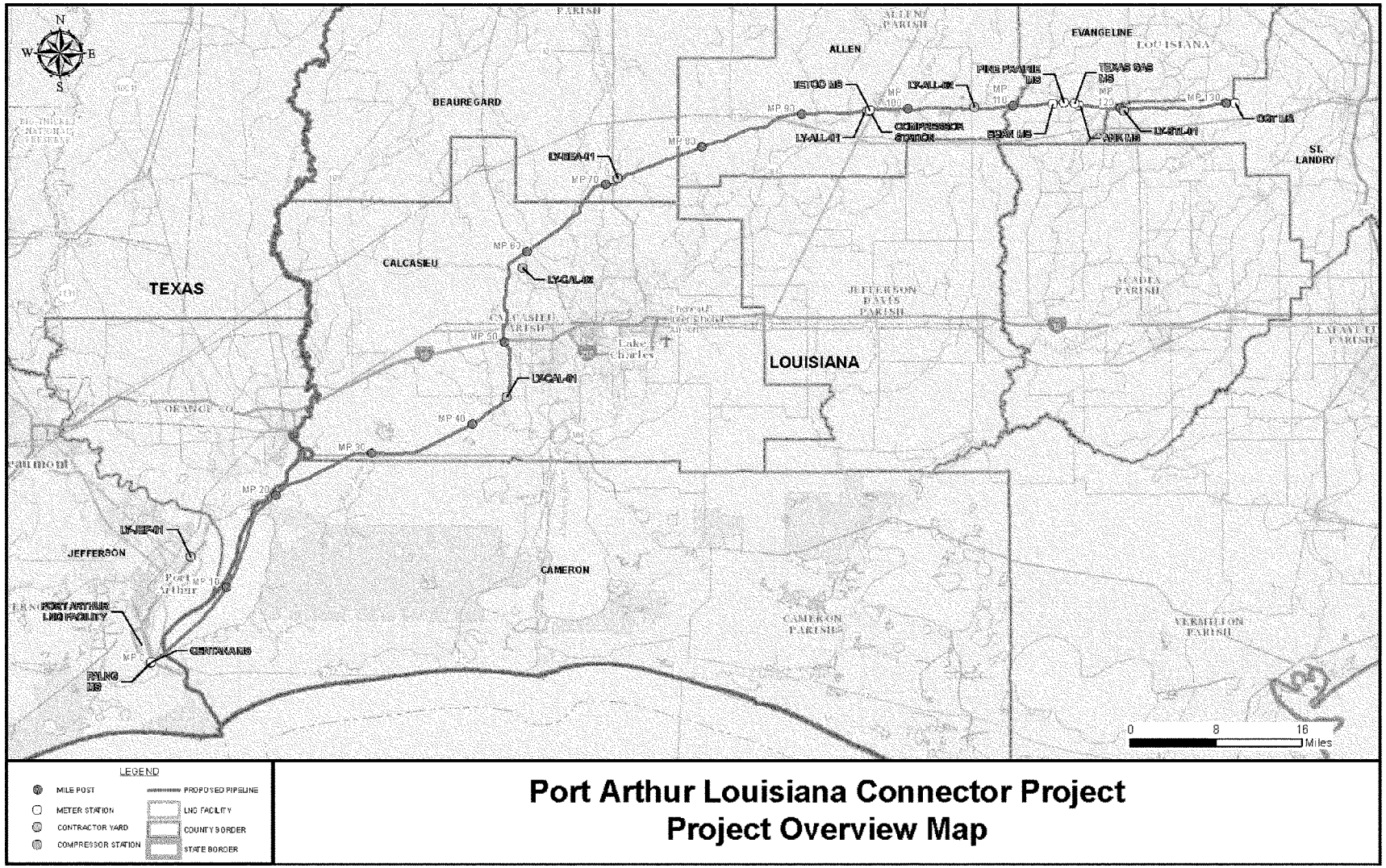
Proper conduct will help the sessions maintain a respectful atmosphere for attendees to learn about the FERC Environmental Review Process and to be able to provide comments effectively.

- Loudspeakers, lighting, oversized visual aids, or other visual or audible disturbances are not permitted.
- Disruptive video and photographic equipment may not be used.
- Conversations should be kept to a reasonable volume. Attendees should be respectful of those providing verbal comments to the court reporters.
- Recorded interviews are not permitted within the session space.
- FERC reserves the right end the session if disruptions interfere with the opportunity for individuals to provide verbal comments or if there is a safety or security risk.

Appendix 2


Port Arthur Louisiana Connector Project (PF17-5-000)
Federal Energy Regulatory Commission Review Process
Federal Energy Regulatory Commission (FERC) Actions
Port Arthur Pipeline, LLC's Actions
FERC receives Port Arthur Pipeline, LLC's (PAPL) request to conduct the review of the Project using the FERC's pre-filing process (February 24, 2017).
FERC formally approves the pre-filing process, issues PF Docket No. to PAPL and begins review of the proposed Project (March 13, 2017).
FERC identifies interested agencies to request comments on the project or participate in the National Environmental Policy Act (NEPA) environmental review process.
PAPL assesses market need and considers Project feasibility.
PAPL studies potential Project sites and routes.
PAPL identifies stakeholders.
PAPL requests use of the FERC's pre-filing process (February 24, 2017).
FERC participates in PAPL's public open houses (May 2 and 3, 2017)
PAPL sponsors public open houses (May 2 and 3, 2017).
We are here
FERC issues Notice of Intent to Prepare an Environmental Impact Statement (EIS). Opens NEPA scoping period to seek public comments on the Project.
PAPL continues federal, state, and local permit application preparation.
Public Input Opportunities
FERC holds NEPA scoping sessions in the Project area and consults with interested agencies and other stakeholders.
FERC receives formal application from PAPL.
PAPL reviews and addresses agency and public comments in preparing application.
FERC issues Preliminary Draft EIS to cooperating agencies for review.
PAPL files formal application with the FERC.
FERC issues Draft EIS and opens comment period.
Public Input Opportunities
FERC holds sessions in the Project area to hear public comments on the Draft EIS.
FERC responds to comments/revises the Draft EIS.
FERC issues Final EIS.
FERC determines whether to approve the Project.
(if approved)
PAPL is able to proceed with construction and operation of the Project upon receipt of approvals required from other federal, state, and local agencies.

Appendix 3



Port Arthur Louisiana Connector Project
Project Overview Map

Appendix 4

Docket No. PF17-5-000 Appendix 4

INFORMATION REQUEST

Louisiana Connector Project

Name_____

Agency_____

Address_____

City_____ **State**_____ **Zip Code**_____

☐ **Please send me a paper copy of the published NEPA document**

☐ **Please remove my name from the mailing list**

FROM_____

_____

_____

_____

ATTN: OEP - Gas 4, PJ - 11.4 (D.H., PM)
Federal Energy Regulatory Commission
888 First Street NE
Washington, DC 20426

Louisiana Connector Project
PF17-5-000

Staple or Tape Here

[FR Doc. 2017–11277 Filed 5–31–17; 8:45 am]
BILLING CODE 6717–01–C

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

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

Docket Numbers: EC17–122–000.
Applicants: Bishop Hill Energy LLC, Blue Sky East, LLC, California Ridge Wind Energy LLC, Canandaigua Power Partners, LLC, Canandaigua Power Partners II, LLC, Erie Wind, LLC, Evergreen Wind Power, LLC, Evergreen Wind Power III, LLC, Imperial Valley Solar 1, LLC, Niagara Wind Power, LLC, Prairie Breeze Wind Energy LLC, Regulus Solar, LLC, Stetson Holdings, LLC, Stetson Wind II, LLC, Vermont Wind, LLC, Orion US Holdings 1 L.P., BRE TERP Holdings Inc.
Description: Application for Authorization under Section 203 of the Federal Power Act and Request for Waivers, Confidential Treatment and Expedited Consideration of Bishop Hill Energy LLC, et al.
Filed Date: 5/25/17.
Accession Number: 20170525–5206.
Comments Due: 5 p.m. ET 6/15/17.

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

Docket Numbers: ER17–1470–001.
Applicants: Duke Energy Progress, LLC.
Description: Tariff Amendment: DEP–PPA RS Nos. 174–177 Supplemental Filing to be effective 7/1/2017.
Filed Date: 5/25/17.
Accession Number: 20170525–5195.
Comments Due: 5 p.m. ET 6/15/17.

Docket Numbers: ER17–1553–001.
Applicants: Duke Energy Progress, LLC.
Description: Tariff Amendment: DEP–Fayetteville RS No. 184 Supplemental Filing to be effective 7/1/2017.
Filed Date: 5/25/17.
Accession Number: 20170525–5197.
Comments Due: 5 p.m. ET 6/15/17.

Docket Numbers: ER17–1557–001.
Applicants: Duke Energy Progress, LLC.
Description: Tariff Amendment: DEP–NCEMPA RS No. 200 Supplemental Filing to be effective 7/1/2017.
Filed Date: 5/25/17.
Accession Number: 20170525–5199.
Comments Due: 5 p.m. ET 6/15/17.

Docket Numbers: ER17–1678–000.
Applicants: Saddleback Ridge Wind, LLC.
Description: § 205(d) Rate Filing: Shared Facilities Agreement to be effective 6/1/2017.
Filed Date: 5/24/17.
Accession Number: 20170524–5178.
Comments Due: 5 p.m. ET 6/14/17.

Docket Numbers: ER17–1679–000.
Applicants: Virginia Electric and Power Company, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: PJM Transmission Owners submit revisions to OATT, Sch 12 for technical amendment to be effective 7/24/2017.
Filed Date: 5/25/17.
Accession Number: 20170525–5096.
Comments Due: 5 p.m. ET 6/15/17.

Docket Numbers: ER17–1680–000.
Applicants: Wabash Valley Power Association, Inc.
Description: § 205(d) Rate Filing: Corrections to eTariff Table of Contents to be effective 8/1/2017.
Filed Date: 5/25/17.
Accession Number: 20170525–5113.
Comments Due: 5 p.m. ET 6/15/17.

Docket Numbers: ER17–1681–000.
Applicants: Wabash Valley Power Association, Inc.
Description: § 205(d) Rate Filing: Amendments to Rate Schedules—Parke County to be effective 7/25/2017.
Filed Date: 5/25/17.
Accession Number: 20170525–5117.
Comments Due: 5 p.m. ET 6/15/17.

Docket Numbers: ER17–1682–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Wholesale Market Participation Agreement No. 4705; Queue No. AC1–197 to be effective 5/8/2017.
Filed Date: 5/25/17.
Accession Number: 20170525–5127.
Comments Due: 5 p.m. ET 6/15/17.

Docket Numbers: ER17–1683–000.
Applicants: American Transmission Systems, Incorporated, Mid-Atlantic Interstate Transmission, LLC, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: ATSI and MAIT submit ECA, Service Agreement Nos. 4560, 4561, 4683 to be effective 5/26/2017.
Filed Date: 5/25/17.
Accession Number: 20170525–5130.
Comments Due: 5 p.m. ET 6/15/17.

Docket Numbers: ER17–1684–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Wholesale Market Participation Agreement No. 4706; Queue No. AC1–198 to be effective 5/8/2017.
Filed Date: 5/25/17.
Accession Number: 20170525–5151.
Comments Due: 5 p.m. ET 6/15/17.

Docket Numbers: ER17–1685–000.
Applicants: Southern California Edison Company.
Description: § 205(d) Rate Filing: GIA and Distribution Service Agreement SCEBESS–007 Project to be effective 5/26/2017.
Filed Date: 5/25/17.
Accession Number: 20170525–5166.
Comments Due: 5 p.m. ET 6/15/17.

Docket Numbers: ER17–1686–000.
Applicants: ITC Midwest LLC.
Description: § 205(d) Rate Filing: Filing of an Amended & Restated Interconnection, Interchange and Construction to be effective 7/24/2017.
Filed Date: 5/25/17.
Accession Number: 20170525–5182.
Comments Due: 5 p.m. ET 6/15/17.

Docket Numbers: ER17–1687–000.
Applicants: AEP Texas Central Company.
Description: § 205(d) Rate Filing: TCC-La Paloma Energy Center IA Fourth Amend & Restated Cancellation to be effective 5/23/2017.
Filed Date: 5/25/17.
Accession Number: 20170525–5184.
Comments Due: 5 p.m. ET 6/15/17.

Docket Numbers: ER17–1688–000.
Applicants: Public Service Company of Oklahoma.
Description: § 205(d) Rate Filing: PSO–OGE Cemetery Road Delivery Point Agreement to be effective 5/1/2017.
Filed Date: 5/25/17.
Accession Number: 20170525–5185.
Comments Due: 5 p.m. ET 6/15/17.

Docket Numbers: ER17–1689–000.
Applicants: AEP Texas Inc.
Description: § 205(d) Rate Filing: AEP TX-Buckthorn Westex Interconnection Agreement to be effective 5/8/2017.
Filed Date: 5/25/17.
Accession Number: 20170525–5189.
Comments Due: 5 p.m. ET 6/15/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings

can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 25, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–11270 Filed 5–31–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER17–1672–000]

Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization: Gulf Coast Solar Center III, LLC

This is a supplemental notice in the above-referenced proceeding of Gulf Coast Solar Center III, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is June 14, 2017.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically 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-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic 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.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 25, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–11273 Filed 5–31–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14819–000]

Merchant Hydro Developers, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On January 18, 2017, Merchant Hydro Developers, 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 Allamuchy Pumped Storage Hydroelectric Project to be located near the town of Budd Lake, New Jersey in Morris County, New Jersey. 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 new upper reservoir with a surface area of 70 acres and a storage capacity of 1,050 acre-feet at a surface elevation of approximately 1,150 feet above mean sea level (msl) created through construction of new roller-compacted concrete or rock-filled dam; (2) excavating a new lower reservoir with a surface area of 39 acres and a total storage capacity of 1,260 acre-feet at a surface elevation of 780 feet msl; (3) a new 1,328-foot-long, 48-inch-diameter penstock connecting the upper and lower reservoirs; (5) a new 150-foot-long, 50-foot-wide powerhouse containing two turbine-generator units with a total rated capacity of 32 megawatts; (6) a new transmission line connecting the powerhouse to a nearby electric grid interconnection point with options to evaluate multiple grid interconnection locations; and (7) appurtenant facilities. Possible initial fill water and make-up water would come from the Musconetcong River. The proposed project would have an annual generation of 116,253 megawatt-hours.

Applicant Contact: Adam Rousselle, Merchant Hydro Developers, LLC, 5710 Oak Crest Drive, Doylestown, PA 18902; phone: (267) 254–6107.

FERC Contact: Tim Looney; phone: (202) 502–6096.

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,* (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–14819–000.

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–14819) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: May 25, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–11276 Filed 5–31–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER17–1671–000]

Gulf Coast Solar Center II, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Gulf Coast Solar Center II, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is June 14, 2017.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically 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-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic 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* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 25, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–11272 Filed 5–31–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP17–441–000]

Northwest Pipeline LLC; Notice of Application

Take notice that on May 11, 2017, Northwest Pipeline, LLC (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, has filed an application pursuant to section 7(b) and 7(c) of the Natural Gas Act (NGA) and the Federal Energy Regulatory Commission's (Commission) regulations, requesting abandonment approvals, and a certificate of public convenience seeking authorization to construct and operate its North Seattle Lateral Upgrade Project (Project) located in Snohomish County, Washington, all as more fully described in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web 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 at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Specifically, the Project consists of: (1) Abandoning by removal the existing 8-inch-diameter pipeline between mileposts (MP) 2.2 and 8.8 on Northwest's North Seattle Delivery Lateral line and installing new 20 inch diameter pipeline from MP 1.9 to 8.8; (2) rebuild the existing North Seattle/Everett meter station; and (3) installing miscellaneous appurtenances; all located in Snohomish County, Washington.

Any questions regarding this application should be directed to Xan Kotter, Northwest Pipeline LLC, P.O. Box 58900, Salt Lake City, UT 84158–0900, or call (801) 584–6496, or by email: *xan.g.kotter@williams.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the

Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: 5:00 p.m. Eastern Time on June 14, 2017.

Dated: May 25, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–11271 Filed 5–31–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP17–443–000]

Notice of Request Under Blanket Authorization: National Fuel Gas Supply Corporation

Take notice that on May 16, 2017, National Fuel Gas Supply Corporation (National Fuel) 6363 Main Street, Williamsville, New York 14221, filed a prior notice application pursuant to sections 157.205, and 157.216(b) of the Federal Energy Regulatory Commission's (Commission) regulations under the Natural Gas Act (NGA), and Texas Gas' blanket certificate issued in Docket No. CP83–4–000. National Fuel requests authorization to abandon certain minor underground natural gas storage facilities located at its Wharton Storage Field, located in Potter County, Pennsylvania. Specifically, National Fuel proposes to plug and abandon one injection/withdrawal storage well, Well WH23, and abandon in place the associated Well Line TRW23, all as more fully set forth in the application, which is open to the public for inspection. The filing may also be viewed on the web 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 at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application should be directed to Alice A. Curtiss, Deputy General Counsel for National Fuel, 6363 Main Street, Williamsville, New York 14221, or phone (716) 857–7075, or by email *curtissa@natfuel.com.*

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding, or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenter will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Dated: May 25, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–11269 Filed 5–31–17; 8:45 am]

BILLING CODE 6717–01–P

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Sunshine Act; Regular Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act, of the regular meeting of the Farm Credit Administration Board (Board).

DATES: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on June 8, 2017, from 9:00 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Dale L. Aultman, Secretary to the Farm Credit Administration Board, (703) 883–4009, TTY (703) 883–4056.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090. Submit attendance requests via email to *VisitorRequest@FCA.gov.* See **SUPPLEMENTARY INFORMATION** for further information about attendance requests.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts will be closed to the public.

Please send an email to *VisitorRequest@FCA.gov* at least 24 hours before the meeting. In your email include: Name, postal address, entity you are representing (if applicable), and telephone number. You will receive an email confirmation from us. Please be prepared to show a photo identification when you arrive. If you need assistance for accessibility reasons, or if you have any questions, contact Dale L. Aultman, Secretary to the Farm Credit Administration Board, at (703) 883–4009. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

- May 11, 2017

B. Reports

- Annual Report on the Farm Credit System's Young, Beginning, and Small Farmer Mission Performance: 2016 Results
- Quarterly Report on Economic Conditions and FCS Conditions
- Semi-Annual Report on Office of Examination Operations

Closed Session *

- Office of Examination Quarterly Report

Dated: May 30, 2017.

Dale L. Aultman,

Secretary, Farm Credit Administration Board.

*Session Closed—Exempt pursuant to 5 U.S.C. Section 552b(c)(8) and (9).

[FR Doc. 2017–11407 Filed 5–30–17; 11:15 am]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0213, 3060–0331, 3060–0607]

Information Collections Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information 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.

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

DATES: Written comments should be submitted on or before July 31, 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 below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email: *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the PRA, 44 U.S.C. 3501–3520, the FCC 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: 3060–0213.

Title: Section 73.3525, Agreements for Removing Application Conflicts.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not for profit institutions.

Number of Respondents and Responses: 38 respondents; 40 responses.

Estimated Time per Response: 0.25–1 hour.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Total Annual Burden: 39 hours.

Total Annual Cost: $91,953.

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

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 154(i) and 311 of the Communications Act of 1934, as amended.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The information collection requirements contained in 47 CFR 73.3525 states (a) except as provided in § 73.3523 regarding dismissal of applications in comparative renewal proceedings, whenever applicants for a construction permit for a broadcast station enter into an agreement to procure the removal of a conflict between applications pending before the FCC by withdrawal or amendment of an application or by its dismissal pursuant to § 73.3568, all parties thereto shall, within 5 days after entering into the agreement, file with the FCC a joint request for approval of such agreement. The joint request shall be accompanied by a copy of the agreement, including any ancillary agreements, and an affidavit of each party to the agreement setting forth:

(1) The reasons why it is considered that such agreement is in the public interest;

(2) A statement that its application was not filed for the purpose of reaching or carrying out such agreement;

(3) A certification that neither the applicant nor its principals has received any money or other consideration in excess of the legitimate and prudent expenses of the applicant; Provided That this provision shall not apply to bona fide merger agreements;

(4) The exact nature and amount of any consideration paid or promised;

(5) An itemized accounting of the expenses for which it seeks reimbursement; and

(6) The terms of any oral agreement relating to the dismissal or withdrawal of its application.

(b) Whenever two or more conflicting applications for construction permits for

broadcast stations pending before the FCC involve a determination of fair, efficient and equitable distribution of service pursuant to section 307(b) of the Communications Act, and an agreement is made to procure the withdrawal (by amendment to specify a different community or by dismissal pursuant to § 73.3568) of the only application or applications seeking the same facilities for one of the communities involved, all parties thereto shall file the joint request and affidavits specified in paragraph (a) of this section.

(1) If upon examination of the proposed agreement the FCC finds that withdrawal of one of the applications would unduly impede achievement of a fair, efficient and equitable distribution of radio service among the several States and communities, then the FCC shall order that further opportunity be afforded for other persons to apply for the facilities specified in the application or applications to be withdrawn before acting upon the pending request for approval of the agreement.

(2) Upon release of such order, any party proposing to withdraw its application shall cause to be published a notice of such proposed withdrawal at least twice a week for 2 consecutive weeks within the 3-week period immediately following release of the FCC's order, in a daily newspaper of general circulation published in the community in which it was proposed to locate the station. However, if there is no such daily newspaper published in the community, the notice shall be published as follows:

(i) If one or more weekly newspapers of general circulation are published in the community in which the station was proposed to be located, notice shall be published in such a weekly newspaper once a week for 3 consecutive weeks within the 4-week period immediately following the release of the FCC's order.

(ii) If no weekly newspaper of general circulation is published in the community in which the station was proposed to be located, notice shall be published at least twice a week for 2 consecutive weeks within the 3-week period immediately following the release of the FCC's order in the daily newspaper having the greatest general circulation in the community in which the station was proposed to be located.

(3) The notice shall state the name of the applicant; the location, frequency and power of the facilities proposed in the application; the location of the station or stations proposed in the applications with which it is in conflict; the fact that the applicant proposes to withdraw the application; and the date upon which the last day of publication shall take place.

(4) Such notice shall additionally include a statement that new applications for a broadcast station on the same frequency, in the same community, with substantially the same engineering characteristics and proposing to serve substantially the same service area as the application sought to be withdrawn, timely filed pursuant to the FCC's rules, or filed, in any event, within 30 days from the last date of publication of the notice (notwithstanding any provisions normally requiring earlier filing of a competing application), will be entitled to comparative consideration with other pending mutually exclusive affidavits.

(5) Within 7 days of the last day of publication of the notice, the applicant proposing to withdraw shall file a statement in triplicate with the FCC giving the dates on which the notice was published, the text of the notice and the name and location of the newspaper in which the notice was published.

OMB Control Number: 3060–0331.

Title: Aeronautical Frequency Notification, FCC Form 321.

Form Number: FCC Form 321.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions.

Number of Respondents and Responses: 1,940 respondents; 1,940 responses.

Estimated Time per Response: 0.67 hours (40 minutes).

Frequency of Response: One-time and on occasion reporting requirements.

Total Annual Burden: 1,300 hours.

Total Annual Cost: $126,100.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 154(i), 301, 303, 308, 309 and 621 of the Communications Act of 1934, as amended.

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

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

Needs and Uses: The FCC Form 321 is the means by which multichannel video programming distributors obtain authority to commence operation of a system on frequencies used by aeronautical services. The information is used to protect aeronautical radio communications from interference.

OMB Control Number: 3060–0607.

Title: Section 76.922, Rates for Basic Service Tiers and Cable Programming Services Tiers.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit and State, Local or Tribal Government.

Number of Respondents and Responses: 25 respondents; 25 respondents.

Estimated Time per Response: 12 hours.

Total Annual Burden: 300 hours.

Total Annual Cost: None.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 4(i) and 623 of the Communications Act of 1934, as amended.

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

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

Needs and Uses: The information collection requirements contained in 47 CFR 76.922(b)(5)(C) provides that an eligible small system that elects to use the streamlined rate reduction process must implement the required rate reductions and provide written notice of such reductions to local subscribers, the local franchising authority (''LFA''), and the Commission.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–11341 Filed 5–31–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0906]

Information Collections Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information 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.

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

DATES: Written comments should be submitted on or before July 31, 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 below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email: *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the PRA, 44 U.S.C. 3501–3520, the FCC 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: 3060–0906.

Title: Annual DTV Ancillary/Supplemental Services Report for DTV Stations, FCC Form 317; 47 CFR 73.624(g).

Form Number: FCC Form 317.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions.

Number of Respondents and Responses: 9,391 respondents, 18,782 responses.

Frequency of Response: Recordkeeping requirement, annual reporting requirement.

Obligation to Respond: Required to obtain benefits—Statutory authority for this collection of information is contained in Sections 154(i), 303, 336 and 403 of the Communications Act of 1934, as amended.

Estimated Time per Response: 2–4 hours.

Total Annual Burden: 56,346 hours.

Total Annual Cost: $1,408,650.

Nature and Extent of Confidentiality: There is no need for confidentiality *41561 required with this collection of information.

Privacy Impact Assessment: No impact(s).

Needs and Uses: Each licensee/permittee of a digital television (DTV) station must file on an annual basis FCC Form 317. Specifically, required filers include the following (but we generally refer to all such entities herein as a ''DTV licensee/permittee''):

A licensee of a digital commercial or noncommercial educational (NCE) full power television (TV) station, low power television (LPTV) station, TV translator or Class A TV station.

A permittee operating pursuant to digital special temporary authority (STA) of a commercial or NCE full power TV station, LPTV station, TV translator or Class A TV station.

Each DTV licensee/permittee must report whether they provided ancillary or supplementary services at any time during the reporting cycle.

Each DTV licensee/permittee is required to retain the records supporting the calculation of the fees due for three years from the date of remittance of fees. Each NCE licensee/permittee must also retain for eight years documentation sufficient to show that its entire bitstream was used ''primarily'' for NCE broadcast services on a weekly basis.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–11334 Filed 5–31–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0169]

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 July 31, 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* and to *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: 3060–0169.

Title: Section 43.51, Reports and Records of Communications Common Carriers and Affiliates.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Responses and Respondents: 55 respondents; 1,210 responses.

Estimated Time per Response: 4 hours.

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

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in sections: 1–4, 10, 11, 201–205, 211, 218, 220, 226, 303(g), 303(r) and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 160, 161, 201, 205, 211, 218, 220, 226, 303(g), 303(r) and 332.

Total Annual Burden: 3,397 hours.

Total Annual Cost: No cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission is not requesting that the respondents submit confidential information.

Needs and Uses: The Commission is submitting an extension for this information collection in order to obtain the full three-year clearance from OMB. Section 43.51 requires any communication common carrier described in paragraph (b) of this section to file with the Commission, within thirty (30) days of execution, a copy of each contract, agreement, concession, license, authorization, operating agreement or other arrangement to which it is a party and any amendments.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2017–11333 Filed 5–31–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

DATE & TIME: Tuesday, June 6, 2017 at 10:00 a.m. and its continuation at the conclusion of the open meeting on June 8, 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 concerning participation in civil actions or proceedings or arbitration.

* * * * *

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Laura E. Sinram,

Acting Deputy Secretary of the Commission.

[FR Doc. 2017–11479 Filed 5–30–17; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

The Commission hereby gives notice of the filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments on the agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. A copy of the agreement is available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 012067–018.

Title: U.S. Supplemental Agreement to HLC Agreement.

Parties: BBC Chartering Carriers GmbH & Co. KG and BBC Chartering & Logistic GmbH & Co. KG, as a single member; Chipolbrok (Chinese-Polish Joint Stock Shipping Company); Hanssy Shipping Pte. Ltd.; Industrial Maritime Carriers, L.L.C; and Rickmers-Linie GmbH & Cie. KG.

Filing Party: Wade S. Hooker, Esq.; 211 Central Park W; New York, NY 10024.

Synopsis: The amendment deletes MACS Maritime Carrier Shipping GmbH & Co. as a party to the Agreement.

By Order of the Federal Maritime Commission.

Dated: May 26, 2017.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2017–11308 Filed 5–31–17; 8:45 am]

BILLING CODE 6731–AA–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Notice

May 29, 2017.

TIME AND DATE: 10:00 a.m., Thursday, June 15, 2017.

PLACE: The Richard V. Backley Hearing Room, Room 511N, 1331 Pennsylvania Avenue NW., Washington, DC 20004 (enter from F Street entrance).

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following in open session: *Secretary of Labor* v. *Lehigh Anthracite Coal, LLC,* et al., Docket Nos. PENN 2014–108, et al. (Issues include whether the Judge erred in concluding that sending a miner into the pit in question constituted ''high negligence'' rather than reckless disregard'').

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFO: Emogene Johnson (202) 434–9935/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

PHONE NUMBER FOR LISTENING TO MEETING: 1 (866) 867–4769, Passcode: 678–100.

Sarah L. Stewart,

Deputy General Counsel.

[FR Doc. 2017–11472 Filed 5–30–17; 4:15 pm]

BILLING CODE 6735–01–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Notice

May 29, 2017.

TIME AND DATE: 10:00 a.m., Wednesday, June 14, 2017.

PLACE: The Richard V. Backley Hearing Room, Room 511N, 1331 Pennsylvania Avenue NW., Washington, DC 20004 (enter from F Street entrance).

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument in the matter *Secretary of Labor* v. *Lehigh Anthracite Coal, LLC,* et al., Docket Nos. PENN 2014–108, et al. (Issues include whether the Judge erred in concluding that sending a miner into the pit in question constituted ''high negligence'' rather than reckless disregard'').

Any person attending this oral argument who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFO: Emogene Johnson (202) 434–9935/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

PHONE NUMBER FOR LISTENING TO ARGUMENT: 1 (866) 867–4769, Passcode: 678–100.

Sarah L. Stewart,

Deputy General Counsel.

[FR Doc. 2017–11470 Filed 5–30–17; 4:15 pm]

BILLING CODE 6735–01–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Notice

May 29, 2017.

TIME AND DATE: 10:00 a.m., Thursday, July 13, 2017. (This meeting had originally been scheduled for June 15, 2017).

PLACE: The Richard V. Backley Hearing Room, Room 511N, 1331 Pennsylvania Avenue NW., Washington, DC 20004 (enter from F Street entrance).

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following in open session: *Secretary of Labor* v. *Pocahontas Coal Company, LLC,* Docket Nos. WEVA 2014–395–R, et al. (Issues include whether the Judge erred in concluding that MSHA had established that a pattern of violations existed at the operator's mine).

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFO: Emogene Johnson (202) 434–9935/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

PHONE NUMBER FOR LISTENING TO MEETING: 1–(866) 867–4769, Passcode: 678–100.

Sarah L. Stewart,

Deputy General Counsel.

[FR Doc. 2017–11467 Filed 5–30–17; 4:15 pm]

BILLING CODE 6735–01–P

GULF COAST ECOSYSTEM RESTORATION COUNCIL

[Docket No.: 106012017–1111–13]

Notice of Proposed Subaward Under a Council-Selected Restoration Component Award

AGENCY: Gulf Coast Ecosystem Restoration Council.

ACTION: Notice.

SUMMARY: The Gulf Coast Ecosystem Restoration Council (Council) publishes notice of a proposed subaward from the Texas Commission on Environmental Quality (TCEQ) to the Houston Parks Board (HPB), a nonprofit organization, for the purpose of acquiring multiple properties in along the Clear Creek Greenway as part of the larger Bayou Greenways Initiative in accordance with the Bayou Greenways Planning and Implementation Award as approved in the Initial Funded Priority List.

FOR FURTHER INFORMATION CONTACT: Please send questions by email to *raams_pgmsupport@restorethegulf.gov.*

SUPPLEMENTARY INFORMATION: Section 1321(t)(2)(E)(ii)(III) of the RESTORE Act (33 U.S.C. 1321(t)(2)(E)(ii)(III)) and Treasury's implementing regulation at 31 CFR 34.401(b) require that, for purposes of awards made under the Council-Selected Restoration Component, a State or Federal award recipient may make a grant or subaward to or enter into a cooperative agreement with a nongovernmental entity that equals or exceeds 10 percent of the total amount of the award provided to the State or Federal award recipient only if certain notice requirements are met. Specifically, at least 30 days before the State or Federal award recipient enters into such an agreement, the Council must publish in the **Federal Register** and deliver to specified Congressional Committees the name of the recipient and subrecipient; a brief description of the activity, including its purpose; and the amount of the award. This notice accomplishes the **Federal Register** requirement.

Description of Proposed Action

As specified in the Initial Funded Priority List, which is available on the Council's Web site at *https://www.restorethegulf.gov/council-selected-restoration-component/funded-priorities-list,* RESTORE Act funds in the amount of $7,109,000 will support the Bayou Greenways Planning and Implementation Award (Bayou Greenways Award) to TCEQ. TCEQ will provide a subaward in the amount of $7,085,022 to HPB to purchase and conserve approximately 80 to 100 acres of land through fee title acquisition from willing sellers. HPB intends to transfer title of acquired lands to the Houston Parks and Recreation Department for preservation in perpetuity as parkland. The subaward will contribute to the Bayou Greenways Initiative's long-term goal of preserving and restoring nearly 4,000 acres of riparian buffer corridors along the major waterways (bayous and creeks) running predominately through Harris County and the City of Houston. These waterways are connected to a region known as the Trinity-San Jacinto Estuary (Galveston Bay)—the largest watershed in Texas. Through the Bayou Greenways Initiative, HPB has partnered with the City of Houston and the Harris County Flood Control District to preserve, restore and provide public access these important ecological assets in the 4th largest city in the nation.

Will D. Spoon,

Program Analyst, Gulf Coast Ecosystem Restoration Council.

[FR Doc. 2017–11309 Filed 5–31–17; 8:45 am]

BILLING CODE 6560–58–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[CDC–2016–0090; Docket Number NIOSH 288–A]

A Performance Test Protocol for Closed System Transfer Devices Used During Pharmacy Compounding and Administration of Hazardous Drugs; Extension of Comment Period

AGENCY: National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease

Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice and extension of comment period.

SUMMARY: On September 15, 2016 the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), published a notice in the **Federal Register** announcing a public meeting and request for public comment on a draft testing protocol.

Written comments were to be received by December 7, 2016. NIOSH initially extended the public comment period to June 7, 2017 [81 FR 88687]. NIOSH is extending the public comment period for a second time to August 30, 2017. The longer timeframe will allow companies to test the protocol with the proposed challenge agents.

FOR FURTHER INFORMATION CONTACT: Deborah V. Hirst, NIOSH, Alice Hamilton Laboratories, 1090 Tusculum Avenue, MS–R–5, Cincinnati, Ohio 45226, telephone (513) 841–4141 (not a toll free number), Email: *DHirst@cdc.gov.*

ADDRESSES: You may submit comments, identified by CDC–2016–0090 and Docket Number NIOSH 288–A, by either of the following two methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* National Institute for Occupational Safety and Health, NIOSH Docket Office, 1090 Tusculum Avenue, MS C–34, Cincinnati, Ohio 45226–1998.

John Howard,

Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 2017–11292 Filed 5–31–17; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–17–0263]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted 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. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Requirements for the Importation of Nonhuman Primates into the United States (OMB Control No. 0920–0263; Expiration Date 09/30/2017)—Revision—National Center for Emerging and Zoonotic Infectious Diseases, Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Under the 42 CFR 71.53, CDC collects information pertaining to importers and imported nonhuman primates. This information collection enables CDC to evaluate compliance with pre-arrival of shipment notification requirements, to investigate the number and species of imported nonhuman primates, and to determine if adequate measures being taken for the prevention of exposure to persons and animals during importation.

Since May 1990, CDC has monitored the arrival and/or uncrating of certain shipments of non-human primates imported in to the United States. In February 2013, CDC promulgated two regulations pertaining to the importation of nonhuman primates. The first rule, Establishment of User Fees for Filovirus Testing of Nonhuman Primate Liver Samples, outlines a process by which importers can send liver tissues to CDC from primates that die during importation from reasons other than trauma (78 FR 9828, February 12, 2013). CDC performs these tests due to the absence of a private sector option. The second rule, Requirements for Importers of Nonhuman Primates, consolidates into 42 CFR 71.53 the requirements previously found in 42 CFR 71.53 with those found in the Special Permit to Import Cynomolgus, African Green, or Rhesus Monkeys into the United States (78 FR 11522, February 15, 2013). It also rescinded the six-month special-permit requirements for cynomolgus, African green, and rhesus monkeys and extended the time period for registration/permit renewal from 180 days to 2 years, reducing much of the respondent burden. CDC feels these regulatory changes and reporting requirements balance the public health risks posed by the importation of nonhuman primates with the burden imposed on regulating their importation.

Based on the number of registered importers and the number of filovirus samples processed by CDC, CDC is adjusting downward the number of burden hours for the following collections:

- *Recordkeeping and reporting requirements for importing NHPs:* Notification of shipment arrival 71.53(n) (no form): Reduction of two hours.
- *Quarantine release 71.53(l) (No form):* Reduction of two hours.
- *71.53(v): Form:* Filovirus Diagnostic Specimen Submission Form for Non-human Primate Materials: Reduction of 17 hours.
- *71.53(g)(1)(iii) and (h) Documentation and Standard Operating Procedures (no form) (Registered Importer):* Reduction of one hour.

Estimated Annualized Burden Hours

All registered importers of non-human primates are required by 42 CFR 71.53 to maintain certain disease control procedures and keep certain records. Standard business practices likely dictate that importers already keep records on the origin, transportation, and disposition of the nonhuman primates. Thus, CDC asks for information which should already be maintained by the importers and need only be assembled and reported. The estimate of burden hours totals 922,

which reflects assembling and reporting only.

Type of respondent	Form name/CFR reference	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Nonhuman Primate Importer.	CDC 75.10A Application for Registration as an Importer of Nonhuman Primates (New Importer).	1	1	10/60
Nonhuman Primate Importer.	CDC 75.10A Application for Registration as an Importer of Nonhuman Primates (Re-Registration).	12	1	10/60
Nonhuman Primate Importer.	71.53(g)(1)(iii) and (h) Documentation and Standard Operating Procedures (no form) (New Importer).	1	1	10
Nonhuman Primate Importer.	71.53(g)(1)(iii) and (h) Documentation and Standard Operating Procedures (no form) (Registered Importer).	12	1	30/60
Nonhuman Primate Importer.	Recordkeeping and reporting requirements for importing NHPs: Notification of shipment arrival 71.53(n) (no form).	24	6	15/60
Nonhuman Primate Importer.	Quarantine release 71.53(l) (No form)	24	6	15/60
Nonhuman Primate Importer.	71.53(v) Form: Filovirus Diagnostic Specimen Submission Form for Non-human Primate Materials.	10	10	20/60
Importer/Filer	CDC Partner Government Agency Message Set for Importing Live Nonhuman Primates.	150	1	15/60
Importer/Filer	CDC Partner Government Agency Message Set for Importing Nonhuman Primate Products.	2280	1	15/60
Importer/Filer	Documentation of Non-infectiousness 71.53(t)	2280	1	5/60

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. 2017–11263 Filed 5–31–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[CDC–2017–0015; Docket Number NIOSH 295]

Health Risks to Workers Associated With Occupational Exposures to Peracetic Acid; Extension of Comment Period

AGENCY: National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice and extension of comment period.

SUMMARY: On March 7, 2017 the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), published a notice in the **Federal Register** announcing a request for information to evaluate the scientific and technical data on occupational exposure to peracetic acid (CAS #79–21–0, also known as peroxyacetic acid and PAA). Written comments were to be received by June 5, 2017. In response to a request from an interested party, NIOSH is extending the comment period until October 1, 2017.

DATES: NIOSH is extending the comment period on the request for information published March 7, 2017 [82 FR 12819]. Electronic or written comments must be received by October 1, 2017.

FOR FURTHER INFORMATION CONTACT: G. Scott Dotson, NIOSH, Education and Information Division, Robert A. Taft Laboratories, 1090 Tusculum Avenue, Cincinnati, Ohio 45226, telephone (513) 533–8540 (not a toll free number).

ADDRESSES: You may submit comments, identified by CDC–2017–0015 and Docket Number NIOSH 295, by either of the following two methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* National Institute for Occupational Safety and Health, NIOSH Docket Office, 1090 Tusculum Avenue, MS C–34, Cincinnati, Ohio 45226–1998.

John Howard,

Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 2017–11288 Filed 5–31–17; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Proposed Projects

Title: Income Withholding Order/Notice for Support (IWO).

OMB No.: 0970–0154.

Description: The Income Withholding Order/Notice for Support (IWO) is the standard form that must be used to order and notify employers and income providers to withhold child support payments from an obligor's income. It also indicates where employers and other income providers must remit the payments and other information they need to withhold correctly.

Child support agencies, courts, private attorneys, custodial parties, and others must use the IWO form to initiate and amend an income withholding order for support and give notice of income withholding. Child support agencies are required to have automated systems containing current order and case information. Child support agencies providing services to custodial and/or noncustodial parties enter the terms of a child support order established by a tribunal into the state's automated system, which automatically populates the IWO form.

Employers and income providers also use the form to respond to the order/notice with termination or income status information. Employers and other

income providers may choose to receive the IWO form from child support agencies on paper or electronically, and may respond on paper or electronically to notify the sender of termination of employment or change in the income status.

The information collection activities pertaining to the IWO form are authorized by 42 U.S.C. 666(a)(1), (a)(8) and 666(b)(6), which require the use of the Income Withholding for Support (IWO) form to order income withholding for all child support orders. 45 CFR 303.100(e)(x) provides that the form require employers to notify state child support agencies when employees are terminated.

Respondents: Courts, private attorneys, custodial parties or their representatives, employers, and other parties that provide income to noncustodial parents.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Income withholding order/notice (Courts, private attorneys, custodial parties or their representatives).	3,699,791	1.00	5 minutes	308,316
Income withholding orders/termination of employment/income status (Employers and other income providers).	1,228,320	9.34	2 minutes	382,417
Electronic income withholding orders/termination of employment/income status (Employers and other income providers).	12,427	123.76	3 seconds	1,282
Programming for electronic income withholding order/notice (Child support agencies).	17	1	240	4,080

Estimated Total Annual Burden Hours: 696,095.

Additional Information: Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C Street SW., Washington, DC 20201, Attention: Reports Clearance Officer. All inquiries should be identified by the information collection.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Email: *OIRA_SUBMISSION@OMB.EOP.GOV,* Attn: Desk Officer for the Administration for Children and Families.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 2017–11168 Filed 5–31–17; 8:45 am]

BILLING CODE 4184–41–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[CFDA Number: 93.676]

Announcement of the Award of One Single-Source Low-Cost Extension Supplement Grant Within the Office of Refugee Resettlement's Unaccompanied Children's Program

AGENCY: Office of Refugee Resettlement (ORR), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS).

ACTION: Notice of award of one single-source low-cost extension supplement grant under the Unaccompanied Children's (UC) Program.

SUMMARY: ACF, ORR, announces the award of one single-source low-cost extension supplement grant for a total of $93,597,707 under the UC Program.

DATES: Low-cost extension supplement grants will support activities from January 1, 2017, through March 31, 2017.

FOR FURTHER INFORMATION CONTACT: Jallyn Sualog, Director, Division of Unaccompanied Children Operations, Office of Refugee Resettlement, 330 C Street SW., Washington, DC 20201. Telephone: (202) 401–9246. Email: *DCSProgram@acf.hhs.gov.*

SUPPLEMENTARY INFORMATION: The following supplement grant will support the immediate need for additional capacity of shelter services to accommodate the increasing number of UC referred by the Department of Homeland Security (DHS) into ORR care. The increase in the UC population necessitates the expansion of services to expedite the release of UC.

ORR has specific requirements for the provision of services. Award recipients must have the infrastructure, licensing, experience, and appropriate level of trained staff to meet those requirements. The expansion of the existing shelter services program through this supplemental award is a key strategy for ORR to be prepared to meet its responsibility of safe and timely release of UC referred to its care by DHS and so that the US Border Patrol can continue its vital national security mission to prevent illegal migration and trafficking, and protect the borders of the United States.

Statutory Authority

This program is authorized by—

(A) Section 462 of the Homeland Security Act of 2002, which in March 2003, transferred responsibility for the care and custody of Unaccompanied Alien Children from the Commissioner of the former Immigration and Naturalization Service to the Director of ORR of the U.S. Department of Health and Human Services (HHS).

(B) The Flores Settlement Agreement, Case No. CV85–4544RJK (C. D. Cal. 1996), as well as the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (Pub. L. 110–457), which authorizes post-release services under certain conditions to eligible children. All programs must comply with the Flores Settlement Agreement, Case No. CV85–4544–RJK (C.D.

Cal. 1996), pertinent regulations and ORR policies and procedures.

Christopher Beach,

Senior Grants Policy Specialist, Division of Grants Policy, Office of Administration, Administration for Children and Families.

[FR Doc. 2017–11210 Filed 5–31–17; 8:45 am]

BILLING CODE 4184–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities; Comment Request; Redesign of Existing Data Collection; Older Americans Act Titles III and VII; State Program Performance Report

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living (ACL) is announcing an opportunity for the public to comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish a notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on a proposed revision to an existing data collection related to the Older Americans Act Title III and VII State Program Performance Report (SPR) (ICR Rev).

DATES: Submit written or electronic comments on the collection of information by July 31, 2017.

ADDRESSES:

Submit electronic comments on the collection of information to: SPRredesign.comments@acl.hhs.gov.

Submit written comments on the collection of information to: U.S. Department of Health and Human Services, Administration for Community Living, Washington, DC 20201, Attention: Jennifer Klocinski.

FOR FURTHER INFORMATION CONTACT: Jennifer Klocinski by telephone: (202) 795–7377 or by email: *SPRredesign.comments@acl.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the 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. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval.

To comply with the above requirement, ACL is publishing a notice of the proposed revision of a currently approved collection of information set forth in this document. With respect to the following collection of information, ACL invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of ACL's functions, including whether the information will have practical utility; (2) the accuracy of ACL's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology.

Purpose

The purpose of this data collection is to fulfill requirements of the Older Americans Act and the Government Performance and Results Modernization Act of 2010 (GPRAMA) and related program performance activities. Section 202(a)(16) of the OAA requires the collection of statistical data regarding the programs and activities carried out with funds provided under the OAA and Section 207(a) directs the Assistant Secretary for Aging to prepare and submit a report to the President and Congress based on those data. Section 202(f) directs the Assistant Secretary to develop a set of performance outcome measures for planning, managing, and evaluating activities performed and services provided under the OAA. Requirements pertaining to the measurement and evaluation of the impact of all programs authorized by the OAA are described in section 206(a). The State Performance Report is one source of data used to develop and report performance outcome measures and measure program effectiveness in achieving the stated goals of the OAA.

The Administration on Aging (now within the Administration for Community Living) first developed a State Program Performance Report (SPR) in 1996 as part of its National Aging Program Information System (NAPIS). The SPR collects information about the national Aging Network, how State Agencies on Aging expend their OAA funds, as well as funding from other sources for OAA authorized supportive services. The SPR also collects information on the demographic and functional status of the recipients and is a key source for ACL performance measurement.

Revisions

Significant revisions to the SPR were last implemented in 2005. This proposed collection is a revision that will replace the currently approved version (effective 2017–2019). The factors that influenced the proposed revision of the SPR, include: (1) The need to reduce reporting burden while enhancing data quality; (2) the need to modernize the data structure to allow for more efficient reporting and the ability to use current technology for reporting and analysis; (3) an interest in aligning data elements within and across data collections; and (4) the need to consider alternative data elements that reflect the current Aging Network and long-term care services and supports. The proposed SPR revision reduces the number of data elements reported by 70% compared to the current SPR.

Reductions in data elements are found throughout the data collection, but are concentrated in the consumer demographic components. Due to the aggregate level nature of the SPR, information on combinations of demographic characteristics (*e.g.* number of women served who are 65 years or older and have 2 activity of daily living limitations) require exponentially larger numbers of data elements compared to single demographic characteristics (*e.g.* number of women served). To reduce reporting burden associated with the number of data elements, ACL is proposing to limit data element combinations. The remaining proposed demographic data elements include indicators of priority populations (*i.e.* social and economic vulnerability and frailty) found in the OAA and will allow ACL to continue to measure efforts to target services.

Limited expansions in data elements are found in the Title III–E National Family Caregiver Support Program service component. The proposal separates out three services that were reported as a whole (*i.e.* counseling, training and support group services).

Separation allows for support group services to be categorized as a non-registered service for which consumer demographic details are no longer reported. Additional information regarding the types of respite services provided under the OAA is sought. The proposal separates assistance services into two types: (1) Case management, and (2) information and assistance. Case management assistance services are categorized as registered, meaning caregiver demographic data are reported while information and assistance services do not include reporting of demographic data. Supplemental services are reported in the same manner as ''other service'' under Title III–B, Home and Community-based Services (HCBS) program. Across the OAA services, greater detail regarding expenditure data is proposed. Under Title III–B, HCBS program, the proposed data collection expands data regarding legal assistance services. The ACL also seeks data on the OAA identified priority legal issues for closed cases. Taken as a whole, the proposed reductions far exceed the proposed increases in data burden.

The proposed reporting requirements may be found on the ACL Web site under State Program Performance Report (SPR) Proposed Revisions for Comment, available at: *https://agid.acl.gov/Default.aspx.*

The estimated hour burden per respondent for the SPR in FY 2019 (year of first report) will change from the 50 hours estimate in FY 2016 to 33.5 hours, a decrease due to a 70% reduction in the number of data elements reported. The number of hours is multiplied by 56 state units on aging, resulting in a total estimated hour aggregate burden of 1,876 hours (see table below).

TABLE—ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
States	State Performance Report	56	1	33.5	1,876

Dated: May 25, 2017.

Daniel P. Berger,

Acting Administrator and Assistant Secretary for Aging.

[FR Doc. 2017–11286 Filed 5–31–17; 8:45 am]

BILLING CODE 4154 –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 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; PrecISE Asthma Network Data, Modeling, and Coordination Center.

Date: June 27, 2017.

Time: 1:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Suite 7182, Bethesda, MD 20892 (Telephone Conference Call).

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, *susan.sunnarborg@nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI Clinical Trial Pilot Studies (R34).

Date: June 29, 2017.

Time: 8:30 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard by Marriott, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

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, *lismerin@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; CLTR Member Conflicts.

Date: June 29, 2017.

Time: 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard by Marriott, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

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, *lismerin@nhlbi.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: May 26, 2017.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–11351 Filed 5–31–17; 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 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: Center for Scientific Review Special Emphasis Panel; HIV and Drug Abuse: Small Grant Applications.

Date: June 12–13, 2017.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Shalanda A. Bynum, MPH, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3206, Bethesda, MD 20892, 301–755–4355, *bynumsa@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(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: May 26, 2017.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–11349 Filed 5–31–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive Patent License: Mutant IDH1 Inhibitors Useful for Treating Cancer

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: National Center for Advancing Translational Sciences, an institute of the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an exclusive patent license to practice the inventions embodied in the Patent Applications listed in the Summary Information section of this notice to GeneXion Oncology, Inc., located in New York, NY.

DATES: Only written comments and/or applications for a license which are received by the National Center for Advancing Translational Sciences on or before July 3, 2017 will be considered.

ADDRESSES: Requests for copies of the patent application, inquiries, and comments relating to the contemplated exclusive license should be directed to: Sury Vepa, Ph.D., J.D., Senior Licensing and Patenting Manager, National Center for Advancing Translational Sciences, NIH, 9800 Medical Center Drive, Rockville, MD 20850, Phone: 301–217–9197, Fax: 301–217–5736, or email *sury.vepa@nih.gov.* A signed Confidential Disclosure Agreement may be required to receive copies of the patent applications.

Licensing Availability: The Development of mutant Isocitrate Dehydrogenase 1 (mIDH1) inhibitors for the Treatment of Human Cancers.

Category: Routine.

Action Needed By: There is no specific date that this needs to be approved by, but the sooner the document is approved, the sooner NIH can make a potential therapeutic available to the public.

Summary: Administration of an inhibitor of mIDH1 can potentially treat cancers resulting from or characterized by the presence of mIDH1. Industrial partners are being sought for licensing and to help further develop this technology for use in humans. There are currently few effective therapeutics to treat resulting from aberrant activity of mIDH1, such as acute myeloid leukemia.

Justification: Although there is no specific date requirement, rapid approval is requested in order to make a potential therapeutic available to the public quickly.

SUPPLEMENTARY INFORMATION:

Intellectual Property

1. International Application No. PCT/US15/067406 filed on 12/22/2015 which is entitled ''Mutant IDH1 Inhibitors Useful for Treating Cancer'' (HHS Ref. No: E–243–2014/0–PCT–02), and
2. U.S. Provisional Application No. 62/353298 filed on 06/22/2016 which is entitled ''Mutant IDH1 Inhibitors Useful for Treating Cancer'' (HHS Ref. No. E–189–2016/0–US–01)

The patent rights in these inventions have been assigned and/or exclusively licensed to the government of the United States of America and the University of North Carolina at Chapel Hill.

The prospective exclusive license territory may be worldwide and the field of use may be limited to the use of Licensed Patent Rights for the following: ''Therapeutics for cancers in humans which result from or characterized by the presence of mutant IDH1.''

The inventions relate to a series of novel compounds that potently and selectively inhibit mIDH1. These compounds reduce 2–HG levels in cell lines *in vitro* as well as in human cancer cells grown in mouse xenografts *in vivo.* These compounds show greater than 250-fold selectivity for the mutant enzyme over the wild-type, show favorable *in vitro* stability (in mouse, rat, dog and human hepatocyte exposure studies), are AMES negative, and exhibit no significant metabolic CYP liabilities. These compounds possess very favorable *in vivo* rodent pharmacokinetics and bioavailability and are well tolerated in rodents, even when dosed at high levels.

Thus, the compounds of the subject inventions can be used individually or in combination to develop new therapies to treat diseases which result from mutant IDH1 activity. The diseases caused by mutant IDH1 activity include cancer (*e.g.,* acute myeloid leukemia, glioma, cholangiocarcinoma and potentially other solid tumors) and selected rare diseases, such as Ollier Disease.

This notice is made in accordance with 35 U.S.C. 209 and 37 CFR part 404. The prospective exclusive license will be royalty bearing, and the prospective exclusive license may be granted unless within thirty (30) days from the date of this published notice, the National Center for Advancing Translational Sciences receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

Complete applications for a license in the prospective field of use that are filed in response to this notice will be treated as objections to the grant of the contemplated Exclusive Patent License Agreement. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the *Freedom of Information Act,* 5 U.S.C. 552.

Dated: May 25, 2017.

Pamela McInnes,

Deputy Director, Office of the Director, National Center for Advancing Translational Sciences.

[FR Doc. 2017–11241 Filed 5–31–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; 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 of General Medical Sciences Special Emphasis Panel; Review of COBRE Applications.
Date: July 19, 2017.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Bethesda North Marriott Hotel & Conference Center, Montgomery County Conference Center Facility, 5701 Marinelli Road, North Bethesda, MD 20852.
Contact Person: Robert Horowits, Ph.D., Scientific Review Officer, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.18, Bethesda, MD 20892–6200, 301–594–6904, *horowitr@mail.nih.gov.*

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; Special Emphasis Panel.
Date: July 20, 2017.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Residence Inn Bethesda Downtown, 7335 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Tracy Koretsky, Ph.D., Scientific Review Officer, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, MSC 6200, Room 3An.12F, Bethesda, MD 20892, 301–594–2886, *tracy.koretsky@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: May 26, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–11352 Filed 5–31–17; 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: Cardiovascular and Respiratory Sciences Integrated Review Group; Myocardial Ischemia and Metabolism Study Section.
Date: June 22–23, 2017.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Hotel Kabuki, 1625 Post Street, San Francisco, CA 94115.
Contact Person: Kimm Hamann, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118A, MSC 7814, Bethesda, MD 20892, 301–435–5575, *hamannkj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cognition and Perception.
Date: June 22, 2017.
Time: 10:00 a.m. to 1:00 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: Biao Tian, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3089B, MSC 7848, Bethesda, MD 20892, 301–402–4411, *tianbi@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Endocrinology, Metabolism, Nutrition and Reproductive Sciences.
Date: June 26–27, 2017.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.
Contact Person: Clara M Cheng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6170, MSC 7892, Bethesda, MD 20892, 301–435–1041, *chengc@csr.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Cognition and Perception Study Section.
Date: June 26–27, 2017.
Time: 8:00 a.m. to 2:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Ritz-Carlton Hotel, 1700 Tysons Boulevard, McLean, VA 22102.
Contact Person: Andrea B. Kelly, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7770, Bethesda, MD 20892, 301–455–1761, *kellya2@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: Molecular and Cellular Substrates of Complex Brain Disorders.
Date: June 26, 2017.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Ritz-Carlton Hotel, 1700 Tysons Boulevard, McLean, VA 22102.
Contact Person: Brian H. Scott, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301–827–7490, *brianscott@mail.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Somatosensory and Chemosensory Systems Study Section.
Date: June 26–27, 2017.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Washington Plaza Hotel, 10 Thomas Circle NW., Washington, DC 20005.
Contact Person: M. Catherine Bennett, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7846, Bethesda, MD 20892, 301–435–1766, *bennettc3@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Biophysical, Physiological, Pharmacological and Bioengineering Neuroscience.
Date: June 26–27, 2017.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: The St. Regis Washington DC, 923 16th Street NW., Washington, DC 20006.
Contact Person: Paula Elyse Schauwecker, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Room 5211, Bethesda, MD 20892, 301–760–8207, *schauweckerpe@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Health Informatics.
Date: June 26–27, 2017.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.
Contact Person: Michael L. Bloom, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6187, MSC 7804, Bethesda, MD 20892, 301–451–0132, *bloomm2@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Innovative Immunology.
Date: June 26, 2017.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Courtyard by Marriott, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Andrea Keane-Myers, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4218, Bethesda, MD 20892, 301–435–1221, *andrea.keane-myers@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel;

Fellowships: Physiology and Pathobiology of Cardiovascular and Respiratory Systems.

Date: June 26–27, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Eugene Carstea, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4130, MSC 7818, Bethesda, MD 20892, 301–408–9756, *carsteae@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Risk, Prevention and Health Behavior.

Date: June 26–27, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street NW., Washington, DC 20037.

Contact Person: Claire E Gutkin, Ph.D., MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3106, MSC 7808, Bethesda, MD 20892, 301–594–3139, *gutkincl@csr.nih.gov.*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Bacterial Pathogenesis Study Section.

Date: June 26–27, 2017.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Marci Scidmore, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3192, MSC 7808, Bethesda, MD 20892, 301–435–1149, *marci.scidmore@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; SBIR/STTR Applications in Drug Discovery and Development.

Date: June 26, 2017.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Handlery Union Square Hotel, 351 Geary Street, San Francisco, CA 94102.

Contact Person: Sergei Ruvinov, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4158, MSC 7806, Bethesda, MD 20892, 301–435–1180, *ruvinser@csr.nih.gov.*

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Health Services Organization and Delivery Study Section.

Date: June 26–27, 2017.

Time: 8:30 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Jacinta Bronte-Tinkew, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3164, MSC 7770, Bethesda, MD 20892, 301–806–0009, *brontetinkewjm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member conflict: Enteric nervous system and stem cells.

Date: June 26, 2017.

Time: 10:00 a.m. to 1:00 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: Ganesan Ramesh, Ph.D., Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Room 2182 MSC 7818, Bethesda, MD 20892, 301–827–5467, *ganesan.ramesh@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cell Biological Processes.

Date: June 26, 2017.

Time: 2:00 p.m. to 3:30 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: Charles Selden, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5187 MSC 7840, Bethesda, MD 20892, 301–451–3388, *seldens@mail.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: May 26, 2017.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–11348 Filed 5–31–17; 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: Integrative Neuroscience.

Date: June 21, 2017.

Time: 8:00 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 (Virtual Meeting).

Contact Person: Ying-Yee Kong, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, *ying-yee.kong@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Temporal Dynamics.

Date: June 21–22, 2017.

Time: 8:00 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 (Virtual Meeting).

Contact Person: John Bishop, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7844, Bethesda, MD 20892, (301) 408–9664, *bishopj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Epidemiology and Cohort Studies for Alzheimer's Disease, Related Dementias, and Cognitive Resilience.

Date: June 23, 2017.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: George Vogler, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3140, MSC 7770, Bethesda, MD 20892, (301) 237–2693, *voglergp@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cancer Immunopathology and Immunotherapy.

Date: June 26, 2017.

Time: 8:00 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 (Telephone Conference Call).

Contact Person: Lawrence Ka-Yun Ng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6152, MSC 7804, Bethesda, MD 20892, 301–435–1719, *ngkl@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: May 26, 2017.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–11350 Filed 5–31–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2017–0009; OMB No. 1660–0062]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; State/Local/Tribal Hazard Mitigation Plans

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission will describe the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use.

DATES: Comments must be submitted on or before July 3, 2017.

ADDRESSES: Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *oira.submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Records Management Division, 500 C Street SW., Washington, DC 20472–3100, or email address *FEMA-Information-Collections-Management@fema.dhs.gov.* Or, Kathleen Smith, Chief, Planning and Safety Branch; Planning, Safety and Building Science Division; Risk Management Directorate; Federal Insurance and Mitigation Administration; FEMA (202) 646–4372.

SUPPLEMENTARY INFORMATION: This information collection previously published in the **Federal Register** on March 7, 2017 at 82 FR 12823 with a 60 day public comment period. No comments were received. The purpose of this notice is to notify the public that FEMA will submit the information collection abstracted below to the Office of Management and Budget for review and clearance.

Collection of Information

Title: State/Local/Tribal Hazard Mitigation Plans.

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

OMB Number: 1660–0062.

Form Titles and Numbers: Not applicable.

Abstract: In order to be eligible for certain types of Federal Emergency Management Agency (FEMA) non-emergency assistance, State, local, and Indian Tribal governments are required to have a current FEMA-approved hazard mitigation plan that meets the criteria established in 44 CFR part 201.

Affected Public: State, local or Tribal government.

Estimated Number of Respondents: 56.

Estimated Total Annual Burden Hours: 227,366 hours.

Estimated Cost: The estimated annual cost to respondents for the hour burden is $11,279,627. The estimated annual capital start-up cost to respondents is $11,901,120. The estimated annual operations and maintenance cost to respondents is $16,540,260. The estimated annual non-labor cost to respondents is $2,756,710. The estimated cost to the Federal Government is $1,705,242.

Dated: May 22, 2017.

Richard Mattison,

Records Management Program Chief, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2017–11087 Filed 5–31–17; 8:45 am]

BILLING CODE 9111–52–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4307–DR; Docket ID FEMA–2017–0001]

Nevada; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Nevada (FEMA–4307–DR), dated March 27, 2017, and related determinations.

DATES: *Effective Date:* May 12, 2017.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Nevada is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of March 27, 2017.

Churchill and Storey Counties for Public Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Robert J. Fenton,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2017–11219 Filed 5–31–17; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5997–N–21]

30-Day Notice of Proposed Information Collection: American Healthy Homes Survey II

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* July 3, 2017.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806, Email: *OIRA Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Inez C. Downs, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email *Inez C. Downs@hud.gov,* or telephone 202–402–8046. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Downs.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on December 8, 2016 at 81 FR 88700.

A. Overview of Information Collection

Title of Information Collection: American Healthy Homes Survey II.

OMB Approval Number: 2539—New.

Type of Request: New collection.

Form Number: None.

Description of the need for the information and proposed use: The information collected through this survey will be used to estimate existing levels of key environmental contaminants in the nation's housing, including lead levels in paint, dust, soil and water, and mold and pesticide levels in dust. Two procedures to determine mold present in homes will be compared. For the first time, data will be collected to estimate formaldehyde concentrations in indoor air in a nationally representative sample of homes. The survey is particularly important for allowing the tracking of progress in reducing the prevalence of lead-based paint hazards in U.S. housing. This is a collaboration between HUD and EPA.

Frequency of Submission: On occasion.

	Number of respondents	×	Annual responses	×	Hours per response	=	Burden hours
Initial Recruitment Only	764		1		0.25		191
Initial Recruitment and Full Survey Participants Reporting Burden	600		1		3.75		2,250
Total							2,441

Total Estimated Burden Hours: 2,441.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond: including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35

Dated: May 23, 2017.

Inez C. Downs,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2017–11397 Filed 5–31–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2017–N004; FXES11130200000C2–112–FF02ENEH00]

Endangered and Threatened Wildlife and Plants; Draft Texas Coastal Bend Shortgrass Prairie Multi-Species Recovery Plan: Including Slender Rush-Pea (Hoffmannseggia tenella) and South Texas Ambrosia (Ambrosia cheiranthifolia)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of our draft Texas Coastal Bend Shortgrass Prairie Multi-Species Recovery Plan that includes the slender rush-pea (*Hoffmannseggia tenella*) and South Texas ambrosia (*Ambrosia cheiranthifolia*). Both species are listed as endangered under the Endangered Species Act of 1973, as amended (Act). Slender rush-pea and South Texas ambrosia are currently found in remnant patches of shortgrass prairie within the Texas Coastal Bend in Nueces and Kleberg Counties, Texas. The draft recovery plan includes specific recovery objectives and criteria that, when achieved, will enable us to remove both species from the list of endangered and threatened plants. We request review and comment on this plan from local, State, and Federal agencies; tribes; and the public. We will also accept any new information on the status of the slender rush-pea and South Texas ambrosia throughout their ranges to assist in finalizing the recovery plan.

DATES: To ensure consideration, we must receive written comments on or before July 31, 2017. However, we will accept information about any species at any time.

ADDRESSES: If you wish to review the draft recovery plan, you may obtain a copy by any one of the following methods:

Internet: Download the file at *www.fws.gov/southwest/es/ElectronicLibrary_Main.cfm.*

U.S. mail: Send a request to U.S. Fish and Wildlife Service, 17629 El Camino Real Suite 211, Houston, TX 77058; or

Telephone: (281) 286–8282.

If you wish to comment on the draft recovery plan, you may submit your comments in writing by any one of the following methods:

- *U.S. mail:* Project Leader, at the above address;
- *Hand-delivery:* Texas Coastal Ecological Services Office, at the above address;
- *Fax:* (281) 488–5882; or
- *Email: amber_miller@fws.gov.*

For additional information about submitting comments, see Request for Public Comments, below.

FOR FURTHER INFORMATION CONTACT: Amber Miller, Fish and Wildlife Biologist, at the above address and phone number, or by email at *amber_miller@fws.gov.*

SUPPLEMENTARY INFORMATION:

Background

Recovery of endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of our endangered species program and the Act (16 U.S.C. 1531 *et seq.*). Recovery means improvement of the status of listed species to the point at which listing is no longer appropriate under the criteria set out in section 4(a)(1) of the Act. The Act requires the development of recovery plans for listed species, unless such a plan would not promote the conservation of a particular species. The recovery plan discussed in this notice is designed to recover (delist) two endangered plants: The slender rush-pea (*Hoffmannseggia tenella*) and the South Texas ambrosia (*Ambrosia cheiranthifolia*). The Service approved a recovery plan for slender rush-pea in 1988 (Service 1988) but has not previously published a recovery plan for South Texas ambrosia. Therefore, this plan will serve as an update for the 1988 recovery plan for the slender rush-pea and the first recovery plan for the South Texas ambrosia. This recovery plan uses an ecosystem-based approach because both species currently inhabit patches of shortgrass prairie and primary threats stem from the present destruction, modification, and curtailment of habitat or range.

Summary of Habitat

Texas Coastal Bend Shortgrass Prairie Ecosystem

South Texas ambrosia and slender rush-pea are both perennial herbaceous plant species found in historically fire-dependent prairie habitat in South Texas. Both species are geographically restricted to open grasslands where they occur in Nueces and Kleberg Counties, Texas. Populations of both species grow within the fine, calcareous clays associated with Pleistocene deltas. Primary threats stem from the present or threatened destruction, modification, and curtailment of habitat or range. Specifically, habitat loss results from conversion of native prairie to row crops, improved pastures, residential development, and commercial development. Ongoing and significant habitat degradation has resulted in the encroachment of nonnative, invasive pasture grasses; some localized disturbance from management techniques (mowing); and minimal damage from herbicide drift incidents onto highway right-of-ways (ROWs). Drought conditions associated with climate change may exacerbate these impacts.

Species History

Slender rush-pea

The slender rush-pea was federally listed as endangered throughout its range on November 1, 1985 (50 FR 45614). Critical habitat was not designated at the time of listing due to a potential increase in the vulnerability of collection and vandalism pressures. With a Recovery Priority Number of 2, the Service recommended high-priority activities to evaluate the best management practices at existing sites and to determine the best methods of controlling nonnative, invasive plants (*i.e.,* introduced grasses) (USFWS 2010).

Slender rush-pea is an herbaceous perennial plant, first collected in 1922 by L.J. Bottimer, but described as a valid taxon by F.E. Clements in 1931. Slender rush-pea has a long, woody taproot, capable of forming colonies (Poole 1988, p. 2), but often the plant will grow in clusters. A single plant has spreading stems and alternate bipinnately (divided into smaller leaflets) compound leaves, ranging from 5–12 centimeters (cm) (2–4.7 inches (in)) (Poole *et al.* 2007, p. 266). There are five small, yellow-pink to reddish orange petals per flower, which bloom in the spring and summer months from April to November (Poole *et al.* 2007, p. 266) but may flower as late as December (Cobb 2013, pers. comm.). Slender rush-pea flowering and fruiting are linked to the bimodal rainfall episodes occurring in South Texas. Effective pollinators of slender rush-pea have not been observed in the field or in a greenhouse setting. Evidence suggests that slender rush-pea can self-fertilize. Abundant fruits and viable seed are produced in the wild and in propagated populations at the San Antonio Botanical Gardens, Bexar County, Texas, and the Kika de la Garza Plant Materials Center, Kleberg County, Texas. The species has been introduced at one site at the North American Butterfly Association's National Butterfly Center, Hidalgo County, Texas.

There are eight extant populations of slender rush-pea, all occurring on native remnants of shortgrass prairie habitat along drainage areas near creeks and streams. Victoria-associated soils that are loam, fine sandy loam, or sand clay loam support buffalograss-dominated vegetation (USFWS 2012, p. 5) at the known population sites. Extant populations of slender rush-pea include those found on unplowed and undisturbed remnant stands of shortgrass prairie, with known sites found within railroad and highway ROWs, cemeteries, mowed park fields, and erosional areas along creek systems. The extant sites include: Two sites on State land (Petronila Creek and U.S. Highway 77 ROW); two sites on city or county-owned lands (Bishop City Park and Sablatura County Park); and four privately owned sites, one at the St. James Cemetery in Bishop, a private residence near Bishop, a formerly leased habitat on the National Guard training area known as the King Ranch Training Area, and an introduced site at the North American Butterfly Association—National Butterfly Center. There are no verified occurrences of slender rush-pea in Mexico.

South Texas ambrosia

The South Texas ambrosia was federally listed as endangered throughout its range on August 24, 1994 (59 FR 43648). Critical habitat was not designated at the time of listing due to a potential increase in the vulnerability of collection and vandalism pressures. With a Recovery Priority Number of 8, the Service recommended high-priority activities to evaluate the best management practices at existing sites and to determine the best methods of controlling nonnative, invasive plants (*i.e.,* introduced grasses) (USFWS 2010).

South Texas ambrosia is an herbaceous, rhizomatous perennial that stands erect at approximately 10 cm (3.9 in) to 60 cm (23.6 in) tall. Leaves are opposite below, alternate above, sessile, oblanceolate (widest at leaf tip and tapering to the base) to oblong-lanceolate, and up to 4 cm long (Poole *et al.* 2007, p. 76). Flowers are dioecious, where male and female flowers occur on different plants. Flower heads are raceme-like (unbranched, indeterminate type of inflorescence bearing flowers with

pedicels (short floral stalks) along its axis) terminal inflorescences (complete flower head of a plant including stems, stalks, bracts, and flowers) with yellowish florets. South Texas ambrosia is distinguished from a similar-looking species, the false ragweed (*Parthenium confertum*), by its distinctive ashy-blue-gray color (Maher 2012, pers. comm.). Even given the distinctive color, South Texas ambrosia can be difficult to locate because taller native and introduced grasses easily obscure this species (Turner 1983, p. 4). Flowering occurs in late summer or fall depending on rainfall, and lasts until lack of water or cold temperature curtails growth. The pollination mechanisms of South Texas ambrosia remain largely unknown, although at one site stems produced a terminal inflorescence of staminate (male) heads that released abundant wind-dispersed pollen. The species responds well to propagation and reintroduction efforts. Root cuttings were used as the source for a pilot reintroduction and research plot at Nueces County Park. This reintroduction project showed that watering seedlings is essential to sustaining plants and that removal and maintenance of nonnative grasses is important.

More often than not, South Texas ambrosia is seen reproducing vegetatively by underground stem (rhizomatous) regrowth in the upper portion of the soil. As a result, a single individual plant may be represented by several-to-hundreds of stems, depending on the age of the plant (Turner 1983, p. 4). Current and ongoing reproductive studies suggest that this might be the case for a population found on the Naval Air Station Kingsville, Kleberg County, Texas, that had little genetic variation among other South Texas ambrosia samples collected and genetic markers; this determination implies that patches of plants on this site are likely part of one larger population, or a metapopulation.

There are seven extant, or presumed extant, South Texas ambrosia populations from north-central Kleberg County through central Nueces County. These populations occupy habitats consisting of open prairies, savannas, and grassland habitats scattered with mesquite. These populations are known to occur on soils derived primarily from the Beaumont clay series, ranging from heavy clays to lighter textured sandy loams typical of the Texas Coastal Plain (Turner 1983, p. 6; Poole *et al.* 2007, pp. 76–77). Plant associates are composed of native prairie species and can include honey mesquite (*Prosopis glandulosa*), huisache (*Acacia*), huisachillo (*Acacia schaffneri*), brasil (*Condalia hookeri*), granjeno (*Celtis llida*), and lotebush (*Ziziphus obtusifolia*) (USFWS 1994, in USFWS 2010, p. 18). Slender rush-pea co-occurs at three sites with South Texas ambrosia (Poole *et al.* 2007, pp. 76–77), but it is not a dominant species.

South Texas ambrosia is typically found on unplowed but managed remnant stands of shortgrass prairie, with known sites found within railroad and highway ROWs, cemeteries, mowed park fields, and erosional areas along creek systems. The extant South Texas ambrosia sites occur on State lands, on both the north and southbound ROWs of U.S. Highway 77; Federal land at the Naval Air Station Kingsville; two sites on city or county-owned lands (Bishop City Park and the Nueces County Park in Robstown); two privately owned sites, one at the St. James Cemetery in Bishop and a small group of plants on a lot in Kingsville (General Cavazos Boulevard); and a formerly leased habitat on the National Guard training area known as the King Ranch Training Area.

Although all known extant populations of South Texas ambrosia are concentrated in the northern part of the species' range, historic records show that the range extended from Nueces County, Texas, south to San Fernando, Mexico. However, numerous South Texas ambrosia occurrences are now considered historic and have not been re-located in more than 20 years or lack a confirmation of identification (or a voucher).

Recovery Strategy

The strategy to recover South Texas ambrosia and slender rush-pea by restoring and maintaining their shortgrass prairie habitat and its unique native flora includes the long-term protection, management, monitoring, and creation of shortgrass prairie habitat. Areas of sufficient size, number, composition (*i.e.,* quality of habitat), and juxtaposition will support the continued existence of both species in the wild.

Recovery Plan Goals

The objective of an agency recovery plan is to provide a framework for the recovery of a species so that protection under the Act is no longer necessary. A recovery plan includes scientific information about the species and provides criteria and actions necessary for us to be able to reclassify the species to threatened status or remove it from the lists of endangered and threatened wildlife and plants. Recovery plans help guide our recovery efforts by describing actions we consider necessary for the species' and their habitats' conservation, and by estimating time and costs for implementing needed recovery measures. A primary objective of this plan is to ensure that there are shortgrass prairie areas of sufficient size, number (20 populations of slender rush-pea and 15 populations of South Texas ambrosia), composition, and juxtaposition, determined by the most current biological information known for the species to support the continued existence of their populations, that are able to persist and thrive in the wild. To achieve the plan's recovery goals and objectives, this draft recovery plan identifies the following action:

- Minimize further loss or fragmentation of native shortgrass prairie habitat within Nueces and Kleberg Counties, such that there is sufficient habitat to support slender rush-pea and South Texas ambrosia at levels that meet recovery goals.
- Actively manage shortgrass prairie conditions at all extant population (or subpopulation) sites of slender rush-pea and South Texas ambrosia to sustain both species at Minimum Viable Population levels or higher.
- Develop reintroduction sites within the geographic range of slender rush-pea and South Texas ambrosia to help increase the number of protected populations.
- Determine the extent and prevent depletion of rush-pea and ambrosia seed banks.
- Promote landowner relations and habitat management throughout the occupied and historical ranges of slender rush-pea and South Texas ambrosia in the United States.
- Determine the genetic diversity within and among populations of rush-pea and ambrosia, and prevent its loss.
- Determine optimal habitat requirements for slender rush-pea and South Texas ambrosia.
- Determine and implement best management practices where possible and monitor the response of slender rush-pea and South Texas ambrosia populations to these practices.
- Monitor long-term viability of all populations of slender rush-pea and South Texas ambrosia.
- Increase knowledge of slender rush-pea and South Texas ambrosia abundance, distribution, and ecology.
- Acquire long-term conservation easements where feasible, or conservation agreements, for occupied sites of slender rush-pea and South Texas ambrosia within each watershed from which the species are known.

The draft recovery plan contains recovery criteria based on maintaining and increasing population numbers and

habitat quality and quantity and mitigating significant threats to slender rush-pea and South Texas ambrosia. The draft recovery plan focuses on protecting populations, managing threats, maintaining and creating appropriate habitat, monitoring progress, and building partnerships to facilitate recovery. When the recovery of the slender rush-pea and/or South Texas ambrosia approaches these criteria, we will review the species' status and consider downlisting on, and, ultimately, removal from the list of federally endangered and threatened plants.

Request for Public Comments

Section 4(f) of the Act requires us to provide public notice and an opportunity for public review and comment during recovery plan development. It is also our policy to request peer review of recovery plans (July 1, 1994; 59 FR 34270). In an appendix to the approved recovery plan, we will summarize and respond to the issues raised by the public and peer reviewers. Substantive comments may or may not result in changes to the recovery plan; comments regarding recovery plan implementation will be forwarded as appropriate to Federal or other entities so that they can be taken into account during the course of implementing recovery actions. Responses to individual commenters will not be provided, but we will provide a summary of how we addressed substantive comments in an appendix to the approved recovery plan.

We invite written comments on the draft recovery plan. In particular, we are interested in additional information regarding the current threats to the species, ongoing beneficial management efforts, and the costs associated with implementing the recommended recovery actions.

Before we approve our final recovery plan, we will consider all comments we receive by the date specified in **DATES**, above. Methods of submitting comments are described in **ADDRESSES**, above.

Public Availability of Comments

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 can 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.

Comments and materials we receive will be available, by appointment, for public inspection during normal business hours at our office (see **ADDRESSES**).

References Cited

A complete list of all references cited herein is available upon request from the U.S. Fish and Wildlife Service, Branch of Recovery (see **FOR FURTHER INFORMATION CONTACT**).

Authority

We developed our draft recovery plan and publish this notice under the authority of section 4(f) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: January 17, 2017.

Benjamin N. Tuggle,

Regional Director, Southwest Region, U.S. Fish and Wildlife Service.

[FR Doc. 2017–11305 Filed 5–31–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2017–N053]; [FF08ESMF00–FXES11140800000–178]

Joint Draft Environmental Impact Statement and Environmental Impact Report, Joint Draft Habitat Conservation Plan and Natural Community Conservation Plan; Yolo County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of permit application; request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the availability of a joint draft environmental impact statement and draft environmental impact report (draft EIS/EIR) under the National Environmental Policy Act of 1967, as amended. We also announce receipt of applications for an incidental take permit under the Endangered Species Act of 1973, as amended, and receipt of a draft habitat conservation plan and natural community conservation plan.

DATES: *Submitting Comments:* To ensure consideration, written comments must be received by August 30, 2017.

Public Meetings: Two public meetings will be held:

1. Tuesday, June 27, 2017; 1:00–3:00 p.m., Yolo County Board of Supervisors Chambers, 625 Court Street, Room 206, Woodland, California, 95695.

2. Thursday, June 29, 2017; 6:30–8:30 p.m., Davis Senior Center, 646 A Street, Davis, California, 95616.

ADDRESSES: *Submitting Comments:* Please address written comments to Mike Thomas, Chief, Conservation Planning Division; or Eric Tattersall, Assistant Field Supervisor, by mail/hand-delivery at U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, W–2605, Sacramento, California 95825; or by facsimile to (916) 414–6713. You may telephone (916) 414–6600 to make an appointment during regular business hours to drop off comments at the Sacramento Fish and Wildlife Office.

Please send comments related specifically to the California Environmental Quality Act (CEQA) process to Petrea Marchand, Executive Director, Yolo Habitat Conservancy, 611 North Street, Woodland, CA 95695.

Reviewing Documents: You may obtain electronic copies of the draft habitat conservation plan and natural community conservation plan and draft EIS/EIR from the Sacramento Fish and Wildlife Office Web site at *http://www.fws.gov/sacramento* or the Yolo Habitat Conservancy's Web site at *http://www.yolohabitatconservancy.org.* Copies of these documents are also available for public inspection, by appointment, during regular business hours, at the Sacramento Fish and Wildlife Office and at the following libraries: Mary L. Stephens Davis Library, 315 E. 14th Street, Davis, California 95616; Arthur F. Turner Community Library, 1212 Merkley Avenue, West Sacramento, California 95691; Woodland Public Library, 250 1st Street, Woodland, California 95695; Winters Community Library, 708 Railroad Avenue, Winters, California 95694; and the Yolo Branch Library, 37750 Sacramento Street, Yolo, California 95697.

FOR FURTHER INFORMATION CONTACT: Mike Thomas, Chief, Conservation Planning Division; or Eric Tattersall, Assistant Field Supervisor, at the Sacramento Fish and Wildlife Office address above or at (916) 414–6600 (telephone). If you use a telecommunications device for the deaf, please call the Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: This notice advises the public that we, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft EIS/EIR, prepared pursuant to the National Environmental Policy Act of 1967, as amended (42 U.S.C. 4321 *et seq.;* NEPA), and its implementing

regulations in the Code of Federal Regulations (CFR) at 40 CFR 1506.6.

This notice also announces the receipt of applications from the Yolo Habitat Conservancy, County of Yolo, and the cities of Davis, West Sacramento, Winters, and Woodland (collectively applicants), for a 50-year incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.;* Act). The applicants prepared the draft Yolo Habitat Conservation Plan and Natural Community Conservation Plan (Draft Plan) pursuant to section 10(a)(1)(B) of the Act and the California Natural Community Conservation Planning Act of 2002 (NCCPA). The applicants are requesting the authorization of incidental take for 12 covered species that could result from activities covered under the Draft Plan.

Background Information

Section 9 of the Act (16 U.S.C. 1531–1544 *et seq.*) and Federal regulations (50 CFR 17) prohibit the taking of fish and wildlife species listed as endangered or threatened under section 4 of the Act. Regulations governing permits for endangered and threatened species are at 50 CFR 17.22 and 17.32. For more about the Federal habitat conservation plan (HCP) program, go to *http://www.fws.gov/endangered/esa-library/pdf/hcp.pdf.*

Proposed Action Alternative

The Service would issue an ITP to the applicants for a period of 50 years for certain covered activities (described below). The applicants have requested an ITP for 12 covered species (described below), 11 animals and 1 plant, of which, 5 animals and 1 plant are currently listed as threatened or endangered under the Act.

Plan Area

The geographic scope of the Draft Plan includes all lands within Yolo County, totaling approximately 653,549 acres, and 1,174 acres in Solano County on the south side of Putah Creek, for a total combined area of 654,723 acres (Plan Area).

Covered Activities

The proposed section 10 ITP would allow take of 12 covered species resulting from certain covered activities in the proposed Plan Area. The applicants are requesting incidental take authorization for these 12 covered species that could be affected by activities identified in the Draft Plan. The Draft Plan covers the following five general categories of covered activities (collectively, Covered Activities):

1. Urban projects and activities, which include general urban development, urban public services, infrastructure, and utilities, and urban projects in rural areas.
2. Rural projects and activities, which include general rural development, rural public services, infrastructure, and utilities, agricultural economic development, aggregate mining, and open space.
3. Public and private operations and maintenance activities.
4. Conservation strategy implementation, which includes habitat restoration, management, and enhancement activities throughout the reserve system.
5. Neighboring landowner agreements.

Covered Species

Covered species are those 12 species addressed in the Draft Plan for which conservation actions will be implemented and for which the applicants are seeking an ITP for a period of 50 years. Proposed covered species include those listed as threatened or endangered under the Act, species listed under the California Endangered Species Act (CESA), as well as currently unlisted species that have the potential to become listed during the life of the Draft Plan.

The following federally listed threatened and endangered wildlife species are proposed to be covered by the Draft Plan: Threatened California tiger salamander (Central Distinct Population Segment (DPS)) (*Amystoma californiense*), threatened Valley elderberry longhorn beetle (*Desmocerus californicaus dimorphus*), threatened giant garter snake (*Thamnophis gigas*), threatened western yellow-billed cuckoo (*Coccyzus americanus occidentalis*), and endangered Least Bell's vireo (*Vireo belli pusillus*). The following non-listed wildlife species are also proposed to be covered by the Draft Plan: Western pond turtle (*Actinemys marmorata*), Swainson's hawk (*Buteo swainsoni*), white-tailed kite (*Elanus leucurus*), western burrowing owl (*Athene cunicularia hypugaea*), bank swallow (*Riparia riparia*), and tricolored blackbird (*Agelaius tricolor*). One federally listed plant species, the endangered palmate-bracted bird's beak (*Chloropyron palmatum*), is also proposed to be covered by the Draft Plan, in recognition of the conservation benefits provided for it in the Draft Plan. Collectively, these 12 species comprise the Covered Species addressed by the Draft Plan. All species included on the ITP would receive assurances under the Service's ''No Surprises'' regulations found in 50 CFR 17.22(b)(5) and 17.32(b)(5).

Take of federally listed plant species is not prohibited on non-Federal land under the Act, and cannot be authorized under a section 10 permit, but one plant species is included in the Draft Plan and proposed to be included on the ITP in recognition of the conservation benefits provided for it under the Draft Plan and because of the assurances the applicants would receive if it is included on the ITP.

National Environmental Policy Act Compliance

The draft EIS/EIR was prepared to analyze the impacts of issuing an ITP based on the Draft Plan and to inform the public of the proposed action, alternatives, and associated impacts and to disclose any irreversible commitments of resources.

The proposed permit issuance triggers the need for compliance with NEPA. For the purposes of NEPA, the Proposed Action Alternative presented in the Draft EIS/EIR is compared to the No-Action Alternative. The No-Action Alternative represents estimated future conditions to which the Proposed Action's estimated future conditions can be compared. For purposes of the California Environmental Quality Act the proposed action alternative is compared to existing conditions.

The Service published a notice of intent (NOI) to prepare a joint environmental impact statement and environmental impact report in the **Federal Register** on October 21, 2011 (76 FR 65527). The NOI announced a 45-day public scoping period, during which the public was invited to provide written comments and attend two public scoping meetings, which were held on November 7, 2011, in West Sacramento, California.

No-Action Alternative

Under the No-Action Alternative, the Service would not issue an ITP to the Applicants, and the Draft Plan would not be implemented. Under this alternative, individual projects carried out by or approved by one or more of the applicants that may adversely affect federally listed species would require project-level consultation with the Service pursuant to section 7 or section 10 of the Act. Because the applicants and private developers would generate environmental documentation and apply for permits on a project-by-project basis, there would not be a comprehensive program to coordinate and standardize mitigation requirements of the Act within the Plan Area.

Reduced Take Alternative

The Reduced Take Alternative would include the same categories of covered activities as the Proposed Action Alternative; however, under this Alternative, eight geographic areas designated for development under the Proposed Action Alternative that would result in take of Covered Species would not be permitted. These locations are in the vicinity of Clarksburg, Davis, the Dunnigan Specific Plan, West Sacramento, and Woodland (see Exhibit 2–6 in the EIS/EIR), and include approximately 1,335 acres. Other than assuming that no take of Covered Species would occur in the 1,335 acres, the Reduced Take Alternative also assumes that the 1,335 acres of development could be displaced to another location under the same take restriction as the Proposed Action Alternative; all other elements of the Draft Plan (*e.g.,* Covered Species and Covered Activities) remain the same under the Reduced Take Alternative.

Reduced Development Alternative

The Reduced Development Alternative would include the same categories of covered activities as the Proposed Action Alternative; however, under this Alternative, development within a portion of the west side of the Dunnigan Specific Plan Area, and the Elkhorn Specific Plan Area, are assumed to not be included in the Covered Activities. The portion of the Dunnigan Specific Plan selected for exclusion from Covered Activities under this Alternative covers approximately 1,012 acres, and the Elkhorn Specific Plan Area covers approximately 383 acres. In each of these two areas, it is assumed that some type of development could potentially occur within the 50-year term of the permit. If such development were to occur, it would not be considered a Covered Activity under the HCP; therefore, the HCP would not be available as a mechanism to address affects to Covered Species. Any permitting required for compliance with the Act for future development would be undertaken for each of these two areas individually on a project-by-project basis. Permitting and mitigation would be implemented in a manner similar to under the No Action Alternative. Other than characteristics described above, all other elements of the Draft Plan (*e.g.,* Covered Species and Covered Activities) remain the same under the Reduced Development Alternative.

Public Comments

We request data, comments, new information, or suggestions from the public, other concerned governmental agencies, the scientific community, Tribes, industry, or any other interested party on this notice, the draft EIS/EIR, and draft Plan. We particularly seek comments on the following:

1. Biological information concerning the species;
2. Relevant data concerning the species;
3. Additional information concerning the range, distribution, population size, and population trends of the species;
4. Current or planned activities in the subject area and their possible impacts on the species;
5. The presence of archeological sites, buildings and structures, historic events, sacred and traditional areas, and other historic preservation concerns, which are required to be considered in project planning by the National Historic Preservation Act; and
6. Identification of any other environmental issues that should be considered with regard to the proposed development and permit action.

You may submit your comments and materials by one of the methods listed in the **ADDRESSES** section. Comments and materials we receive will be available for public inspection by appointment, during normal business hours (Monday through Friday, 8 a.m. to 4:30 p.m.) at the Service's Sacramento address (see **ADDRESSES**).

Public Availability of Comments

Before including your address, phone number, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—might be made publicly available at any time. While you can 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.

Next Steps

Issuance of an incidental take permit is a Federal proposed action subject to compliance with NEPA. We will evaluate the application, associated documents, and any public comments we receive to determine whether the application meets the requirements of NEPA regulations and section 10(a) of the Act. If we determine that those requirements are met, we will issue permits to the applicants for the incidental take of the Covered Species. A permit decision will be made no sooner than 30 days after the publication of the notice of availability for the final Plan, final EIS/EIR, and completion of the Record of Decision.

Authority

We publish this notice under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321–4347 *et seq.*), and its implementing regulations at 40 CFR 1500–1508, as well as in compliance with section 10(c) of the Endangered Species Act (16 U.S.C. 1531–1544 *et seq.*) and its implementing regulations at 40 CFR 17.22.

Michael Fris,

Assistant Regional Director, U.S. Fish and Wildlife Service, Pacific Southwest Region, Sacramento, California.

[FR Doc. 2017–11295 Filed 5–31–17; 8:45 am]

BILLING CODE 43330–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R7–ES–2017–N065; FF07CAMM00–FX–FXEX111607MRG01]

Marine Mammals; Incidental Take During Specified Activities; Proposed Incidental Harassment Authorization for Pacific Walruses and Polar Bears in Alaska and Associated Federal Waters

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application and proposed incidental harassment authorization; availability of draft environmental assessment; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, in response to a request under the Marine Mammal Protection Act of 1972, as amended, from Quintillion Subsea Operation, LLC, propose to authorize the incidental taking by harassment of small numbers of Pacific walruses and polar bears from July 1 to November 15, 2017. The applicant has requested this authorization for its planned fiber optic cable-laying activities. The area specified for inclusion in the proposed authorization includes Federal waters of the northern Bering, Chukchi, and western portions of the southern Beaufort Seas, the marine waters of the State of Alaska, and coastal land adjacent to Nome, Kotzebue, Point Hope, Wainwright, Utqiagvik (formerly Barrow), and Oliktok Point, as shown in Figure 1. We anticipate no take by injury or death and include none in this proposed authorization, which if

finalized, will be for take by harassment only.

DATES: We will consider comments we receive on or before July 3, 2017.

ADDRESSES:

Document availability: The incidental harassment authorization request, associated draft environmental assessment, and literature cited are available for viewing at *http://www.fws.gov/alaska/fisheries/mmm/iha.htm.*

Comments submission: You may submit comments on the proposed incidental harassment authorization and associated draft environmental assessment by one of the following methods:

- *U.S. mail or hand-delivery:* Public Comments Processing, Attention: Ms. Kimberly Klein, U.S. Fish and Wildlife Service, MS 341, 1011 East Tudor Road, Anchorage, Alaska 99503;
- *Fax:* (907) 786–3816, Attention: Ms. Kimberly Klein; or
- Email comments to: *FW7_AK_Marine_Mammals@fws.gov.*

Please indicate whether your comments apply to the proposed incidental harassment authorization or the draft environmental assessment. We will post all comments on *http://www.fws.gov/alaska/fisheries/mmm/iha.htm.* See Request for Public Comments below for more information.

FOR FURTHER INFORMATION CONTACT: Copies of the application, the list of references used in the notice, and other supporting materials may be downloaded from the web at: *http://www.fws.gov/alaska/fisheries/mmm/iha.htm.* You may also contact Ms. Kimberly Klein by mail at Marine Mammals Management, U.S. Fish and Wildlife Service, MS 341, 1011 East Tudor Road, Anchorage, AK 99503; by email at *kimberly_klein@fws.gov;* or by telephone at 1–800–362–5148, to request documents.

SUPPLEMENTARY INFORMATION: In response to a request from Quintillion Subsea Operation, LLC (Quintillion or ''the applicant''), we propose to authorize the incidental taking by harassment of small numbers of Pacific walruses and polar bears from July 1 to November 15, 2017, under section 101(a)(5)(D) of the Marine Mammal Protection Act of 1972 (MMPA), as amended. Quintillion has requested this authorization for its planned cable-laying activities in Federal waters of the northern Bering, Chukchi, and western portions of the southern Beaufort Seas, the marine waters of the State of Alaska, and coastal land adjacent to Nome, Kotzebue, Point Hope, Wainwright, Utqiagvik, and Oliktok Point, as specified in Figure 1. We anticipate no take by injury or death and include none in this proposed authorization, which, if finalized, would be for take by harassment only.

Executive Summary

Why We Need To Publish a Draft Incidental Harassment Authorization (IHA)

Section 101(a)(5)(D) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the U.S. Fish and Wildlife Service (Service) to allow, upon request, and for periods of not more than 1 year, the incidental but not intentional take of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical area if certain findings are made regarding the effects of the take. The Service has received a petition from Quintillion to provide authorization for the incidental take by harassment of Pacific walruses (*Odobenus rosmarus divergens*) and polar bears (*Ursus maritimus*) for a cable-laying project that is intended to improve broadband internet service in northern Alaska. The project is a continuation of work begun in 2016. The MMPA directs the Service to provide opportunity for public comment prior to finalizing this authorization.

The Effect of This Authorization

The MMPA allows the Service to authorize, upon request, the incidental take of small numbers of marine mammals as part of a specified activity within a specified geographic region. In this case, the Service may authorize the incidental, but not intentional, take by harassment of small numbers of Pacific walruses and polar bears by Quintillion during the specified cable-laying project activities if we determine that such harassment during each period will:

- Have no more than a ''negligible impact'' on the species or stock of Pacific walruses and polar bears; and
- Not have an ''unmitigable adverse impact'' on the availability of Pacific walruses and polar bears for taking for subsistence uses by coastal dwelling Alaska Natives.

If we make these determinations, the Service shall prescribe, where applicable:

- Permissible methods of taking by harassment pursuant to the proposed activity;
- Other means of effecting the least practicable impact on Pacific walruses and polar bears and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of Pacific walruses and polar bears for taking for subsistence uses by coastal dwelling Alaska Natives; and
- Requirements for the monitoring and reporting of the taking of Pacific walruses and polar bears by harassment during the proposed activities.

Request for Public Comments

We intend that this authorization, if finalized, will be as accurate and as effective as possible. Therefore, we request comments or suggestions on this proposed authorization. We particularly seek comments concerning:

- Whether the proposed authorization, including the proposed activities, will have a negligible impact on the species or stocks of Pacific walrus or polar bear.
- Whether the proposed authorization will ensure that an unmitigable adverse impact on the availability of Pacific walruses or polar bears for subsistence taking does not occur.
- The appropriateness of the permissible methods of taking by harassment pursuant to the proposed activity.
- The appropriateness, effectiveness, and practicability of mitigation measures and other means of effecting the least practicable impact on Pacific walruses and polar bears and their habitat.
- The appropriateness, effectiveness, and practicability of requirements for the monitoring and reporting of the taking of Pacific walruses and polar bears by harassment during the proposed activities.

You may submit your comments and materials concerning this proposed authorization by one of the methods listed in **ADDRESSES**.

If you submit a comment via *FW7_AK_Marine_Mammals@fws.gov,* your entire comment—including any personal identifying information—may be made available to the public. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all comments on *http://www.fws.gov/alaska/fisheries/mmm/iha.htm.*

Background

Section 101(a)(5)(D) of the MMPA, as amended (16 U.S.C. 1371(a)(5)(D)), authorizes the Secretary of the Interior (the Secretary) to allow, upon request of a citizen and subject to such conditions as the Secretary may specify, the incidental but not intentional taking by harassment of small numbers of marine

mammals of a species or population stock by such citizens who are engaging in a specified activity within a specified region. Incidental taking may be authorized only if the Secretary finds that such take during each period concerned will have a negligible impact on such species or stock and will not have an unmitigable adverse impact on the availability of such species or stock for subsistence use.

Section 101(a)(5)(D) of the MMPA establishes a process by which citizens of the United States can apply for an authorization for incidental take of small numbers of marine mammals where the take will be limited to harassment during a period of not more than 1 year. We refer to these incidental harassment authorizations as ''IHAs.''

The term ''take,'' as defined by the MMPA, means to harass, hunt, capture, or kill, or to attempt to harass, hunt, capture, or kill any marine mammal. Harassment, as defined by the MMPA, means any act of pursuit, torment, or annoyance which: (i) Has the potential to injure a marine mammal or marine mammal stock in the wild (the MMPA calls this ''Level A harassment''), or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (the MMPA calls this ''Level B harassment'').

The terms ''small numbers,'' ''negligible impact,'' and ''unmitigable adverse impact'' are defined in title 50 of the Code of Federal Regulations at 50 CFR 18.27, the Service's regulations governing take of small numbers of marine mammals incidental to specified activities. ''Small numbers'' is defined as a portion of a marine mammal species or stock whose taking would have a negligible impact on that species or stock. However, we do not rely on that definition here, as it conflates the terms ''small numbers'' and ''negligible impact,'' which we recognize as two separate and distinct requirements. Instead, in our small numbers determination, we evaluate whether the number of marine mammals likely to be taken is small relative to the size of the overall population. ''Negligible impact'' is defined as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to adversely affect the species or stock through effects on annual rates of recruitment or survival. ''Unmitigable adverse impact'' is defined as an impact resulting from the specified activity: (1) That is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by (i) causing the marine mammals to abandon or avoid hunting areas, (ii) directly displacing subsistence users, or (iii) placing physical barriers between the marine mammals and the subsistence hunters; and (2) that cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

In order to issue an IHA, the Service must, where applicable, set forth the following: (1) Permissible methods of taking; (2) means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance; and (3) requirements pertaining to the monitoring and reporting of such takings. Habitat areas of significance for Pacific walruses in the project area include marginal sea-ice zones, important feeding areas, and terrestrial haulouts. Habitat areas of significance for polar bears include den sites, sea-ice, barrier islands, and areas free from sources of disturbance.

Summary of Request

On November 28, 2016, Quintillion submitted a request to the Service for the nonlethal taking by Level B harassment of Pacific walruses and polar bears that may occur incidental to the completion of a cable-laying project begun in 2016. An amended request was received on January 19, 2017, and additional project information was received on February 10, 2017.

Most of this project was completed in 2016, and the Service issued an IHA on August 11, 2016, after opportunity for public comment (81 FR 40902, June 23, 2016) in response to Quintillion's request at that time, however, additional work is needed to complete the project. The proposed work will occur during the summer/fall open-water season of 2017 and will include installation of 76 kilometers (km) (47 miles (mi)) of cable north of Oliktok Point in the Beaufort Sea, testing along the entire cable route, and operations and maintenance (O&M) of any areas that do not meet testing requirements.

Quintillion is requesting incidental take by Level B harassment of 250 Pacific walruses and 20 polar bears from disruption of behavioral patterns and exposure to sound levels exceeding 160 decibels (dB). All dB levels are referenced to 1 μPa for underwater sound. All dB levels herein are dB_{RMS} unless otherwise noted; dB_{RMS} refers to the root-mean-squared dB level, the square root of the average of the squared sound pressure level over some duration (typically 1 second). All sound source levels reported herein are as measured at 1 m (3 ft) from the source.

Prior to issuing an IHA, the Service must evaluate the level of activities described in the application, the potential impacts to Pacific walruses and polar bears, and the potential effects on the availability of these species for subsistence use. Complete copies of Quintillion's request and supporting documents are available at: *http://www.fws.gov/alaska/fisheries/mmm/iha.htm.*

Description of the Specified Activities and Geographic Area

In 2016, Quintillion installed fiber optic cable in the marine waters of the northern Bering, Chukchi, and southwestern Beaufort Seas, in waters of the State of Alaska, and on coastal land of Alaska (Figure 1). Quintillion plans to complete the project in 2017. When completed, the subsea fiber optic cable network will link with an existing terrestrial-based system to provide high-speed internet to six rural Alaska communities. The project will consist of 1,904 km (1,183 mi) of submerged cable, including a main trunk line and six branch lines to onshore facilities in Nome, Kotzebue, Point Hope, Wainwright, Utqiagvik (formerly Barrow), and Oliktok Point. Oliktok Point is located 260 km (162 mi) southeast of Point Barrow. This line will connect over land with the community of Nuiqsut and the Prudhoe Bay industrial center. Additional project details are available in Quintillion's IHA application, available online at *http://www.fws.gov/alaska/fisheries/mmm/iha.htm.*

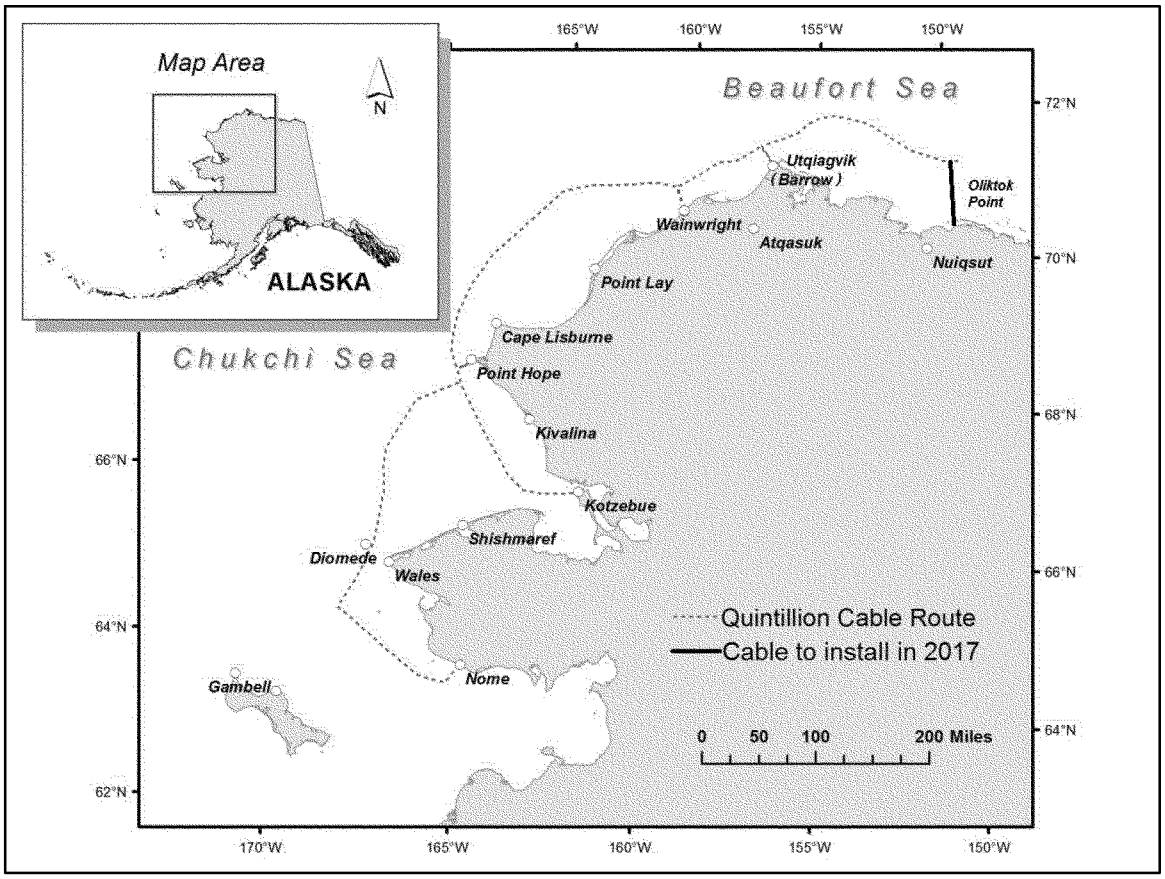


Figure 1. Quintillion Subsea Operations, LLC's fiber optic cable network.

The 2016 program successfully installed the vast majority (96 percent) of the cable, but did not complete the entire project. Work scheduled for the 2017 season includes installation of 76 km (47 mi) of cable along the Oliktok branch line, system testing, and O&M. The O&M activities will occur along portions of the cable that do not meet testing requirements and will involve inspecting, retrieving, repairing, and reburying cable. The O&M work will also include placement of up to four 6-meter (m) by 3-m (20-foot (ft) by 10-ft) concrete mattresses to protect cable splices from ice scour.

Activities associated with the project, including mobilization, preliminary work, cable laying, O&M, post-burial work, and demobilization of survey and support crews are planned to occur June 1–November 15, 2017. Work may occur day or night and will begin in the summer as soon as sea-ice conditions allow. Project vessels will not pass through or work in the Chukchi Sea prior to July 1, 2017. Therefore, encounters with Pacific walruses and polar bears in June are unlikely.

Cable laying along the Oliktok branch line will use a variety of vessels and tools, depending on water depth. Vessels include a cable ship and a support vessel, shallow draft barges, and tugs. Equipment includes a sea plow, vibro plow, and a submerged remote operating vehicle (ROV). Cable components will include the cable, interconnecting hardware, and repeaters. Echo sounders, transceivers, and transponders will monitor the water depth and the position of equipment on the seafloor.

The onshore cable landing at Oliktok Point was completed in 2016 and included a segment of horizontal directionally drilled (HDD) pipe to connect the subsea cable with the land-based facilities. In shallow nearshore waters between the HDD pipe and approximately 6.5 km (4 mi) from shore, cable will be placed in a trench dug by a vibro plow. The vibro plow will be pulled by a construction barge (the *Crowley 218* or similar). Maximum trenching speed is 1.6 km per hour (km/h) (0.6 mi per hour (mi/h) or 0.54 knots (kn)). The construction barge will winch itself along the route using moored anchor lines. The anchors will be placed by a derrick operating from the deck of a small pontoon barge. A small river tug will maneuver the pontoon barge into position. The pontoon barge and river tug will also be used to retrieve the anchors after the cable is laid.

In deeper water, between approximately 6.5–16.5 km (4–10.3 mi) from shore, work will be conducted from the construction barge pulling the vibro plow and winching itself along anchor lines in the same manner as for the shallow-water work. However, in this section, a larger ocean-class tug (the *Vos Thalia* or a similar tug) will be used to place and move the anchors.

In offshore areas, including along approximately 60 km (37 mi) of the Oliktok line, the cable will be laid by the *Ile de Batz* or a similar vessel (*Ile de Sein, CB Networker, or Ile de Brehat*). The ship is 140 m (460 ft) in length and 23 m (77 ft) in breadth, with berths for a crew of 70. It pulls a sea plow that cuts a trench while cable is fed through a depressor that pushes it into the trench. Prior to laying cable, seafloor sediment may be loosened by making multiple passes with the sea plow (this activity is termed ''pre-trenching''). The normal speed during plowing and pre-trenching is approximately 0.6 km/h (0.37 mi/h or 0.32 kn).

The *Ile de Batz* will also perform O&M operations along the entire system, including the main trunk line and six

branch lines. Recovery and repair of faulty cable sections include retrieving the cable, repairing it aboard the ship, and if required, reburying the cable. Cable trenches should fill in by natural current processes, but Quintillion will ensure that cable splices and interconnections are fully buried. It is not possible to determine the amount of cable to be retrieved or reburied prior to testing, but could involve several km for each fault repair. Quintillion provided a maximum estimate of up to 125 km (78 mi) of cable repair or reburial work for the entire project. Based on O&M needs for other projects, this estimate also includes a buffer for possible complications due to the Arctic environment.

Quintillion proposes to conduct limited ice management, if needed. Cable laying cannot be done in the presence of ice due to safety concerns, but Quintillion hopes to begin work on the Oliktok branch as soon as possible after the seasonal retreat of sea-ice from Alaska's northern coast. The *Ile de Batz* must transit past Point Barrow for this work. Since 2007, breakup of coastal sea-ice along much of Alaska's North Slope has occurred in June, but a persistent ice field north of Point Barrow often remains into July. Ice could also reappear during the season or at the end of the season. Quintillion proposes to traverse broken ice around Point Barrow with the aid of an ice tug that, if needed, will maneuver a path through the ice field. The tug will clear a path for the cable ship by pushing individual ice floes aside. Ice management will only occur during an approximately 50-km (31-mi) transit past Point Barrow or in the event of unexpected safety concerns.

Description of Marine Mammals in the Area of Specified Activity

Pacific Walruses

The stock of Pacific walruses is composed of a single panmictic population inhabiting the shallow continental shelf waters of the Bering and Chukchi Seas (Lingqvist *et al.* 2009; Berta and Churchill 2012). The size of the stock is historically uncertain. In 2006, the U.S. and Russian Federation (Russia) conducted a joint aerial survey in the pack ice of the Bering Sea using thermal imaging systems and satellite transmitters to count Pacific walruses in the water and hauled out on sea-ice. The number within the surveyed area was estimated at 129,000 with a 95 percent confidence interval (CI) of 55,000 to 507,000 individuals. This estimate is considered a minimum; weather conditions forced termination of the survey before large areas were surveyed (Speckman *et al.* 2011).

Pacific walrus distribution is largely influenced by the extent of the seasonal pack ice and prey densities. From April through June, most of the population migrates from the Bering Sea through the Bering Strait and into the Chukchi Sea. Pacific walruses tend to migrate into the Chukchi Sea along lead systems that develop in the sea-ice. During the open-water season, Pacific walruses are closely associated with the edge of the seasonal pack ice as it retreats northward between Russian waters to areas west of Point Barrow, Alaska. Most of these animals remain in the Chukchi Sea throughout the summer months, but a few occasionally range into the Beaufort Sea. Oil and gas industry observers reported 35 walrus sightings east of Point Barrow (approximately 156.5° W.) from 1995 through 2012 (Kalxdorff and Bridges 2003; AES Alaska 2015; USFWS unpublished data).

Pacific walruses typically occupy in waters of 100 m (328 ft) depth or less although they are capable of diving to greater depths. When available, they use sea-ice as a resting platform over feeding areas, as well as for giving birth, nursing, passive transportation, and avoiding predators (Fay 1982; Ray *et al.* 2006). Benthic invertebrates are their primary prey, but Alaska Native hunters have reported some Pacific walruses preying on seals, while fish and birds are also occasionally consumed (Sheffield and Grebmeier 2009; Seymour *et al.* 2014). Foraging trips from sea-ice or terrestrial haulouts may last for several days, during which the animals dive to the bottom and feed nearly continuously. Foraging dives typically last 5–10 minutes, with surface intervals of 1–2 minutes. Disturbance of the sea floor by foraging Pacific walruses, known as bioturbation, releases nutrients into the water column, provides food for scavenger organisms, contributes to the diversity of the benthic community, and is thought to have a significant influence on the ecology of the Bering and Chukchi Seas (Ray *et al.* 2006). Bivalve clams of the genera *Macoma, Serripes,* and *Mya* appear to be the most important prey based on both stomach contents and prey availability at Pacific walrus feeding areas (Sheffield and Grebmeier 2009).

Hanna Shoal is the most important foraging area known for Pacific walruses in the eastern Chukchi Sea (Brueggeman *et al.* 1990, 1991; MacCracken 2012; Jay *et al.* 2012). The unique bathymetric and current patterns at Hanna Shoal deposit nutrients from the Bering Sea on the ocean floor where they feed a rich benthic ecosystem. Jay *et al.* (2012) tracked radio-tagged Pacific walruses to estimate areas of foraging and occupancy in the Chukchi Sea during June–November of 2008–2011 (years when sea-ice was sparse over the continental shelf) and observed high use areas in the relatively shallow waters of Hanna Shoal. Based on this information, the Service designated 24,600 km^2 (9,500 mi^2) of the Chukchi Sea as the Hanna Shoal Walrus Use Area (HSWUA).

Pacific walruses are gregarious animals. They travel and haul out onto ice or land in groups, and spend approximately 20–30 percent of their time out of the water. Hauled-out animals tend to be in close physical contact. Young animals often lie on top of adults. The size of the hauled-out groups can range from a few animals to several thousand individuals. The largest aggregations occur at land haulouts. Use of terrestrial haulouts in the eastern Chukchi Sea by large numbers has been common during recent years of low summer sea-ice. At these times the edge of the pack ice moves north into the Arctic Basin where the water depth is too great for Pacific walruses to feed. In recent years, the barrier islands north of Point Lay have held large aggregations of up to 20,000 to 40,000 animals in late summer and fall (Monson *et al.* 2013). Pacific walruses hauled out near Point Lay are known to travel to Hanna Shoal and back for feeding forays.

The pack ice usually advances rapidly southward in late fall, and most Pacific walruses return with it, arriving in the Bering Sea by mid- to late-November. During the winter breeding season, concentration areas form in the Bering Sea where open leads, polynyas (an area of open water surrounded by sea-ice), or thin ice occur (Fay *et al.* 1984; Garlich-Miller *et al.* 2011). Detailed information on the biology and status of the species is available at *http://www.fws.gov/alaska/fisheries/mmm/.*

Polar Bears

Polar bears are distributed throughout the circumpolar Arctic region. The total world population is estimated to be 26,000 (95 percent CI = 22,000–31,000; Wiig *et al.* 2015). In Alaska, polar bears have historically been observed as far south in the Bering Sea as St. Matthew Island and the Pribilof Islands (Ray 1971). Two subpopulations, or stocks, occur in Alaska, the Chukchi Sea (CS) stock and the Southern Beaufort Sea (SBS) stock. An extensive area of overlap between the CS and SBS stocks occurs between Point Barrow and Point

Hope (Amstrup *et al.* 2004; Obbard *et al.* 2010; Wiig *et al.* 2015). Polar bears in this area may be from either stock (Amstrup *et al.* 2004). A detailed description of the CS and SBS stocks is found in USFWS (2017).

The SBS stock is shared with Canada and had an estimated size of approximately 900 bears in 2010 (90 percent CI = 606–1212; Bromaghin *et al.* 2015). This represents a 25–50 percent reduction from previous estimates of approximately 1,800 in 1986 (Amstrup *et al.* 1986), and 1,526 in 2006 (Regehr *et al.* 2006). Analyses of over 20 years of data on the size and body condition of bears in this subpopulation demonstrated declines for most sex and age classes (Rode *et al.* 2010a). Declines in body condition have occurred concurrently with reductions in annual sea-ice availability (Rode *et al.* 2010a, 2012). Reductions in summer sea-ice extent may be associated with low prey abundance or limited access to prey (Bromaghin *et al.* 2015).

The CS stock is shared with Russia. The most recent abundance estimate, based on expert opinion and extrapolation of denning surveys on Wrangel Island in Russia, was 2,000 bears in 2002 (PBSG 2002). The current status and trend of the CS stock are unknown due to a lack of data. A comparison of data from the period 1986–1994 with data from the period 2008–2011 indicated that polar bears from the CS maintained similar body condition and productivity (*e.g.,* number of yearlings per female) between those periods despite declines in sea-ice (Rode *et al.* 2014).

Polar bears depend on sea-ice for a number of purposes, including as a platform from which to hunt and feed. Polar bears are typically most abundant near the ice edges or openings in the ice over relatively shallow continental shelf waters with high marine productivity (Durner *et al.* 2004). Their primary prey is ringed (*Pusa hispida*) and bearded seals (*Erignathus barbatus*), although diet varies regionally with prey availability (Thiemann *et al.* 2008, Cherry *et al.* 2011). Typically, polar bears remain on the sea-ice throughout the year or spend only short periods on land, where they will opportunistically scavenge or feed on beached marine mammal carcasses (Kalxdorff and Fischbach 1998). Remains of bowhead whale (*Balaena mysticetus*) made available following subsistence harvest by Alaska Native communities is an important food source for some polar bears, and may comprise up to 70 percent of the fall diet (Rogers *et al.* 2015). Although polar bears have been observed using terrestrial foods such as blueberries (*Vaccinium sp.*), snow geese (*Anser caerulescens*), and caribou (*Rangifer tarandus*), prolonged consumption of terrestrial foods by polar bears is linked with declines in body condition and survival (Rode *et al.* 2015a). These alternate foods cannot replace the energy-dense diet polar bears obtain from marine mammals (*e.g.,* Derocher *et al.* 2004; Rode *et al.* 2010b; Smith *et al.* 2010b).

Seasonal polar bear distribution and movement patterns are linked to changes in sea-ice habitat; future patterns may differ from those of the past (Durner *et al.* 2007; Rode *et al.* 2014; Wilson *et al.* 2016). Historically, in the Chukchi Sea and Beaufort Sea areas, less than 10 percent of the polar bear locations obtained via radio telemetry were on land (Amstrup 2000; Amstrup, U.S. Geological Survey, unpublished data). However, in recent years, the proportion of time spent on land and the number of bears observed using the coastal areas has increased, particularly during the summer and fall (Schliebe *et al.* 2008, Rode *et al.* 2015b, Atwood *et al.* 2016b). This is most likely due to the retreat of the sea-ice beyond the continental shelf and the associated increase in open water during the summer and early fall (Zhang and Walsh 2006; Serreze *et al.* 2007; Stroeve *et al.* 2007). Once sea-ice concentration drops below 50 percent, polar bears tend to abandon sea-ice for land. Alternately, bears may retreat northward with the consolidated pack ice over the deep water of the polar basin. In both instances, polar bears are likely to find limited prey and may reduce their activity levels and lower body temperatures to save energy (Whiteman *et al.* 2015).

Diminished sea-ice cover also increases the areas of open water across which polar bears must swim to reach land or remaining sea-ice. As areas of unconsolidated ice increase and movement patterns of sea-ice change, some bears are also likely to lose contact with the main body of ice. These bears may be more likely to drift into unsuitable habitat and attempt to swim long distances to return (Sahanatien and Derocher 2012). Researchers have observed that in some cases bears that swim long distances during the open water period may become vulnerable to exhaustion and storms (Durner *et al.* 2011; Pagano *et al.* 2012).

Climate change may also affect the movement patterns and reproductive success of polar bears. Pregnant females will seek out den sites on land or on multiyear sea-ice where accumulation of snow is sufficient for construction of a well-insulated den. Pregnant females typically enter maternity dens by late November and emerge with cubs in late March or April. Pregnant females are the only polar bears that den for an extended period during the winter; others may excavate temporary shelter to escape harsh winter winds. In Alaska, denning habitat is frequently located on barrier islands, riverbank drainages, and coastal bluffs. For a pregnant polar bear to reach denning areas on land, pack ice must drift close enough or must freeze sufficiently early to allow her to walk or swim to shore in the fall (Derocher *et al.* 2004). Distance to the ice edge is thought to be a factor limiting denning on the coast of western Alaska by bears from the CS stock (Rode *et al.* 2015b). In recent years, fewer dens have been found on pack ice, suggesting that these changes may be making pack ice less suitable for maternal denning (Fischbach *et al.* 2007; Rode *et al.* 2015b). Climate projections indicate continued loss of multiyear ice in summer and the possibility of total loss of summer sea-ice in the near future (Holland *et al.* 2006). These conditions may further limit or eliminate maternity denning on pack ice (Stirling and Derocher 2012).

In 2008, the Service listed the polar bear as threatened under the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*) due to impacts from climate change. Climate change in the Arctic, driven by increasing atmospheric concentrations of anthropogenic greenhouse gases, is the primary threat to polar bears, and is expected to impact polar bears in a variety of ways. These impacts include reduced sea-ice and a related decrease in prey and seal hunting habitat (Atwood *et al.* 2015). Reductions in sea-ice are expected to increase the polar bears' energetic costs of traveling, since moving through fragmented sea-ice and swimming in open water requires more energy than walking across consolidated sea-ice (Cherry *et al.* 2009, Pagano *et al.* 2012, Rode *et al.* 2014). Bromaghin *et al.* 2015 linked declines in summer sea-ice to reduced physical condition, growth, and survival of polar bears. Projections indicate continued climate warming through the end of this century and beyond (IPCC 2014). The long-term consequences for polar bear populations are uncertain but under unabated greenhouse gas emissions, demographic models project a high probability of population decline throughout the Arctic (Atwood *et al.* 2015).

The Service recently completed a 5-Year status review for the polar bear (USFWS 2017). It concludes that new information continues to support that polar bears rely heavily on sea-ice for

essential life functions and that increasing atmospheric levels of greenhouse gases are contributing to Arctic warming and loss of sea-ice habitat. Although the global population of polar bears is currently estimated to be approximately 26,000, we anticipate that the continued loss of sea-ice will cause the population to decline. The Service also recently issued a Polar Bear Conservation Management Plan that highlights the need to take global action to address climate change, and describes management measures that can be taken to ensure polar bears are in a position to recover once the necessary global actions are taken (USFWS 2016).

Potential Impacts of the Activities on Pacific Walruses and Polar Bears

Quintillion's vessels are most likely to encounter Pacific walruses in the Chukchi and Bering Seas. The Beaufort Sea east of 153° W is considered extralimital for Pacific walruses, so encounters are unlikely in that region. Polar bears from either the SBS or CS stock could be present at any time throughout the project area, including at sea. Quintillion's vessels will most likely encounter polar bears among sea-ice near Point Barrow in July or along the coast of the southwestern Beaufort Sea in August and September.

Acoustic Impacts

Pacific walruses and polar bears may be exposed to underwater noise from Quintillion's activities. Exposure to high levels of underwater sound at close range may cause hearing loss or mask communications. Exposure at greater distances can cause behavioral disturbances.

Pacific walruses are capable of hearing sounds both in air and in water. Kastelein *et al.* (1996) tested the in-air hearing of one captive individual from 125 hertz (Hz)–8 kilohertz (kHz) and determined the animal could hear all frequency ranges tested, with the greatest sensitivity from 250 Hz–2 kHz. Kastelein *et al.* (2002) also tested the underwater hearing of the same individual and determined that his range of hearing was 1 kHz–12 kHz with greatest sensitivity at 12 kHz. The sample size of one animal warrants caution since other pinnipeds can hear up to 40 kHz.

There is limited information on the hearing abilities of polar bears. Nachtigall *et al.* (2007) tested airborne auditory response to stimuli from electrodes placed on the scalp of three captive polar bears. Testing was limited to frequencies ranging from 1 to 22.5 kHz; responses were detected at all frequencies greater than 1.4 kHz. Greatest sensitivity was detected in the range from 11.2–22.5 kHz. Absolute thresholds were less than 27–30 dB. Nachtigall *et al.* (2007) did not test the full frequency range of polar bear hearing. However, polar bears produce low frequency vocalizations and can detect low frequency seal calls in air (Cushing *et al.* 1988). These results indicate that polar bears have acute hearing abilities and can hear a wider range of frequencies than humans (which are limited to about 20 kHz).

While many of the noise sources generated by the Quintillion cable project are likely to be audible to polar bears both in and out of water, polar bears are unlikely to be disturbed by underwater noise as they generally do not dive far or for long below the surface and they normally swim with their heads above water where underwater noises are weak or undetectable. Sound levels also attenuate more rapidly near the surface due to turbulence. Masking of sound is unlikely as polar bears are not known to communicate underwater. Neither Pacific walruses nor polar bears are likely to be injured by airborne noise. Sound attenuates in air more rapidly than in water; airborne sound likely to be produced by the proposed action may cause disturbance, but is unlikely to cause temporary or permanent hearing damage.

Acoustic Sources

Acoustic sources operating during cable laying will include propellers, dynamic positioning thrusters, plows, jets, ROVs, echo sounders, and positioning beacons. Sound production will depend on the vessels in use and their operations. The main Quintillion fleet will include up to seven vessels during the 2017 program. The cable-lay ship *Ile de Batz* (or an equivalent sister ship) will operate alone or will be accompanied by an ice-class tug. A construction barge pulling a vibro plow will install cable in areas too shallow for the *Ile de Batz.* A support vessel will accompany the cable ship as needed. Anchor handling will be conducted by a mid-size tug, or in very shallow water, a pontoon barge and small river tug.

The *Ile de Batz* is propelled by two 4,000-kilowatt (kW) fixed-pitch propellers and will maintain dynamic positioning during cable-laying operations by using two 1,500-kW bow thrusters, two 1,500-kW aft thrusters, and one 1,500-kW fore thruster. Illingworth & Rodkin (I&R 2016) conducted sound source verification (SSV) measurements of the *Ile de Brehat* (sister ship to the *Ile de Batz)* while operating near Nome at the beginning of Quintillion's 2016 field season. They found that noise from dynamic positioning as well as noise from the drive propellers both contributed significantly to the sound signature, but thruster noise was largely subordinate to propeller noise. I&R (2016) determined that maximum sound levels produced by the *Ile de Brehat* reached 185.2 dB, and the best fit for modelling attenuation was a spreading loss model with a transmission loss of 17.36 Log R. Application of this model produced an estimated 160-dB ensonification zone reaching 29 m (95 ft) from the vessel. The *Ile de Batz* is expected to produce similar levels of sound while pulling the sea plow during pre-trenching and cable-laying operations in the offshore segment of the Oliktok branch.

Anchor handling and ice management will be conducted by the *Vos Thalia (*the same tug used in 2016) or a similar-sized tug. There is no sound signature data on the 59-m (194-ft) *Vos Thalia,* but data is available for the 72-m (236-ft) *Katun* and the 84-m (276-ft) *Tor Viking II.* Hannay *et al.* (2004) and LGL/JASCO/Greeneridge (2014) measured sound production for the *Katun* and the *Tor Viking II* and documented sound levels reaching 184 dB and 188 dB, respectively, during anchor handling and ice management. Applying these sound levels to I&R's transmission loss model yields a 160–dB ensonification zone with a radius of 26 m (85 ft) for the *Katun* and 41 m (135 ft) for the *Tor Viking II.* Propeller cavitation rather than contact with the ice is expected to be the primary sound source during ice management activities by this class of vessel.

The *M/V Discoverer* will provide support for the cable ship if needed. This 27-m (89-ft) dual-hulled vessel is considered ''ice-hardened.'' It is not capable of conducting ice management, but will assist with ice detection and monitoring. It is powered by four 551-kW controllable pitch propellers. Sound production levels have not been documented for this vessel, but it will not be towing, plowing, or doing other particularly noisy work. During normal operations, noise from small ships typically elevates the natural ambient noise by 10–40 dB (Malinowski 2002). Other ships in this size class are documented to produce sound levels of 127–129 dB (Chakraborty 2015).

Noise generation from the construction barge will primarily be during use of the vibro plow. There are no available estimates of sound produced during cable installation by a vibro plow in the Arctic, but LouisDreyfus (2014) reported SSV results from various trenching equipment, including a vibro plow, in

offshore waters of France. Nedwell *et al.* (2003) recorded broadband sound levels reached during trenching in the United Kingdom. These studies reported source levels of 176 and 178 dB, respectively. If we use these sound levels to predict the radii of the ensonification zone during use of the vibro plow, we get an estimated distance of 16 m (52.5 ft) to the outer edge of the 160–dB zone. This estimate was derived using a practical spreading loss model with a transmission loss constant of 15 rather than I&R's (2016) 17.36 Log R transmission loss model. The I&R (2016) model was estimated from Quintillion's work in deeper offshore water. Use of the vibro plow will occur in shallow water. Sound carries farther in shallow water due to refraction and reflection, and, in this case, a practical spreading loss model is likely to be more accurate for predicting attenuation (NOAA 2012).

A small river tug will be used to maneuver a pontoon barge during anchor handling in very shallow water. The specific tug has not yet been identified, but smaller tugs generally produce broadband underwater noise up to 180 dB; the loudest sounds are usually generated by thrusters when towing (Richardson *et al.* 1995, Blackwell and Greene 2003). Applying the practical spreading loss model results in a maximum 160–dB ensonification zone with a radius of 22 m.

Echo sounders, transceivers, and transponders will be used to conduct hydroacoustic surveys of water depth and to guide the position of the plow and ROV. Sound levels produced by these sources can range from 210 to 226 dB at 1 m, but are generally at frequencies above the hearing sensitivities of Pacific walruses; typical frequencies are 24–900 kHz. Pulses of sound are produced every 1–3 seconds in narrow downward-focused beams; there is very little horizontal propagation of noise. I&R (2016) attempted to measure echo sounder and transponder sound levels associated with the *Ile de Brehat,* but could not detect them, even at a very close range.

Anchor handling with tugs, vibro plowing from the barge, and cable laying from the *Ile de Batz* may be conducted simultaneously, resulting in multiple or overlapping ensonification zones, particularly along the Oliktok cable branch. Ice management will not be done during cable laying, but will occur when the cable ship is underway. Thruster noise from the ice management tug and propeller cavitation noise from the cable ship will, therefore, occur concurrently, although propeller noise produced by the *Ile de Batz* during transit will be lower than that produced during cable laying. Sound from multiple sources may combine synergistically or partly cancel out, depending on the hydrodynamics and acoustics involved.

Acoustic Thresholds

Potential acoustic impacts from exposure to high levels of sound may cause temporary or permanent changes in hearing sensitivity. Researchers have not studied the underwater hearing abilities of Pacific walruses sufficiently to develop species-specific criteria for preventing harmful exposure. Sound pressure level thresholds have been developed for other members of the pinniped taxonomic group, above which exposure is likely to cause behavioral responses and injuries (Finneran 2015).

Historically, the National Marine Fisheries Service (NMFS) has used 190 dB as a threshold for predicting auditory injury to pinnipeds, which equates to Level A harassment under the MMPA. The NMFS 190-dB injury threshold is an estimate of the sound level likely to cause a permanent shift in hearing thresholds (''permanent threshold shift'' or PTS). This value was modelled from temporary threshold shifts (TTS) observed in marine mammals (NMFS 1998; HESS 1999).

Thresholds for predicting behavioral impacts equating to Level B take under the MMPA have been developed from observations of marine mammal responses to airgun operations (*e.g.,* Malme *et al.* 1983a, 1983b; Richardson *et al.* 1986, 1995) or have been equated with TTS detected in lab settings. For pinnipeds, NMFS has traditionally adopted a 160-dB threshold for exposure to impulse noise and a 120-dB threshold for continuous noise (NMFS 1998; HESS 1999). Southall *et al.* (2007) assessed relevant studies, found considerable variability among pinnipeds, and determined that exposures between approximately 90–140 dB generally do not appear to induce strong behavioral responses in pinnipeds in water, but an increasing probability of avoidance and other behavioral effects exists in the range between 120–160 dB.

Southall *et al.* (2007) reviewed the literature and derived behavior and injury thresholds based on peak sound pressure levels of 212 dB (peak) and 218 dB (peak), respectively. Because onset of TTS can vary in response to duration of exposure, Southall *et al.* (2007) also derived thresholds based on sound exposure levels (SEL). The SEL can be thought of as a composite metric that represents both the magnitude of a sound and its duration. The study proposed threshold SELs weighted at frequencies of greatest sensitivities for pinnipeds of 171 dB (SEL) and 186 dB (SEL) for behavioral impacts and injury, respectively (Southall *et al.* 2007). Kastak *et al.* (2005) found exposures resulting in TTS in pinniped test subjects ranging from 152 to 174 dB (183–206 dB SEL). Reichmuth *et al.* (2008) demonstrated a persistent TTS, if not a PTS, after 60 seconds of 184 dB SEL. Kastelein (2012) found small but statistically significant TTSs at approximately 170 dB SEL (136 dB, 60 min) and 178 dB SEL (148 dB, 15 min). Finneran (2016) summarized these studies.

New guidance has been recently released by NMFS (2016) for avoidance of underwater acoustic injury (Level A take) for marine mammals based on estimates of PTS summarized by Finneran (2016). The thresholds for non-impulse sound are based on cumulative SEL levels (SELcum) and include weighting adjustments that account for the sensitivity of different species to varying frequencies. These recommendations do not identify criteria for avoidance of Level B take, but do identify threshold sound levels above which marine mammals may experience TTS. For pinnipeds, PTS is predicted to occur at 219 dB SELcum, and TTS at 199 dB SELcum.

Quintillion evaluated the probability of exceeding PTS thresholds given the project's predicted sound levels using calculations in ''Safe Distance Methodology for Mobile Sources'' user spreadsheet developed by NMFS for this purpose (see I&R 2016 for calculations). Model outcomes predict there is no area where injury thresholds for pinnipeds will be exceeded. We repeated these model calculations using the same assumptions to evaluate the likelihood of reaching TTS at 199 dB SELcum. The radius of the resulting sound isopleth was 1.9 m (6.2 ft) from the source.

We then used the ''Stationary source: Non-Impulsive, Continuous'' model to predict the size of the 199 dB SELcum ensonification zone during stationary activities such as anchor handling. We assumed the maximum sound pressure level of 188 dB, a weighting adjustment factor of 2 for broadband sound below 8.5 kH, and a spreading loss constant of 15 for shallow water. The model output predicts that pinnipeds within 2.4 m (7.9 ft) of the sound source could experience TTS within 60 seconds. Those remaining within 16 m (6.2 ft) of the sound source for 17 minutes could experience TTS, as could those within 22 m (52.5 ft) for 28 minutes, 29 m (95 ft) for 43 minutes, and those remaining

within 41 m (135 ft) for 72 minutes or longer.

Based on the NMFS (2016) estimates of TTS onset, most animals that are exposed to the maximum estimated sound production level (188 dB) will not remain within the radius of the 160-dB ensonification zone (41 m (135 ft) from the vessel) long enough to experience TTS. Pacific walruses swim at an average speed of 7 km/h (4.4 mi/h) and maximum speeds up to 35 km/h (22 mi/h) (MarineBio 2013). At those rates of travel, a Pacific walrus could depart an ensonification zone within 1 minute.

The new thresholds help predict when animals may experience TTS, but behavioral reactions in response to noise or vessel activities remain a more likely cause of Level B take. Animals exposed to high levels of sound are not likely to experience TTS without also expressing significant changes in behavior. The best predictor of behavioral response for Pacific walruses exposed to underwater sound continues to be the distance at which the encounter occurs in relation to the sound levels produced.

Applying a precautionary approach in the absence of empirical information, we assume it is possible that Pacific walruses exposed to 190 dB or greater sound levels from underwater activities could suffer injury from PTS. Sound pressure levels greater than 180 dB could cause temporary shifts in hearing thresholds. Repeated or continuous exposure to sound levels between 160–180 dB may also result in TTS, and exposures above 160 dB are more likely to elicit behavioral responses than lower level exposures.

The Service's underwater sound mitigation measures include employing ''Protected Species Observers'' (PSOs) to establish and monitor 160-dB, 180-dB, and 190-dB isopleth ensonification zones centered on any underwater sound source greater than 160 dB. Quintillion's work is not expected to generate sound levels greater than 190 dB, but PSOs will monitor areas within the 160-dB zone (including a 180-dB zone) during all work in areas where Pacific walruses could occur. Pacific walruses in this zone will be assumed to experience Level B take due to the possibility that prolonged sound exposure may lead to TTS and the higher probability of biologically significant behavioral responses.

Behavioral Response to Disturbance

Marine mammals in general have variable reactions to sights, sounds, smells, and visual presence of vessels and human activities. An individual's reactions will depend on their prior exposure to the disturbance source, their need or desire to be in the particular area, their physiological status, or other intrinsic factors. The location, timing, frequency, intensity, and duration of the encounter are among the external factors that also determine the animal's response. Relatively minor reactions such as increased vigilance or a short-term change in direction of travel are not likely to disrupt biologically important behavioral patterns and do not constitute take by harassment as defined by the MMPA. These types of responses typify the most likely reactions of the majority of Pacific walruses and polar bears that will interact with Quintillion's activities.

Extreme behavioral reactions capable of causing injury are characterized as Level A harassment and will not be authorized. Examples include separation of mothers from young or stampedes, which could result in death of the offspring or trampling of young animals. Quintillion has included measures to prevent such disturbances (see Mitigation and Monitoring).

Intermediate reactions disrupting biologically significant behaviors, such as interruptions in nursing, feeding, or resting, may potentially result in decreased fitness for the affected animal. These reactions meet the criteria for Level B harassment under the MMPA and are discussed for each species in the following sections.

Behavioral Response of Pacific Walrus

Between June and mid-November, Pacific walruses may be found in the Chukchi Sea near the edge of seasonal pack ice, among broken sea-ice, in preferred feeding areas (especially the HSWUA), at coastal haulouts, or travelling between these areas. While animals may be present anywhere west of 153° W., Quintillion's vessels are most likely to encounter Pacific walruses in two areas: (1) Along the cable route as it passes between the HSWUA and a seasonal haulout at Point Lay (cable-laying and support vessels may cross paths with Pacific walruses that are traveling between these areas), and (2) near the Point Barrow ice field when project vessels are in transit to and from the Beaufort Sea.

Pacific walruses may respond to the sights, sounds, and smells of humans, machinery, and equipment. Typical behavioral responses to disturbances include: Altered headings; increased swimming rates; increased vigilance; changes in dive, surfacing, respiration, feeding, and vocalization patterns; and hormonal stress production (*e.g.,* see Richardson *et al.* 1995; Southall *et al.* 2007; Ellison *et al.* 2011). Low-level reactions are common and can be caused by both natural and anthropogenic sources. Pacific walruses at haulouts have been documented reacting to minor disturbances with head raises and changes in body orientation in response to passing ships, aircraft, rock slides, and seabird activities (Helfrich and Meehan 2004).

Significant behavioral responses include displacement from preferred foraging areas, increased stress levels or energy expenditures, or cessation of feeding. Disturbance that occurs while Pacific walruses are resting at a haulout may have the greatest potential for harmful impacts. Disturbance events in the Chukchi Sea have been known to cause groups to abandon land or ice haulouts and occasionally result in trampling injuries or separation of a calf from a cow, both of which are potentially fatal (USFWS 2015a). Females with dependent calves are considered least tolerant of disturbance and most likely to flee a haulout. Calves and young animals at terrestrial haulouts are particularly vulnerable to trampling injuries during a stampede.

Quintillion's activities are planned to avoid terrestrial haulouts but may encounter hauled-out animals on ice. Icebreaking activities in the Chukchi Sea were observed to displace some Pacific walrus groups up to several kilometers away (Brueggeman *et al.* 1990). Approximately 25 percent of groups on pack ice responded by diving into the water; most reactions occurred within 0.8–1 km (0.5–0.6 mi) of the ship. However, groups of hauled-out Pacific walruses beyond these distances generally showed little reaction to icebreaking activities (Brueggeman *et al.* 1990, 1991). Pacific walruses are typically less sensitive to disturbance when they are in the water than when hauled out on land or ice (Fay *et al.* 1984). Pacific walruses on ice have been observed to move away from an approaching ship that is hundreds of meters away, whereas walruses in water react at ranges of tens of meters (Fay *et al.,* 1984). Quintillion's vessels will maintain slow speeds in the presence of Pacific walruses. Ice management activities will not be conducted, except in emergencies, until a PSO has verified that no Pacific walruses are present.

Pacific walruses may become habituated to some activities, tempering their reactions. For example, Pacific walruses at haulouts show increased tolerance of outboard motorboats in years when they are not hunted from boats compared with years when hunting occurs (Malme *et al.,* 1989).

Most adult Pacific walruses have had some previous exposure with ships at sea and probably have some degree of habituation to vessel propulsion sounds. In general, low frequency diesel engines have been observed to cause fewer disturbances than high-frequency outboard engines (Fay *et al.* 1984). The presence of Quintillion's vessels alone has little consequence for most animals and is unlikely to cause significant disturbances in the absence of cable-laying or ice-breaking activity.

Vessels will produce higher noise levels during cable laying and ice management than while in transit. These noises may evoke behavioral responses in addition to the possible impacts to hearing discussed previously. Passive acoustic monitoring conducted during Quintillion's 2016 work documented Pacific walruses vocalizing in the local area before and after, but not during, cable-laying work. There is a possibility that the Pacific walruses moved or ceased vocalizing due to the project's noise (Owl Ridge 2017). This may be an indication of auditory masking (a change in the ability to detect relevant sounds in the presence of other sounds) (Wartzok *et al.* 2003). The biological implications of anthropogenic masking among Pacific walruses are unknown, but if the Pacific walruses' response to masking is to leave the area, then the physiological costs are similar to those of other disturbances that trigger the same response.

The most likely behaviorally significant responses that Quintillion's activities may evoke among Pacific walruses include temporary cessation of feeding, resting, or communicating. Some animals could abandon a preferred travel corridor or foraging area. Some could abandon a haulout on ice, although the proposed avoidance and minimization measures will reduce this likelihood. Effects of these types of mid-level responses include increased energy expenditures and stress levels. Energetic costs are incurred from loss of forage and energy expended while travelling to another region.

The overall impact to the affected animals depends on the duration and frequency of the disturbance events and the ability of the affected animals to reach and use alternate areas. All Quintillion's activities within the range of the Pacific walruses in 2017 are expected to be short-duration transient activities. No activities will restrict availability of or access to other nearby suitable foraging habitat or alternate travel routes during this project. Pacific walruses will, therefore, be able to return to normal behaviors and avoid prolonged disturbances. Short-term increased energy expenditures are expected to be within tolerance levels and will not affect survival or reproductive capacity of any Pacific walruses.

Behavioral Responses of Polar Bears

Quintillion's crew may see polar bears among the broken ice of the Point Barrow ice field during early summer activities. If the ice retreats northward prior to the start of the work season, the crew may not encounter polar bears until August or September, when bears become more common near shore and along the barrier islands. At that time, workers along the Oliktok branch line could see bears resting or travelling along the coast. The amount of time the bears spend in these coastal habitats depends on a variety of factors including storms, ice conditions, and the availability of food. The remains of subsistence-harvested bowhead whales at Cross and Barter islands provide a readily available food source and may influence the numbers of bears in the area (Schliebe *et al.* 2006).

Sights, sounds, and scents produced by Quintillion's activities may elicit a wide range of responses from polar bears. Individual responses are shaped by previous experiences and individual tolerance levels. Polar bears have been observed to respond to the sights and sounds of human activities, including vessels, vehicles, and aircraft (*e.g.,* Watts and Ratson 1989; Dyck 2001; Dyck and Baydack 2004; Andersen and Aars 2005). Noise and vessel activity may act as a deterrent or cause physiological stress. Alternately, novel sights and sounds could attract bears in search of a potential food source.

Much of the available information about the responses of polar bears to construction and industrial activity comes from PSO monitoring reports. From 2010 through 2014, we received 1,234 reports of 1,911 polar bears in both on- and off-shore areas of the Chukchi Sea, Beaufort Sea, and in coastal Alaska. Most of these sightings were likely repeated observations of the same animals. Based on these reports and coastal survey data, the Service estimated that up to 125 individuals of the SBS stock occur between Utqiagvik and the Canada border during the fall period. The greatest numbers of polar bears are found along the coast and barrier islands from August through October. The majority of observations were of bears walking near vessels, development sites, or work areas. Offshore oil and gas facilities typically documented the highest numbers of polar bear sightings, followed by onshore facilities. Reports by vessels at sea were relatively uncommon. Most sightings were of single adult and subadult bears. Fewer sightings were of sows with cubs. Polar bear sightings have generally increased in recent years, likely due in part to greater monitoring efforts, and possibly also due to increased use of coastal areas by bears. In most cases, the bear showed no response or responded by walking or swimming away from the facilities or activities.

Chronic disturbances, extreme reactions (fleeing or fighting), or disturbances affecting key behaviors are more likely to affect fitness and can cause injury. These events have the potential to cause Level A take. Polar bears attracted to human activities are at significant risk of human-bear conflicts, which could result in intentional hazing or possibly lethal take in defense of human life. Historically, polar bear observations are seasonally common, but close encounters with people are uncommon. Human-bear interactions and impacts to denning polar bears are of particular concern. Quintillion's activities will not overlap with the denning season and are not likely to affect denning polar bears.

Increased use of onshore habitat by polar bears has also led to higher incidence of conflict with humans (Dyck 2006; Towns *et al.* 2009). In two studies of polar bears killed by humans in northern Canada, researchers found that the majority of conflicts resulting in polar bears being killed in defense of life occurred during the open-water season (Stenhouse *et al.* 1988; Dyck 2006). Thus, as more polar bears come on shore during summer, and spend longer periods of time on land, there is an increased risk of human-bear conflict; resulting in potential for more defense-of-life kills.

Lethal take of polar bears associated with development or industrial activities is very rare. Since 1968, there have been three documented cases of lethal take of polar bears associated with oil and gas activities. Polar bear interaction plans, training, and monitoring help reduce the potential for encounters and the risks to bears and humans when encounters occur. Quintillion has included such efforts in a marine mammal monitoring and mitigation plan (Owl Ridge 2016).

Polar bears are most likely to react to Quintillion's activities with short-term behavioral responses, such as changes in direction of travel, discontinued hunting efforts, or heightened levels of vigilance. The effects of retreating from a disturbance may be minimal if the event is short and the animal is

otherwise unstressed. However, on a warm day, a short run may be enough to overheat a well-insulated polar bear. The effect of fleeing a vessel on young polar bear cubs would likely be the use of energy that otherwise would be needed for survival during a critical time in a polar bear's life. Significant behavioral responses could also include abandonment of a seal carcass or a preferred hunting area, or fleeing from land into water. Polar bears disturbed while resting may exhibit more substantial energy expenditures or adverse physiological responses than those disturbed while active (Watts *et al.* 1991).

Open-water encounters with polar bears are possible. Monitoring reports from the oil and gas industry and from Quintillion's 2016 work reported several encounters with swimming bears. In those instances, the bears were observed to either swim away from or approach the vessels. Sometimes a polar bear would swim around a stationary vessel before leaving. In at least one instance a polar bear approached, touched, and investigated a stationary vessel from the water before swimming away.

Perhaps the most likely scenario for Level B take is disturbance of a polar bear during Quintillion's ice management activities. During a period of little ice in the late 1980s at an oil exploration drilling site in the Beaufort Sea, a large ice floe threatened the drill rig. After the floe was moved by an icebreaker, workers noticed a female bear with a cub-of-the-year and a lone adult swimming nearby. It was assumed these bears had abandoned the ice floe due to the activities of the icebreaker. In this type of encounter, disturbance could potentially affect the survival of the cub while disturbance of the adults was likely negligible.

Polar bears will most often respond to Quintillion's activities with behaviors that are not biologically significant. Bears using the ice fields will experience only short-term disturbance or displacement during passage of project vessels past Point Barrow. Bears travelling or resting in coastal areas and barrier islands will be able to alter travel routes or find comparable undisturbed resting areas without expending extensive amounts of energy or foregoing critical resources. Movement of displaced polar bears will be temporary and localized compared to the overall movement patterns of polar bears. Most bears will be able to tolerate short-term disturbance without consequence. Behavioral responses of polar bears to project activities are not likely to affect the health or survival of any individual animal.

Impacts to Food and Habitat

The behavior of a marine mammal may be indirectly altered if human activities affect the availability of food or habitat. Quintillion's 2017 program will have short-term, localized effects on Pacific walrus and polar bear habitat.

Local areas of Pacific walrus habitat will be affected along the Quintillion cable route during O&M work or at cable splice sites where concrete mattresses will be installed. Impacts to benthic and epibenthic invertebrates from cable removal and reburial or from placement of concrete mattresses will include: (1) Crushing with the sea plough or ROV; (2) dislodgement onto the surface where they may die; and (3) the settlement of suspended sediment away from the trench where it may clog gills or feeding structures of sessile invertebrates or smother sensitive species (BERR 2008).

Quintillion's work will leave a lasting impact on the seafloor within the cable corridor, but will affect only a small area of the seafloor. Recolonization of benthic communities in northern latitudes is slow and may take 10 years or more (Conlan and Kvitek 2005; Beuchel and Gulliksen 2008). The maximum amount of seafloor disturbance is 125 km (78 mi). Trench widths of 3 m (10 ft) along this length could disturb a total area of 0.38 km^2 (0.15 mi^2) (0.003×125 km = 0.375 km^2). This amount is an insignificant portion of the total seafloor available for Pacific walrus foraging. Further, none of the activity will occur in the HSWUA. The overall effects of cable laying on habitat and food resources will be inconsequential to Pacific walruses.

Vessel activities could affect food resources for polar bears. Quintillion's activities may impact seals by causing underwater noise or disturbance. Seals may respond by abandoning habitat areas, such as feeding areas, haulouts, and breathing holes. Pupping lairs are a particularly important type of habitat for seals but are not likely to be affected due to the timing and location of the proposed activities. The effects of Quintillion's activities on seals were assessed by NMFS in 2016 (81 FR 40274, June 21, 2016). The agency found that no injuries or mortalities were likely, and the impacts would be limited to brief startling reactions and/or temporary vacating of the area. Therefore, the Service does not expect the availability of seals as a food source for polar bears to be significantly changed due to Quintillion's activities in 2017.

No long-term impacts to polar bear habitat are expected, including to the critical habitat designated under the ESA. The designated critical habitat for the polar bear consists of sea-ice, barrier islands, and terrestrial denning habitat. The physical and biological features essential to the conservation of the polar bear include: (1) Annual and perennial marine sea-ice that serve as a platform for hunting, feeding, traveling, resting, and (to a limited extent) denning; and (2) terrestrial habitats used by polar bears for denning and reproduction, as well as for seasonal use in traveling or resting. Barrier island habitat includes the barrier islands off the coast of Alaska, their associated spits, and an area extending out 1.6 km (1 mi) from the islands where this zone contains habitat that is free from human disturbance.

Pacific walruses and polar bears will likely respond to Quintillion's short-term habitat impacts with low- to mid-level behavioral responses, such as temporary cessation of feeding or movement to another area. Responses to habitat impacts are likely to be similar to and indistinguishable from those caused by direct disturbances.

Oil and Fuel Spills

Potential spills could involve fuel, oil, lubricants, solvents, and other substances used aboard the cable ships or support vessels. An oil spill or unpermitted discharge is an illegal act; IHAs do not authorize takes of marine mammals caused by illegal activities. If a spill did occur, the most likely impact upon Pacific walruses or polar bears would be exposure to spilled oil, which may cause injury, illness, or possibly death depending on degree and duration of exposure and the characteristics of the spilled substance. A large spill could result in a range of impacts from reduced food availability to chronic ingestion of contaminated food. Spill response activities, especially use of dispersants, may increase the cumulative impact of a spill on Pacific walrus habitat by making oil more bioavailable for uptake by filter feeders and benthic invertebrates (*e.g.,* Epstein *et al.* 2000; Hansen *et al.* 2012). However, the overall effect on the environment of response activities given a spill are expected to be lower than the level of impact of the spill alone (USFWS 2015b). The effects of a spill event would depend on the amount, substance, and specific circumstances of the spill, but small spills, such as could occur in connection with the activities proposed by Quintillion, are unlikely to have negative impacts on Pacific walruses or polar bears.

Estimated Incidental Take

Although we cannot predict the outcome of each encounter, it is possible to consider the most likely reactions, given observed responses of marine mammals to various stimuli. In general, the response of Pacific walruses and polar bears to vessel activities at sea is related to the distance between the vessel or activity and the animal. The proposed action will include measures to allow animals to detect the vessels at greater distances (*e.g.,* by maintaining slow speeds) in order to prevent extreme behavioral reactions. Measures include minimizing probability of encounters by avoiding terrestrial haulouts and maintaining slow travel speeds when marine mammals are detected. Acoustic ensonification zones will be monitored by PSOs during cable laying, O&M work, and ice management to avoid marine mammals and to reduce noise levels when possible (vessels cannot alter speed or course during active cable laying). During pre- and post-cable-laying activities, vessels will maintain at least a 0.8-km (0.5-mi) distance from feeding Pacific walruses or polar bears on land or ice. These measures are expected to reduce the intensity of disturbance events and to minimize the potential for injuries to animals.

Take Calculations for Pacific Walruses

The Service anticipates that incidental take of Pacific walruses may occur during Quintillion's cable-laying project. Noise, vessels, and human activities could temporarily interrupt feeding, resting, and movement patterns. The elevated underwater noise levels may cause short-term, nonlethal, but biologically significant changes in behavior that the Service considers to be Level B harassment. Quintillion's O&M work includes use of a submersible ROV and placement of concrete mattresses on the seafloor. These activities may have similar effects and could cause behavioral disturbance leading to take.

Quintillion's operations will generate noise within frequencies audible to Pacific walruses. The expected noise levels will not exceed the traditional 190-dB threshold indicative of Level A harassment for non-impulse sounds, nor will they exceed frequency-weighted injury thresholds recently released by NMFS (2016) for cumulative sound exposure. Therefore, there is no 190-dB mitigation zone from the proposed activities, and no project activities are expected to result in take by Level A harassment.

Level B take by acoustic harassment was estimated based on the number of animals that are likely to be exposed to broadband noise levels above 160 dB along the cable route, during O&M work, and during ice management. The area of the 160-dB ensonification zone is assumed to include 125 km (78 mi) of the cable route during O&M work in the Chukchi Sea and 50 km (31 mi) of the transit route during ice management, for a total of 175 km (109 mi). It is not possible to know how much retrieval and reburial of cable (O&M activity) will be necessary, but Quintillion has projected these distances based on maximum estimates from work on other cable projects plus a buffer for unpredictable issues in an Arctic environment.

The radius of the 160-dB ensonification area was estimated by assuming that all O&M work and ice management will produce the maximum noise levels estimated for Quintillion's fleet, regardless of the specific vessel in use or activity being conducted. The maximum level reported in Quintillion's IHA application (OwlRidge 2016) was 188 dB produced by the propulsion systems of an ocean tug, the *Tor Viking II,* during ice management. The maximum source level of 188 dB was then used in a spreading loss model with transmission loss of 17.36 Log R, as described in *Acoustic Sources,* resulting in a 160-dB ensonification zone with a radius of 41 m (135 ft) from the vessel. The total ensonified area was calculated by multiplying the project length (175 km (109 mi)) by the width ($2 \times 41 = 82$ m (269 ft)) to be about 14 km^2 (5.5 mi^2) in total area (0.082×175 km = 14.34 km^2).

The *Vos Thalia* may replace the *Tor Viking II* during Quintillion's work. During SSV, both the *Vos Thalia* and the *Ile de Brehat* produced lower maximum sound levels than did the *Tor Viking II.* The estimation of ensonification area may, therefore, represent an overestimate, but it allows a degree of flexibility in the vessel used and does not result in a substantial difference in estimates of Level B take.

The number of Pacific walruses in the total ensonified area was then estimated using the best available density estimates. Aerts *et al.* (2014) conducted shipboard surveys for marine mammals in the Chukchi Sea from 2008 through 2013. Their highest recorded summer densities were in the low-ice years of 2009 and 2013 (0.04 per km^2 (0.1 per mi^2)). During the heavy-ice years of 2008 and 2012, densities were 0.001 and 0.006 per km^2 (0.003 and 0.02 per mi^2), respectively. Given the continuing trend for light summer ice conditions, it is assumed that 2017 will be similar to 2013. Therefore, the 2013 density estimate of 0.04 per km^2 (0.1 per mi^2) is used to calculate Level B take.

The number of Pacific walruses potentially exposed to acoustic harassment by the Quintillion cable project was then estimated by multiplying the density by the total area that would be ensonified by noise greater than 160 dB. This calculation results in an estimate of 1 Pacific walrus ($0.04 \times 14 \approx 0.6$) thereby demonstrating that take by acoustic harassment is not likely to affect a large number of Pacific walruses.

Quintillion's activities are more likely to cause Level B take associated with behavioral responses than acoustic harassment. As with acoustic harassment, the numbers affected will be determined by the distribution of animals and their location in proximity to the project work. The seasonal distribution of Pacific walruses in the project area is directly associated with the distribution and extent of broken pack ice (Fay *et al.* 1984, Garlich-Miller *et al.* 2011, Aerts *et al.* 2014). During years with high levels of sea-ice, most Pacific walrus are expected to remain over the Chukchi Sea shelf and feed at areas like HSWUA. During low ice years, the ice edge moves north over the Arctic Basin where waters are too deep to forage. The animals leave the ice and haul out on beaches (such as near Point Lay), where they rest between offshore foraging trips until the pack ice returns. Relative to the Quintillion cable laying, if 2017 is a high ice year, few Pacific walruses are expected to be encountered during O&M work, as most of them will remain with the pack ice to the north or northwest of the cable route. Encounters could occur if isolated ice floes supporting Pacific walruses were to blow back southward during storm events. There is also a possibility of disturbing hauled out animals among persistent ice around Point Barrow when Quintillion is creating a path through broken ice in order for the *Ile de Batz* to access the Oliktok branch route. During light ice years, Pacific walruses are less likely to be encountered near Point Barrow and more likely to intercept cable-laying activities while moving between the pack ice and terrestrial haulouts. Independent of the extent of seasonal ice, Quintillion's vessels could also encounter animals migrating southward though the Bering Strait in November.

It is impossible to accurately predict the total number of Pacific walruses that may be encountered due to the substantial uncertainty in the work that will be necessary and the unknown ice conditions, but in 2016, Quintillion's PSOs observed 1,199 Pacific walruses in

62 groups. The largest group had approximately 500 animals. For comparison, during marine mammal observations made for offshore oil and gas activities conducted by Shell Oil Company (Shell) in the Chukchi Sea in 2015, PSOs recorded 500 sightings of 1,397 individual Pacific walruses (Ireland and Bisson 2016). The average number per observation was only 1.5, but on several occasions, groups of more than 100 animals were observed with a maximum group size of 243 animals. Quintillion's work will move through the range of the Pacific walrus more quickly in 2017 than in 2016 and the work season will be shorter than that of Shell's in 2015. In general, summer densities in the project area are unpredictable, and distributions clumpy, but it is reasonable to expect that 500 or more Pacific walruses may be encountered.

Most of the Pacific walruses encountered will show no response or only a low-level behavioral response. Quintillion's avoidance and minimization measures will reduce the likelihood of more significant disruptions of normal behaviors, but despite these measures, some animals may show more acute responses, particularly if encountered at closer range or disturbed while resting on ice. During 2016, Quintillion PSOs reported six encounters involving eight individuals within 50 m (31 ft) of the vessels. Eight groups comprising 183 total animals were observed hauled out on ice floes; the largest group had 70 animals. Encounters among ice could cause animals to leave ice-based haulouts, resulting in a disruption of important resting, nursing, and social behaviors. Given the possibility that any encounter involving Pacific walruses might involve large groups, and that work may occur near ice, Quintillion requested take of up to 250 Pacific walruses by Level B harassment based on the maximum estimated size of haulouts on sea-ice.

Potential Impacts on the Pacific Walrus Stock

Although 250 Pacific walruses (approximately 0.2 percent of the population) could potentially be taken by Level B harassment due to the possibility of significant behavioral responses, most events are unlikely to have consequences for the health, reproduction, or survival of affected animals.

Disturbance from noise is most likely to be caused by propeller cavitation and thruster noise during cable laying and ice management. Sound production is not expected to reach levels capable of causing harm. Animals in the area are not expected to incur hearing impairment (*i.e.,* PTS) or non-auditory physiological effects, but could experience TTS due to prolonged exposure to underwater sound. Level A harassment is not authorized. Pacific walruses exposed to sound produced by the project are likely to respond to proposed activities with temporary behavioral modification or displacement. With the adoption of the mitigation measures required by this proposed IHA, we conclude that the only anticipated effects from noise generated by the proposed action would be short-term temporary behavioral alterations of small numbers of Pacific walruses.

Vessel-based activities could temporarily interrupt the feeding, resting, and movement of Pacific walruses. Ice management activities could cause animals to abandon haulouts on ice. Because offshore activities are expected to move relatively quickly, impacts associated with the project are likely to be temporary and localized. The anticipated effects include short-term behavioral reactions and displacement of small numbers of Pacific walruses in the vicinity of active operations.

Areas affected by the proposed action will be small compared to the regular movement patterns of the population, indicating that animals will be capable of retreating from or avoiding the affected areas. Animals that encounter the proposed activities may exert more energy than they would otherwise due to temporary cessation of feeding, increased vigilance, and retreat from the project area, but we expect they would tolerate this exertion without measurable effects on health or reproduction. Adoption of the measures specified in Mitigation and Monitoring are expected to reduce the intensity of disturbance events and minimize the potential for injuries to animals. In sum, we do not anticipate injuries or mortalities to occur as a result of Quintillion's subsea cable-laying operation, and none will be authorized. The takes that are anticipated would be from short-term Level B harassment in the form of brief startling reactions or temporary displacement.

The estimated level of take by harassment is small relative to the most recent stock abundance estimate for the Pacific walrus. A take level of 250 represents 0.2 percent of the best available estimate of the current population size of 129,000 animals (Speckman *et al.* 2011) (250/129,000 ≈ 0.002). No long-term biologically significant impacts to Pacific walruses are expected.

Take Calculations for Polar Bears

Quintillion's 2017 activities have the potential to cause Level B take due to harassment of polar bears. Polar bears are most likely to be observed during cable-laying activities along the Oliktok branch route. The Oliktok branch passes through a chain of barrier islands that parallels the coast. This region is often inhabited by polar bears in summer and fall. Quintillions PSOs observed polar bears at these locations in 2016, although usually at long distances.

Polar bears are widely distributed among sea-ice and may be encountered during ice management operations near Point Barrow. Ice management activities will involve maneuvering broken ice with a tug. Quintillion's PSOs will monitor for marine mammals; ice management will not occur if polar bears are observed in the area. Observers are not always capable of detecting every animal and ice management work could, therefore, disturb polar bears among sea-ice.

There is a low probability of encounters while Quintillion is conducting proposed O&M activities in the Chukchi Sea. Quintillion's vessels will operate there during the open-water period, and will avoid sea-ice for safety reasons. Encounters with polar bears swimming in open water are uncommon. In 2016, Quintillion PSOs observed one bear swimming at sea.

Quintillion's 2017 activities could encounter polar bears from either the CS or the SBS stock. Polar bears encountered near Oliktok Point are most likely to be from the SBS stock. Those observed in the Chukchi Sea or near Wainwright, Point Hope, Kotzebue, or Nome are probably from the CS stock. Bears near Utqiagvik may be from either population.

The expected number of takes was calculated by assuming a similar number of bears would be encountered in 2017 as in 2016, and further assuming that any encounter could result in take. In 2016, Quintillion's PSOs reported 12 observations of 18 bears between 5 m–4.6 km (16 ft–2.9 mi) from the vessels. Quintillion has, therefore, requested take of 20 polar bears, 10 each from the SBS and CS stock. This calculation represents a conservative approach to take estimation and it is likely to be an overestimate of the actual level of take. Of the 18 polar bears observed in 2016, 2 bears changed their direction of travel to avoid the activities; others had no apparent response to Quintillion's vessels. Based on observation data from

the oil and gas industry, 81 percent of encounters result in instances of non-taking. Therefore, the probable level of take is much lower than that requested.

Potential Impacts on the Stock of Polar Bears

Take of ten bears from the CS stock represents approximately 0.5 percent of the estimated population size (10 ÷ approximately 2,000 = 0.005). Ten bears from the SBS stock is approximately 1 percent (10 ÷ 900 = 0.011) of that stock. Most bears will show little if any response, but some may be harassed by Quintillion's work, particularly during encounters at close range.

The majority of encounters that cause polar bears to react are not expected to have long-term consequences for the affected animals. Although flight responses, abandonment of feeding areas, or other mid-level responses have the potential to reduce the long-term survival or reproductive capacity of an individual, most of the animals that show these types of responses will be able to tolerate them without consequences to survival and fitness.

We expect Quintillion's activities to have no impacts to the SBS or CS stocks of polar bears for the following reasons: (1) The majority of the polar bears from each stock will not come in contact with Quintillion's activities; (2) only small numbers of Level B take will occur; (3) take events are unlikely to have significant consequences for most polar bears; and (4) the monitoring requirements and mitigation measures described in Mitigation and Monitoring will further reduce potential impacts.

Potential Impacts on Subsistence Uses

The proposed activities will occur near the marine subsistence harvest areas used by Alaska Natives from the villages of Nome, Wales, Diomede, Kotzebue, Kivalina, Point Hope, Point Lay, Wainwright, Utqiagvik, and Nuiqsut.

Between 1989 and 2016, approximately 3,126 Pacific walruses were harvested annually in Alaska. The years 2013–2016 were low harvest years with an average of 1,433 Pacific walruses per year. Lower harvest rates in recent years may be related to changes in sea-ice dynamics (Ray *et al.* 2016). Statewide harvest estimates are adjusted for underreporting and for animals that are struck and lost.

Most of the Pacific walrus harvest (85 percent) was by the villages of Gambell and Savoonga on St. Lawrence Island, located 135 km (84 mi) south of the geographic region of the Quintillion cable project. Relative to the village population size (556), Pacific walruses are also an important staple for the community of Wainwright, where a reported 27 Pacific walruses were taken annually from 2007 through 2016. The village of Diomede (population of approximately 115) reported harvest of an average of 21 Pacific walruses per year during that period. The villages of Point Hope (population approximately 699) and Wales (population approximately 145), both reported an average of 5–6 Pacific walruses taken each year. Nome (population approximately 4,000) reported harvest of 9 Pacific walruses per year, and Utqiagvik (population approximately 4,000), harvested 15 Pacific walruses per year from 2007 through 2016. Estimates of harvest by village have not been corrected for struck and lost animals or underreporting.

The total reported Alaska Native harvest of polar bears from 1990 through 2013 was 1,576 bears. Harvest levels varied considerably during this period, ranging from 16 to 107 bears, but the average was 65 polar bears per year. Harvest rates are declining by about 3 percent per year, and the average annual harvest from 2004 through 2013 was closer to 50 polar bears. Within the project area, the villages of Utqiagvik, Nome, Point Hope, Point Lay, Kivalina, Kotzebue, Nuiqsut, Shishmaref, Wainwright, and Wales regularly harvested polar bears. Of these, Utqiagvik, Point Hope, and Wainwright harvested the greatest numbers, averaging 16, 12, and 6 polar bears per year, respectively, during 1990 through 2014. Diomede, Savoonga, and Gambell harvested an annual average of 5, 6, and 7 animals each. No project work will occur near St. Lawrence Island and Little Diomede Island, but project vessels may pass nearby.

In only a few locations could the proposed project area significantly overlap with subsistence harvest areas. These locations include the portion of the route passing between the villages of Diomede and Wales, the branching line into Wainwright, and the branching line and ice management areas near Point Barrow (*i.e.,* near Utqiagvik). Quintillion's vessels are not expected to affect subsistence harvest near Diomede because polar bears and Pacific walruses hunted there are usually taken from sea-ice and Quintillion's vessels will not travel through areas of sea-ice in the Chukchi Sea.

The cable route passes within 30 km (19 mi) of both Wainwright and Utqiagvik, and branching lines go directly to both villages. Ice management is possible near Point Barrow in July. Wainwright hunters usually take polar bears when sea-ice is present in winter and spring. Pacific walruses are harvested from drifting ice floes near Wainwright and Utqiagvik during July and August (Bacon *et al.* 2009). Utqiagvik harvests polar bears throughout the year. Quintillion will not be operating near Wainwright when seasonal sea-ice is present. Thus, the cable-laying project is not expected to affect the Pacific walrus or polar bear hunt in Wainwright. Quintillion will coordinate with Utqiagvik hunters and employ PSOs to watch for Pacific walruses and polar bears in order to avoid conflicts during ice management or O&M activities near Point Barrow.

Pacific walruses and polar bears from the CS stock are usually taken from sea-ice in winter and spring. As mentioned, Quintillion will not operate among sea-ice in the Chukchi Sea. Therefore, the proposed project timetables relative to the seasonal timing of the various village harvest periods will minimize the impacts to subsistence hunting. However, polar bears from the SBS stock may be harvested at any time of year. Quintillion will work closely with the affected villages and the Eskimo Walrus Commission (EWC) to minimize effects the project might have on subsistence harvest.

Mitigation and Monitoring

Quintillion has adopted a marine mammal monitoring and mitigation plan (4MP) that describes the avoidance and minimization measures. The plan describes measures to avoid interactions with Pacific walruses and polar bears wherever possible, especially in habitat areas of significance. The PSOs will be employed to watch for marine mammals and to initiate adaptive measures in response to the presence of Pacific walruses or polar bears. A Plan of Cooperation (POC) has also been developed and will be implemented to facilitate coordination with subsistence users. Work will be scheduled to minimize activities in hunting areas during subsistence harvest periods. Quintillion will communicate closely with the EWC and the villages to ensure subsistence harvest is not disrupted. These documents are available for public review as specified in **ADDRESSES**.

Avoidance

For the proposed Quintillion subsea cable-laying operations, the primary means of minimizing potential consequences for Pacific walruses, polar bears, and subsistence users is routing the cable to avoid concentration areas and important habitat. Most of the main trunk line is 30–150 km (19–93 mi) offshore, thereby avoiding nearshore

Pacific walrus concentrations and terrestrial haulouts. No work will be done near Point Lay, where large haulouts may seasonally occur, or near the HSWUA, where Pacific walrus feeding aggregations may occur. The timing of activities allows the project to avoid impacts to polar bear dens.

Where cable end branches will come ashore, landings will be conducted at right angles to the coastline and immediately adjacent to the respective village (except at Oliktok Point where no village exists) to avoid Pacific walrus haulouts and minimize activities near barrier islands and coastal areas that provide habitat for polar bears that is free from disturbance.

The proposed action will not occur north of the Bering Strait until July 1, which will allow Pacific walruses the opportunity to disperse from the confines of the spring lead system and minimize interactions with subsistence hunters. Quintillion's O&M and cable-laying work must avoid sea-ice for safety reasons. In doing so, Quintillion will avoid ice habitat used by Pacific walruses and polar bears. The only region where sea-ice may be encountered will be north of Point Barrow. Quintillion may use a tug to maneuver broken ice away from the cable-laying vessel in order to transit through the region if needed after July 1. Quintillion has determined that if early-season access is possible and ice management can be done safely, it would not be practicable for the project to delay work by waiting for the sea ice to disperse. Early season access to the Beaufort Sea will help to complete the project prior to the end of the season and will reduce potential for conflict with the fall subsistence harvest of bowhead whales.

Vessels will be operated at slow speeds to avoid injuries and disturbances. Collisions between vessels and marine mammals are rare in waters of Alaska, and when they do occur, they usually involve fast-moving vessels. Observers will monitor for marine mammals and apply speed restrictions, alter course, or reduce sound production whenever possible when animals are present. Ships will not be able to alter course or speed to avoid marine mammals during cable laying, but this work will be conducted at slow speeds (0.6 km/h (0.37 mi/h or 0.32 kn)) and constant sound production levels. This activity will provide ample warning, allowing Pacific walruses and polar bears to avoid the vessels before they are close enough to cause harm. Maximum underwater sound levels produced by project activities will not be loud enough to cause hearing damage (*i.e.,* PTS). In most cases, animals will also be able to retreat from the vessels without experiencing Level B take from either sound exposure (*i.e.,* TTS) or biologically significant behavioral responses.

Vessel-Based Protected Species Observers (PSOs)

Quintillion has proposed to employ vessel-based PSOs to watch for and identify marine mammals, to record their numbers, locations, distances, and reactions to the operations, and to implement appropriate adaptive measures. Observers will monitor whenever the activities of the *Ile de Batz* are expected to produce sound above 120 dB. This activity will include transit to and from work sites, ice management, pre-trenching, cable laying, and O&M work (including use of the ROV and placement of concrete mattresses). The vigilance of PSOs will help minimize encounters with Pacific walruses and polar bears when the possibility of encounters cannot be avoided outright. This oversight is especially important in habitat areas of significance for these species, including the barrier islands and nearshore coastal habitats used by polar bears for refuge from disturbance, and among the marginal sea-ice, used by both species for hunting and foraging.

Observers will conduct this monitoring during all daylight periods of operation throughout the work season. A sufficient number of trained PSOs will be required onboard each vessel to achieve 100 percent monitoring coverage of these periods with a maximum of 4 consecutive hours on watch and a maximum of 12 hours of watch time per day per PSO. Nighttime observations will be made opportunistically using night-vision equipment. Quintillion has determined that monitoring by PSOs is not feasible during use of the construction barge, the pontoon barge, or the small river tug due to the limited space aboard these vessels. Encounters with Pacific walruses are not a concern for these vessels because they will not operate in suitable habitat areas. However, polar bears may be present. The vessel crews will remain vigilant for polar bears and will implement all relevant measures specified in the 4MP if a polar bear is observed.

Observers will monitor all areas around project vessels to the outer radius of the 120-dB ensonification zone. Specific distances monitored will depend on the activity being conducted. Greater distances will be monitored during louder activities, including use of the sea plow and use of dynamic positioning thrusters. Monitoring zones will range from 1.7 to 5.4 km (1.0–3.4 mi) from the vessels.

Each vessel will have an experienced field crew leader to supervise the PSO team and will consist of individuals with prior experience as marine mammal monitoring observers, including experience specific to Pacific walruses and polar bears. New or inexperienced PSOs will be paired with an experienced PSO so that the quality of marine mammal observations and data recording is kept consistent. Resumes for candidate PSOs will be made available for the Service to review. All observers will have completed a training course designed to familiarize individuals with monitoring and data collection procedures. The PSOs will be provided with Fujinon 7 × 50 or equivalent binoculars. Laser range finders (Leica LRF 1200 or equivalent) will be available to assist with distance estimation.

All location, weather, and marine mammal observation data will be recorded onto a standard field form or database. Global positioning system and weather data will be collected at the beginning and end of a monitoring period and at every 30 minutes in between. Position data will also be recorded at the change of an observer or the sighting of a Pacific walrus or polar bear. Enough position data will be collected to map an accurate charting of vessel travel. Observations of Pacific walruses and polar bears will also include group size and composition (adults/juveniles), behavior, distance from vessel, presence in any applicable ensonification zone, and any apparent reactions to the project activities. Data forms or database entries will be made available to the Service upon request.

Acoustic Monitoring

Sound source verification was conducted in 2016 for Quintillion's vessels and activities. The noise levels are expected to be similar in 2017. No additional SSV is planned.

Pacific walruses may be exposed to underwater sound levels capable of causing take by Level B harassment. Sound pressure levels greater than 180 dB could cause temporary shifts in hearing thresholds. Repeated or continuous exposure to sound levels between 160 and 180 dB may also result in TTS, although this result is unlikely for most Pacific walruses. Exposures above 160 dB are more likely to elicit behavioral responses. For this reason, observers will monitor the 120-dB ensonification zone for the presence of approaching Pacific walruses. The 160-dB zone (inclusive of the 180-dB zone) will be monitored for animals that may

be exposed to high levels of sound. The radius of these zones will depend on the activity being conducted. Observers will also record the distance from the animals upon initial observation, the duration of the encounter, and the distance at last observation in order to monitor cumulative sound exposures. Observers will note any instances of animals lingering close to or traveling with vessels for prolonged periods of time.

Adaptive Measures

When the cable ships are traveling in Alaska waters to and from the project area (before and after completion of cable laying and O&M work) and during all travel by support vessels, operators will follow these measures:

• Avoid potential interactions with any and all Pacific walruses and polar bears by reducing speed to less than 9.4 km/h (5.8 mi/h or 5 kn), altering course, or reducing sound production when animals are observed within 0.8 km (0.5 mi). Achieve changes in speed or course gradually to avoid abrupt maneuvers whenever possible.

• Do not approach Pacific walruses or polar bears within 0.8 km (0.5 mi).

• Reduce speed to less than 9.4 km/h (5.8 mi/h or 5 kn) when visibility drops (such as during inclement weather, rough seas, or at night) to allow marine mammals to avoid project vessels (during cable laying, the normal vessel speed is less than 9.4 km/h (5.8 mi/h or 5 kn)).

• Avoid sea-ice used by Pacific walruses or polar bears. Observers will monitor all project activities before commencing ice management and continuously during ice management. If Pacific walruses or polar bears are detected anywhere along the transit route, ice management will not commence. If animals are detected while vessels are underway, all project activities will cease or be reduced to the minimum level necessary to maintain safety of the vessels and crew. Forward progress can resume after the animals have departed of their own accord to a distance of at least 1.6 km (1 mi) from the vessels and route.

• Do not operate vessels in such a way as to separate members of a group of Pacific walruses or polar bears from other members of the group.

• If Pacific walruses are observed on land, ensure that vessels maintain a 1.6-km (1-mi) separation distance.

• Report any behavioral response indicating more than Level B take due to project activities to the Service immediately but not later than 48 hours after the incident, including separation of mother from young, stampeding haulouts, injured animals, and animals in acute distress.

Measures To Reduce Impacts to Subsistence Users

Holders of an IHA must cooperate with the Service and other designated Federal, State, and local agencies to monitor the impacts of proposed activities on marine mammals and subsistence users. Quintillion has coordinated with the Service, NMFS, and the Army Corps of Engineers, along with communities and subsistence harvest organizations. Specifically, Quintillion has coordinated with EWC, Utqiagvik Whaling Captains Association members and board, the Community of Wainwright, Wainwright Whaling Captains, Point Hope Community, Tikigaq Whaling Captains, the Northwest Arctic Borough, Kotzebue City Management, the Community of Kotzebue, Maniilaq Association, Kawerak Incorporated, the Nome Community, and Kuukpik Corporation.

Communications will continue throughout the project through public service announcements on KBRW and KOTZ radio stations, messaging on the Alaska Rural Communications Service television network, local newspapers, and 1–800 comment lines. At the end of the work season Quintillion will conduct community meetings at the affected villages to discuss and summarize project completion. In coordination with these agencies and organizations, Quintillion has agreed to the following actions to minimize effects on subsistence harvest by Alaska Native communities:

• Schedule cable-laying operations to avoid conflict with subsistence harvest.

• Where faults are found, schedule O&M work around local subsistence activity.

• Plan routes in offshore waters away from nearshore subsistence harvest areas.

• Develop and implement a POC to coordinate communication.

• Participate in the Automatic Identification System for vessel tracking to allow the cable-laying fleet to be located in real time.

• Monitor local marine radio channels for communication with local vessel traffic.

• Distribute a daily report by email to all interested parties. Daily reports will include vessel activity, location, subsistence/local information, and any potential hazards.

Reporting Requirements

Holders of an IHA must keep the Service informed of the impacts of authorized activities on marine mammals by: (1) Notifying the Service at least 48 hours prior to commencement of activities; (2) reporting immediately but no later than 48 hours, any occurrence of injury or mortality due to project activities; (3) submitting project reports; and (4) notifying the Service upon project completion or at the end of the work season.

Weekly reports will be submitted to the Service each Thursday during the weeks that cable-laying activities take place. The reports will summarize project activities, monitoring efforts conducted by PSOs, numbers of Pacific walruses and polar bears detected, the number of Pacific walruses exposed to sound levels greater than 160 dB, and all behavioral reactions of Pacific walruses and polar bears to project activities.

A final report will be submitted to the Service within 90 days after the end of the project or the end of the open-water season, whichever comes first. The final report will describe all monitoring conducted during Quintillion's activities and provide results. The report will include the following:

• Summary of monitoring effort (total hours of monitoring, activities monitored, number of PSOs).

• Summary of project activities completed and additional work yet to be done.

• Analyses of the factors influencing visibility and detectability of Pacific walruses and polar bears (*e.g.,* sea state, number of observers, and fog/glare).

• Discussion of location, weather, ice cover, sea state, and other factors affecting the presence and distribution of Pacific walruses and polar bears.

• Number, location, distance/direction from the vessel, and initial behavior of any sighted Pacific walruses and polar bears upon detection.

• Dates, times, locations, heading, speed, weather, and sea conditions (including sea state and wind force), as well as description of the specific activity occurring at the time of the observation.

• Estimated distance from the animal or group at closest approach and at the end of the encounter.

• Duration of encounter.

• An estimate of the number of Pacific walruses that have been exposed to noise (based on visual observation) at received levels greater than or equal to 160 dB with a description of the responses (changes in behavior).

• Estimates of uncertainty in all take estimates, with uncertainty expressed by the presentation of confidence limits, a minimum-maximum, posterior probability distribution, or another

applicable method, with the exact approach to be selected based on the sampling method and data available.

- A description of the mitigation measures implemented during project activities and their effectiveness for minimizing the effects of the proposed action on Pacific walruses and polar bears.
- An analysis of the effects of operations on Pacific walruses and polar bears.
- Occurrence, distribution, and composition of sightings, including date, water depth, numbers, age/size/gender categories (if determinable), group sizes, visibility, location of the vessel, and location of the animal (or distance and direction to the animal from the vessel) in the form of electronic database or spreadsheet files.
- A discussion of any specific behaviors of interest.

Notification of Injured or Dead Marine Mammals

In the unexpected event that the specified activity causes the take of a Pacific walrus or polar bear in a manner not authorized by the IHA, such as an injury or mortality (*e.g.,* ship-strike), Quintillion must cease activities or reduce them to the minimum level necessary to maintain safety and report the incident to the Service immediately and no later than 48 hours later. Activities will not continue until the Service reviews the circumstances and determines whether additional measures are necessary to avoid further take and notifies Quintillion that activities may resume. The report will include the following information:

- Time, date, location (latitude/longitude), and description of the incident;
- Name and type of vessel involved;
- Vessel's speed during and leading up to the incident;
- Description of all sound sources used in the 24 hours preceding the incident;
- Environmental conditions (*e.g.,* wind speed and direction, cloud cover, visibility, and water depth);
- All Pacific walrus and polar bear observations in the preceding 24 hours;
- Description of the animal(s) involved and fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

In the event that Quintillion discovers an injured or dead Pacific walrus or polar bear, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), Quintillion must report the incident to the Service within 48 hours of the discovery. Quintillion will provide photographs or video footage (if available) or other documentation to the Service.

Mitigation Conclusions

We have carefully evaluated Quintillion's proposed mitigation measures and considered a range of other measures of ensuring that the cable project will have the least practicable impact on polar bears, Pacific walruses, and their habitat. Our evaluation considered the following: (1) The manner in which, and the degree to which, the successful implementation of the measures are expected to minimize adverse impacts to the animals; (2) the proven or likely efficacy of the measures to minimize adverse impacts as planned; and (3) the practicability of the measures for applicant implementation. The expected effects of the prescribed mitigation measures are as follows:

- Avoidance of injury or death of polar bears and Pacific walruses.
- Reduction in the numbers of polar bears and Pacific walruses exposed to activities expected to result in the take of marine mammals.
- Reduction in the number of times individuals would be exposed to project activities.
- A reduction in the intensity of exposures to activities expected to result in the take of Pacific walruses and polar bears.
- Avoidance or minimization of adverse effects to important Pacific walrus and polar bear habitat, especially den sites, barrier islands, haulout areas, sea-ice, and foraging areas.
- An increase in the probability of detecting Pacific walruses and polar bears through vessel-based monitoring, allowing for more effective implementation of adaptive mitigation measures.
- Reduction in the likelihood of affecting Pacific walruses and polar bears in a manner that would alter their availability for subsistence uses.

Based on our evaluation of the proposed mitigation measures, we have determined that these measures provide the means of effecting the least practicable impact on Pacific walruses, polar bears, and their habitat. These measures will also minimize any effects the project will have on the availability of the species or stock for subsistence uses.

Findings

Small Numbers

For small take analyses, the statute and legislative history do not expressly require a specific type of numerical analysis, leaving the determination of ''small'' to the agency's discretion. In this case, we propose a finding that the Quintillion project may take up to 250 Pacific walruses and 20 polar bears by Level B harassment, and that these values constitute small numbers of animals. Factors considered in our small numbers determination include the number of animals in the affected area, the size of the affected area relative to available habitat, and the expected efficacy of mitigation measures.

First, the number of Pacific walruses and polar bears inhabiting the proposed impact area is small relative to the size of the populations. The potential exposures for the 2017 cable-laying period are based on estimated density and encounter rates during previous work. An allowance for the clumped distribution of Pacific walruses was also included, resulting in a total estimate of take of approximately 250 animals. This amount is about 0.2 percent of the population size of 129,000 estimated by Speckman *et al.* (2011). The number of polar bears was estimated based on past encounter rates to be 10 each from the CS and SBS stocks. This amount is approximately 0.5 percent of the CS stock and about 1 percent of the SBS stock.

Second, the area where the proposed activities will occur is a small fraction of the available habitat for Pacific walruses and polar bears. Cable-laying activities will have temporary impacts to Pacific walrus and polar bear habitat along a 175-km (109-mi) linear corridor of marine waters and coastal lands in Alaska. Underwater sound levels greater than 160 dB may affect a total area of up to 14 km^2 (5.4 mi^2). Trenching of the seafloor may disturb the benthos along the cable route, affecting a total area of approximately 0.38 km^2 (0.15 mi^2). Given the expansive range and distribution of both polar bears and Pacific walruses, these areas constitute a small fraction of the available habitat. These impacts will be temporary and localized, and will not impede the use of an area after the project activities are complete.

Third, monitoring requirements and mitigation measures are expected to limit the number of takes. The cable activities will avoid den sites, sea-ice, terrestrial haulouts, and important feeding habitat. Adaptive mitigation measures will be implemented when areas that are used by Pacific walruses and polar bears cannot be avoided. These measures will include changes in speed or course when Pacific walruses or polar bears could come within 0.8 km (0.5 mi), as well as maintaining a 1.6-km

(1-mi) distance from Pacific walruses observed on land. These measures are expected to prevent take by Level A harassment and to minimize take by Level B harassment, especially in habitat areas of particular importance. Vessel activities will be monitored by PSOs, and unexpected impacts will be reported to the Service. No take by injury or death is anticipated or authorized. Monitoring and reporting will allow the Service to reanalyze and refine future take estimates and mitigation measures as activities continue in Pacific walrus and polar bear habitat in the future. Should the Service determine, based on monitoring and reporting, that the effects are greater than anticipated, the authorization may be modified, suspended, or revoked. For these reasons, we propose a finding that the Quintillion project will involve takes by Level B harassment of only a small number of animals.

Negligible Impact

We propose a finding that any incidental take by harassment resulting from the proposed Quintillion cable-laying operation cannot be reasonably expected to, and is not reasonably likely to, adversely affect the Pacific walrus or the polar bear through effects on annual rates of recruitment or survival and would, therefore, have no more than a negligible impact on the species or stocks. In making this finding, we considered the best available scientific information, including: (1) The biological and behavioral characteristics of the species; (2) the most recent information on species distribution and abundance within the area of the proposed action; (3) the potential sources of disturbance during the proposed action; and (4) the potential responses of animals to this disturbance. In addition, we reviewed material supplied by the applicant, other operators in Alaska, our files and datasets, published reference materials, and species experts.

Pacific walruses and polar bears are likely to respond to proposed activities with temporary behavioral modification or displacement. These reactions are unlikely to have consequences for the health, reproduction, or survival of affected animals. For Pacific walruses, a predominant source of disturbance is likely to be production of underwater sound by the cable-laying vessels. Sound production is not expected to reach levels capable of causing harm, and Level A harassment is not authorized. For polar bears, the sights, sounds, smells, and visual presence of vessels, workers, and equipment could all cause disturbances. Most animals will respond to disturbance by moving away from the source, which may cause temporary interruption of foraging, resting, or other natural behaviors. Affected animals are expected to resume normal behaviors soon after exposure, with no lasting consequences. Some animals may exhibit more severe responses typical of Level B harassment, such as fleeing, abandoning a haulout, or becoming separated from other members of a group. These responses could have significant biological impacts for a few affected individuals, but most animals will also tolerate this type of disturbance without lasting effects. Thus, although 250 Pacific walruses (approximately 0.2 percent of the stock) and 20 polar bears (0.5 percent of the CS stock and 1 percent of the SBS stock) are estimated to be taken (*i.e.,* potentially disturbed) by Level B harassment, we do not expect this type of harassment to affect annual rates of recruitment or survival or result in adverse effects on the species or stock.

Our proposed finding of negligible impact applies to incidental take associated with the proposed activities as mitigated by the avoidance and minimization measures. These mitigation measures are designed to minimize interactions with and impacts to Pacific walruses and polar bears. These measures, and the monitoring and reporting procedures, are required for the validity of our finding and are a necessary component of the IHA. For these reasons, we propose a finding that the 2017 Quintillion project will have a negligible impact on Pacific walruses and polar bears.

Impact on Subsistence

We propose a finding that the anticipated harassment caused by Quintillion's activities would not have an unmitigable adverse impact on the availability of Pacific walruses or polar bears for taking for subsistence uses. In making this finding, we considered the timing and location of the proposed activities and the timing and location of subsistence harvest activities in the area of the proposed action. We also considered the applicant's consultation with potentially affected subsistence communities and proposed measures for avoiding impacts to subsistence harvest.

Required Determinations

National Environmental Policy Act (NEPA)

We have prepared a draft Environmental Assessment (see **ADDRESSES**) in accordance with the NEPA (42 U.S.C. 4321 *et seq.*). We have preliminarily concluded that approval and issuance of an authorization for the nonlethal, incidental, unintentional take by Level B harassment of small numbers of Pacific walruses and polar bears in Alaska during cable-laying activities conducted by Quintillion in 2017 would not significantly affect the quality of the human environment, and that the preparation of an environmental impact statement for these actions is not required by section 102(2) of NEPA or its implementing regulations.

Endangered Species Act

Under the ESA, all Federal agencies are required to ensure the actions they authorize are not likely to jeopardize the continued existence of any threatened or endangered species or result in destruction or adverse modification of critical habitat. We reviewed the range-wide status of Pacific walruses in response to a 2008 petition to list this species. On February 10, 2011 (76 FR 7634), listing was found to be warranted, but was precluded due to higher priority listing actions (*i.e.,* the Pacific walrus is now a candidate species). The Service listed the polar bear as a threatened species throughout its range under the ESA on May 15, 2008, due to loss of sea-ice habitat caused by climate change (73 FR 28212). In 2010, the Service designated critical habitat for polar bears in the United States (75 FR 76086, December 7, 2010). Prior to issuance of this IHA, the Service will complete intra-Service consultation under Section 7 of the ESA on our proposed issuance of an IHA, which will consider whether the effects of the proposed project will adversely affect polar bears or their critical habitat. In addition, we will review our previous evaluation on whether the effects of the proposed activities will jeopardize the continued existence of the Pacific walrus. These evaluations and findings will be made available on the Service's Web site at *http://www.fws.gov/alaska/fisheries/mmm/iha.htm.*

Government-to-Government Coordination

It is our responsibility to communicate and work directly on a Government-to-Government basis with federally recognized Alaska Native tribes and organizations in developing programs for healthy ecosystems. We seek their full and meaningful participation in evaluating and addressing conservation concerns for protected species. It is our goal to remain sensitive to Alaska Native culture, and to make information available to Alaska Natives. Our efforts are guided by the following policies and directives: (1) The Native American

Policy of the Service (January 20, 2016); (2) the Alaska Native Relations Policy (currently in draft form); (3) Executive Order 13175 (January 9, 2000); (4) Department of the Interior Secretarial Orders 3206 (June 5, 1997), 3225 (January 19, 2001), 3317 (December 1, 2011), and 3342 (October 21, 2016); (5) the Alaska Government-to-Government Policy (a Department of the Interior (DOI) memorandum issued January 18, 2001); and (6) the DOI's policies on consultation with Alaska Native tribes and organizations,

Alaska Natives have a long history of self-regulation, based on the need to ensure a sustainable take of marine mammals for food and handicrafts. Co-management promotes full and equal participation by Alaska Natives in decisions affecting the subsistence management of marine mammals (to the maximum extent allowed by law) as a tool for conserving marine mammal populations in Alaska. To facilitate co-management activities, the Service maintains cooperative agreements with the EWC and the Qayassiq Walrus Commission. We are currently seeking a partner for co-management of polar bears. These cooperative relationships help support a wide variety of management activities, including co-management operations, biological sampling programs, harvest monitoring, collection of Native knowledge in management, international coordination on management issues, cooperative enforcement of the MMPA, and development of local conservation plans. To help realize mutual management goals, the Service meets regularly with our co-management partners to discuss future expectations and outline a shared vision of co-management.

We have evaluated possible effects of the proposed activities on federally recognized Alaska Native tribes and organizations. Through the IHA process identified in the MMPA, the applicant has presented a communication process, culminating in a POC with the Native organizations and communities most likely to be affected by their work. Quintillion has engaged these groups in numerous informational meetings.

Through these various interactions and partnerships, we have determined that the issuance of this proposed IHA is permissible. We invite continued discussion, either about the project and its impacts, or about our coordination and information exchange throughout the IHA/POC process.

Proposed Authorization

We propose to issue an IHA for the incidental, unintentional take by Level B harassment of small numbers of Pacific walruses and polar bears during cable-laying activities in the marine waters of Alaska and impacted coastal communities, as described in this document and in the applicant's petition. We neither anticipate nor propose authorization for intentional take or take by injury or death. If issued, this IHA will be effective immediately after the date of issuance through November 15, 2017.

If issued, this IHA will also incorporate the mitigation, monitoring, and reporting requirements described in this proposal. The applicant will be expected and required to implement and fully comply with those requirements. If the nature or level of activity changes or exceeds that described in this proposal and in the IHA petition, or the nature or level of take exceeds that projected in this proposal, the Service will reevaluate its findings. The Service may modify, suspend, or revoke the authorization if the findings are not accurate or the mitigation, monitoring, and reporting requirements described herein are not being met.

Dated: May 1, 2017.

Gregory E. Siekaniec

Regional Director, Alaska Region.

[FR Doc. 2017–11381 Filed 5–31–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVS01000. L71220000.EU0000. LVTFF1604850; N–94619; 11–08807; MO #4500101865; TAS: 14X1109]

Notice of Realty Action: Direct Sale of Public Land in Clark County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) is proposing a non-competitive (direct) sale of 3.75 acres of public land in Clark County, Nevada, to the Tabernacle of Praise Church, Inc. (Church) pursuant to the Southern Nevada Public Land Management Act of 1998 (SNPLMA), as amended, to resolve an unauthorized use of public lands. The sale will be subject to the applicable provisions of Section 203 of the Federal Land Policy and Management Act of 1976 (FLPMA) and BLM land sale regulations. The appraised fair market value for the sale parcel is $280,000.

DATES: Interested parties may submit written comments regarding this direct sale until July 17, 2017.

ADDRESSES: Mail written comments to the BLM Las Vegas Field Office, Assistant Field Manager, 4701 North Torrey Pines Drive, Las Vegas, NV 89130.

FOR FURTHER INFORMATION CONTACT: Manuela Johnson, Supervisory Realty Specialist, BLM Las Vegas Field Office at 702–515–5224. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The parcel is located in the City of Las Vegas on the corner of Buffalo Drive and Constantinople Avenue and is legally described as:

Mount Diablo Meridian, Nevada

T. 20 S., R. 60 E.,
Sec. 10, N½SW¼NW¼NW¼NW¼ and SE¼NW¼NW¼NW¼.

The area described contains 3.75 acres.

This sale is in conformance with the BLM Las Vegas Resource Management Plan decisions LD–1 and LD–2, approved on October 5, 1998. The Las Vegas Valley Disposal Boundary Environmental Impact Statement and Record of Decision issued on December 23, 2004, analyzed the sale parcel. The sale complies with Section 203 of FLPMA. Consistent with Section 203 of FLPMA, a tract of public land may be sold where, as a result of approved land use planning, sale of the tract meets the disposal criteria of that section: The tract is difficult and uneconomic to manage because of its location or other characteristics, such as the subject's history of use or current level of development, and is not suitable for management by another Federal department or agency. The subject parcel of land is located in a residential and commercial area. The lands proposed for the direct sale are not needed for Federal purposes and the United States has no present interest in the property. A parcel-specific Determination of National Environmental Policy Act Adequacy (DNA) document numbered DOI–BLM–NV–S010–2016–0104–DNA was prepared in connection with this Notice of Realty Action.

The land also meets the criteria for direct sale under FLPMA, Section 203(a)(3) and 43 CFR 2711.3–3(a),

''Direct sales (without competition) may be utilized, when in the opinion of the authorized officer, a competitive sale is not appropriate and the public interest would best be served by a direct sale.'' The parcel will be offered through direct sale procedures pursuant to 43 CFR 2711.3–3. The direct sale would not change the status quo in that no other land uses are expected for these lands and, pursuant to 43 CFR 2711.3–3(a)(5), a need exists to resolve inadvertent unauthorized use or occupancy of the lands.

The Church previously held a lease under the Recreation and Public Purposes (R&PP) Act of June 14, 1926. The R&PP Act authorizes the lease or sale of public lands to qualified nonprofit organizations. However, the R&PP Act lease expired and went into default after a number of years. The property is developed and the BLM has declared an unauthorized use of occupancy of the public lands.

In accordance with 43 CFR 2711.2 qualified conveyees must be: (1) A citizen of the United States 18 years of age or older; (2) a corporation subject to the laws of any state or of the United States; (3) a state, state instrumentality, or political subdivision authorized to hold property; or (4) an entity legally capable of conveying and holding lands or interests therein under the laws of the State of Nevada. Evidence of United States citizenship is a birth certificate, passport, or naturalization papers. Failure to submit the above documents to the BLM within 30 days from receipt of the purchase price letter will result in cancellation of the sale and forfeiture of the deposit. Citizenship documents and Articles of Incorporation (as applicable) must be provided to the BLM-Las Vegas Field Office for each sale. The Church is allowed 180 days from the date of the sale to submit the remainder of the full purchase price.

According to SNPLMA as amended, Public Law 105–263 section 4(c), lands identified within the Las Vegas Valley Disposal Boundary are withdrawn from location and entry under the mining laws and from operation under the mineral leasing and geothermal leasing laws until such time as the Secretary terminates the withdrawal or the lands are patented. Any subsequent applications will not be accepted, will not be considered as filed, and will be returned to the applicant. The segregative effect of this Notice terminates upon issuance of a patent or other document of conveyance to such lands.

Terms and Conditions: All minerals for the sale parcel will be reserved to the United States. The patent, when issued, will contain a mineral reservation to the United States for all minerals. In response to requests to clarify this mineral reservation as it relates to mineral materials, such as sand and gravel, we refer interested parties to the regulation at 43 CFR 3601.71(b), which provides that the owner of the surface estate of lands with reserved Federal minerals may ''use a minimal amount of mineral materials for . . . personal use'' within the boundaries of the surface estate without a sales contract or permit. The regulation provides that all other use, absent statutory or other express authority, requires a sales contract or permit. We also refer interested parties to the explanation of this regulatory language in the preamble to the final rule published in the **Federal Register** in 2001, which stated that minimal use ''would not include large-scale use of mineral materials, even within the boundaries of the surface estate.'' 66 FR 58894 (Nov. 23, 2001). Further explanation is contained in BLM Instruction Memorandum No. 2014-085 (April 23, 2014), available on the BLM's Web site at *https://www.blm.gov/policy/im-2014-085.*

The public land would not be offered for sale to the Church until at least July 31, 2017, at the appraised fair market value of $280,000. A copy of the approved appraisal report is available at the address above. The patent, when issued to the Church (which will become the patentee), will be subject to the following terms, conditions, and reservations:

1. A right-of-way is reserved for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945);

2. All mineral deposits in the lands so patented, and to it, or persons authorized by it, the right to prospect for, mine, and remove such deposits from the same under applicable law and regulations to be established by the Secretary of the Interior are reserved to the United States, together with all necessary access and exit rights;

3. The parcel is subject to reservations for road, public utilities and flood control purposes, both existing and proposed, in accordance with the local governing entities' transportation plans;

4. The parcel is subject to all valid existing rights; and

5. An appropriate indemnification clause protecting the United States from claims arising out of the lessee's/patentee's use, occupancy, or occupations on the leased/patented lands.

Pursuant to the requirements established by Section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9620(h) (CERCLA), as amended, notice is hereby given that the land has been examined and no evidence was found to indicate that any hazardous substances have been stored for 1 year or more, nor had any hazardous substances been disposed of or released on the subject property. To the extent required by law, all parcels are subject to the requirements of Section 120(h) of CERCLA. It is Church's responsibility to be aware of all applicable Federal, state, and local government laws, regulations, and policies that may affect the subject lands, including any required dedication of lands for public uses. It is also the Church's responsibility to be aware of existing or prospective uses of nearby properties. When conveyed out of Federal ownership, the lands will be subject to any applicable laws, regulations, and policies of the applicable local government for proposed future uses. It is the responsibility of the Church to be aware through due diligence of those laws, regulations, and policies, and to seek any required local approvals for future uses. The Church should make itself aware of any Federal or state law or regulation that may affect the future use of the property. Any land lacking access from a public road or highway will be conveyed as such, and future access acquisition will be the responsibility of the Church.

The Church will have until 4:30 p.m., Pacific Standard Time (PST), 30 days from the date of receiving the sale offer to accept the offer and submit a deposit of 20 percent of the purchase price. The Church must remit the remainder of the purchase price within 180 days from the date of receiving the sale offer to the Las Vegas Field Office. Payment must be received in the form of a certified check, postal money order, bank draft, or cashier's check payable to the U.S. Department of the Interior—BLM. Failure to meet conditions established for this sale will void the sale and any funds received will be forfeited. The BLM will not accept personal or company checks.

Arrangements for electronic fund transfer to the BLM for the payment of the balance due must be made a minimum of two weeks prior to the payment date.

In accordance with 43 CFR 2711.3–1(f), within 30 days the BLM may accept or reject any offer to purchase, or interest therein from sale if the BLM authorized officer determines consummation of the sale would be inconsistent with any law, or for other reasons as may be provided by

applicable law or regulations. No contractual or other rights against the United States may accrue until the BLM officially accepts the offer to purchase and the full price is paid.

The parcel may be subject to land use applications received prior to publication of this Notice if processing the application would have no adverse effect on the marketability of title, or the fair market value of the parcel. Information concerning the sale, encumbrances of record, appraisals, reservations, procedures, and conditions, CERCLA, and other environmental documents that may appear in the BLM public files for the sale parcel is available for review during business hours, 7:30 a.m. to 4:30 p.m. PST, Monday through Friday, at the BLM-Las Vegas Field Office, except during Federal holidays.

The parcel of land will not be offered for sale prior to July 31, 2017. Only written comments submitted by postal service or overnight mail will be considered as properly filed. Electronic mail, facsimile, or telephone comments will not be considered.

Submit comments on this sale Notice to the address in the **ADDRESSES** section. Before including your address, phone number, email address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

Any adverse comments regarding the sale will be reviewed by the BLM Nevada State Director or other authorized official of the Department of the Interior, who may sustain, vacate, or modify this realty action in response to such comments. In the absence of any comments, this realty action will become the final determination of the Department of the Interior.

Authority: 43 CFR 2711.

Nicollee Gaddis,

Acting Assistant Field Manager, Division of Lands.

[FR Doc. 2017–11340 Filed 5–31–17; 8:45 am]

BILLING CODE 4310–HC–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–865–867 (Third Review)]

Stainless Steel Butt-Weld Pipe Fittings From Italy, Malaysia, and the Philippines; Institution of Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to the Tariff Act of 1930 (''the Act''), as amended, to determine whether revocation of the antidumping duty orders on stainless steel butt-weld pipe fittings from Italy, Malaysia, and the Philippines would be likely to lead to continuation or recurrence of material injury. Pursuant to the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission.

DATES: Effective June 1, 2017. To be assured of consideration, the deadline for responses is July 3, 2017. Comments on the adequacy of responses may be filed with the Commission by August 14, 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:

Background.—On February 23, 2001, the Department of Commerce (''Commerce'') issued antidumping duty orders on imports of stainless steel butt-weld pipe fittings from Italy, Malaysia, and the Philippines (66 FR 11257). Following first five-year reviews by Commerce and the Commission, effective December 11, 2006, Commerce issued a continuation of the antidumping duty orders on imports of stainless steel butt-weld pipe fittings from Italy, Malaysia, and the Philippines (71 FR 71530). Following the second five-year reviews by Commerce and the Commission, effective July 20, 2012, Commerce issued a continuation of the antidumping duty orders on imports of stainless steel butt-weld pipe fittings from Italy, Malaysia, and the Philippines (77 FR 42697). The Commission is now conducting third reviews pursuant to section 751(c) of the Act, as amended (19 U.S.C. 1675(c)), to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. Provisions concerning the conduct of this proceeding may be found in the Commission's Rules of Practice and Procedure at 19 CFR parts 201, subparts A and B and 19 CFR part 207, subparts A and F. The Commission will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by Commerce.

(2) The *Subject Countries* in these reviews are Italy, Malaysia, and the Philippines.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determinations, its full first five-year review determinations, and its expedited second five-year review determinations, the Commission defined the *Domestic Like Product* as all stainless steel butt-weld pipe fittings coextensive with Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission defined the *Domestic Industry* as all domestic producers of stainless steel butt-weld pipe fittings, although one domestic producer was excluded from the domestic industry under the related parties provision. In its full first five-year review determinations and its expedited second five-year review determinations, the

Commission defined the *Domestic Industry* as all domestic producers of stainless steel butt-weld pipe fittings.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the proceeding and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that information submitted in response to this request for information and throughout this proceeding or other proceeding may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is July 3, 2017. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is August 14, 2017. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's Handbook on E-Filing, available on the Commission's Web site at *https://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

No response to this request for information is required if a currently valid Office of Management and Budget (''OMB'') number is not displayed; the OMB number is 3117 0016/USITC No. 17–5–387, expiration date June 30, 2017. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determinations in the reviews.

Information To Be Provided in Response to This Notice of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country;* or produce *Subject Merchandise* in more than one *Subject Country,* you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country.* As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is an interested party under 19 U.S.C. 1677(9) and if so, how, including whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise*, a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business

association (a majority of whose members are interested parties under the statute), or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in each *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2010.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2016, except as noted (report quantity data in pounds and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from any *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2016 (report quantity data in pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from each *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from each *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in any *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2016 (report quantity data in pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in each *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in each *Subject Country* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in each *Subject Country* after 2010, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in each *Subject Country,* and such merchandise from other countries.

(13) (*Optional*) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions,

please explain why and provide alternative definitions.

Authority: This proceeding is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: May 24, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–11048 Filed 5–31–17; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. TA–131–042 and TPA–105–002]

North American Free Trade Agreement: Advice on the Probable Economic Effect of Providing Duty-Free Treatment for Currently Dutiable Imports Institution of Investigation and Scheduling of Hearing

AGENCY: United States International Trade Commission.

ACTION: Notice of investigation and scheduling of a public hearing.

SUMMARY: Following receipt on May 18, 2017, of a request from the United States Trade Representative (USTR), the Commission instituted Investigation Nos. TA–131–042 and TPA–105–002, *North American Free Trade Agreement: Advice on the Probable Economic Effect of Providing Duty-free Treatment for Currently Dutiable Imports.*

DATES:

June 7, 2017: Deadline for filing requests to appear at the public hearing.

June 13, 2017: Deadline for filing prehearing briefs and statements.

June 20, 2017: Public hearing.

June 26, 2017: Deadline for filing post-hearing briefs and submissions.

June 26, 2017: Deadline for filing all other written statements.

August 16, 2017: Transmittal of Commission report to the USTR.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. All written submissions should be addressed to the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Project Leader Jessica Pugliese (202–205–3064 or *jessica.pugliese@usitc.gov*) or Deputy Project Leader Diana Friedman (202–205–3433 or *diana.friedman@usitc.gov*) for information specific to this investigation. For information on the legal aspects of this investigation, contact William Gearhart of the Commission's Office of the General Counsel (202–205–3091 or *william.gearhart@usitc.gov*). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819 or *margaret.olaughlin@usitc.gov*). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its Web site (*https://www.usitc.gov*). 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.

SUPPLEMENTARY INFORMATION:

Background: In his letter of May 18, 2017, the USTR requested that the Commission provide certain advice under section 131 of the Trade Act of 1974 (19 U.S.C. 2151) and an assessment under section 105 (a)(2)(B)(i)(III) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 with respect to the effects of providing duty-free treatment for imports of products from Canada and Mexico.

More specifically, the USTR, under authority delegated by the President and pursuant to section 131 of the Trade Act of 1974, requested that the Commission provide a report containing its advice as to the probable economic effect of providing duty-free treatment for imports of currently dutiable products from Canada and Mexico on (i) industries in the United States producing like or directly competitive products, and (ii) consumers. The USTR asked that the Commission's analysis consider each article in chapters 1 through 97 of the *Harmonized Tariff Schedule of the United States* (HTS) for which tariffs will remain, taking into account implementation of U.S. commitments in the World Trade Organization. The USTR asked that the advice be based on the HTS in effect during 2017 and trade data for 2016.

In addition, the USTR requested that the Commission prepare an assessment, as described in section 105(a)(2)(B)(i)(III) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, of the probable economic effects of eliminating tariffs on imports from Canada and Mexico of any agricultural products currently still subject to U.S. tariffs under the North American Free Trade Agreement and described in the list attached to the USTR's request letter on (i) industries in the United States producing the products concerned, and (ii) the U.S. economy as a whole. The USTR's request letter and list of agricultural products are posted on the Commission's Web site at *https://www.usitc.gov.*

As requested, the Commission will provide its report to the USTR by August 16, 2017. The USTR indicated that those sections of the Commission's report that relate to the advice and assessment of probable economic effects will be classified. The USTR also indicated that he considers the Commission's report to be an interagency memorandum that will contain pre-decisional advice and be subject to the deliberative process privilege.

Public Hearing: A public hearing in connection with this investigation will be held at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC, beginning at 9:30 a.m. on June 20, 2017. Requests to appear at the public hearing should be filed with the Secretary no later than 5:15 p.m., June 7, 2017, in accordance with the requirements in the ''Submissions'' section below. All prehearing briefs and statements should be filed not later than 5:15 p.m., June 13, 2017, and all post-hearing briefs and statements should be filed not later than 5:15 p.m., June 26, 2017. For further information, call 202–205–2000.

Written Submissions: In lieu of or in addition to participating in the hearing, interested parties are invited to file written submissions concerning this investigation. All written submissions should be addressed to the Secretary, and should be received not later than 5:15 p.m., June 26, 2017. All written submissions must conform to the provisions of section 201.8 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.8). Section 201.8 and the Commission's Handbook on Filing Procedures require that interested parties file documents electronically on or before the filing deadline and submit eight (8) true paper copies by 12:00 p.m. Eastern Time on the next business day. In the event that confidential treatment of a document is requested, interested parties must file, at the same time as the eight paper copies, at least four (4) additional true paper copies in which the confidential information must be deleted (see the following paragraphs for further information regarding

confidential business information). Persons with questions regarding electronic filing should contact the Office of the Secretary, Docket Services Division (202–205–1802).

Confidential Business Information. Any submissions that contain confidential business information must also conform to the requirements of section 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the ''confidential'' or ''non-confidential'' version, and that the confidential business information is clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties.

The Commission may include some or all of the confidential business information submitted in the course of this investigation in the report it sends to the USTR. Additionally, all information, including confidential business information, submitted in this investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel (a) for cybersecurity purposes or (b) in monitoring user activity on U.S. government classified networks. The Commission will not otherwise disclose any confidential business information in a way that would reveal the operations of the firm supplying the information.

Summaries of Written Submissions: Persons wishing to have a summary of their position included in the report should include a summary with their written submission. The summaries will be published in an appendix to the report. The summary may not exceed 500 words, should be in MS Word format or a format that can be easily converted to MS Word, and should not include any confidential business information. The summary will be published as provided if it meets these requirements and is germane to the subject matter of the investigation. The Commission will list the name of the organization furnishing the summary and will include a link to the Commission's Electronic Document Information System (EDIS) where the full written submission can be found.

By order of the Commission.

Issued: May 26, 2017.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2017–11311 Filed 5–31–17; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–253 and 731–TA–132, 252, 271, 273, 532–534, and 536 (Fourth Review)]

Certain Circular Welded Pipe and Tube From Brazil, India, Korea, Mexico, Taiwan, Thailand, and Turkey; Institution of Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to the Tariff Act of 1930 (''the Act''), as amended, to determine whether revocation of the countervailing duty order on circular welded pipe and tube from Turkey and the antidumping duty orders on certain circular welded pipe and tube from Brazil, India, Korea, Mexico, Taiwan, Thailand, and Turkey would be likely to lead to continuation or recurrence of material injury. Pursuant to the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission.

DATES: Effective June 1, 2017. To be assured of consideration, the deadline for responses is July 3, 2017. Comments on the adequacy of responses may be filed with the Commission by August 14, 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:

Background.—On the dates listed below, the Department of Commerce issued a countervailing duty order and antidumping duty orders on the subject imports:

Order date	Product/country	Inv. No.	FR cite
5/7/84	Small diameter carbon steel pipe and tube/Taiwan	731–TA–132	49 FR 19369
3/7/86	Welded carbon steel pipe and tube/Turkey	701–TA–253	51 FR 7984
3/11/86	Welded carbon steel pipe and tube/Thailand	731–TA–252	51 FR 8341
5/12/86	Welded carbon steel pipe and tube/India	731–TA–271	51 FR 17384
5/15/86	Welded carbon steel pipe and tube/Turkey	731–TA–273	51 FR 17784
11/2/92	Circular welded non-alloy steel pipe/Brazil	731–TA–532	57 FR 49453
11/2/92	Circular welded non-alloy steel pipe/Korea	731–TA–533	57 FR 49453
11/2/92	Circular welded non-alloy steel pipe/Mexico	731–TA–534	57 FR 49453
11/2/92	Circular welded non-alloy steel pipe/Taiwan	731–TA–536	57 FR 49453

Following five-year reviews by Commerce and the Commission, effective August 22, 2000, Commerce issued a continuation of the countervailing duty order on imports of welded carbon steel pipe and tube from Turkey (65 FR 50960) and the antidumping duty orders on imports of certain pipe and tube from Brazil, India, Korea, Mexico, Taiwan, Thailand, and Turkey (65 FR 50955–50958). Following second five-year reviews by Commerce and the Commission, effective August 8, 2006, Commerce issued a continuation of (1) the countervailing duty order on imports of welded carbon steel standard pipe from Turkey, (2) the antidumping duty orders on imports of circular welded non-alloy pipes and tubes from Brazil, Korea, and Mexico, and (3) the antidumping duty orders on imports of

welded carbon steel pipe from India, Thailand, and Turkey (71 FR 44996). Effective August 14, 2006, Commerce issued a continuation of the antidumping duty orders on imports of certain circular welded carbon steel pipes and tubes from Taiwan and circular welded non-alloy steel pipe from Taiwan (71 FR 46447). Following third five-year reviews by Commerce and the Commission, effective July 17, 2012, Commerce issued a continuation of (1) the countervailing duty order on imports of circular welded carbon steel pipes and tubes from Turkey; (2) the antidumping duty orders on imports of certain circular welded carbon steel pipes and tubes from India, Thailand, and Turkey; (3) the antidumping duty orders on imports of certain circular welded non-alloy steel pipe from Brazil, Korea, Mexico, and Taiwan; and (4) the antidumping duty order on imports of certain circular welded carbon steel pipes and tubes from Taiwan. The Commission is now conducting fourth reviews pursuant to section 751(c) of the Act, as amended (19 U.S.C. 1675(c)), to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. Provisions concerning the conduct of this proceeding may be found in the Commission's Rules of Practice and Procedure at 19 CFR parts 201, subparts A and B and 19 CFR part 207, subparts A and F. The Commission will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are Brazil, India, Korea, Mexico, Taiwan, Thailand, and Turkey.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determinations, the Commission defined the *Domestic Like Product* as follows: (1) Small Diameter Circular Welded Carbon Steel Pipes and Tubes from Taiwan (Inv. No. 731–TA–132)—small diameter circular pipes and tubes (*i.e.,* with an outside diameter of at least 0.375 inch but not more than 4.5 inches); (2) Certain Circular Welded Carbon Steel Pipes and Tubes from Thailand and Turkey (Inv. Nos. 731–TA–252 and 701–TA–253)—standard pipe up to and including 16 inches in outside diameter; (3) Certain Circular Welded Carbon Steel Pipes and Tubes from India and Turkey (Inv. Nos. 731–TA–271 and 273)—standard pipe of not more than 16 inches in outside diameter; and (4) Certain Circular Welded Carbon Steel Pipes and Tubes from Brazil, Korea, Mexico, and Taiwan (Inv. Nos. 731–TA–532–534 and 536)—circular welded, non-alloy steel pipes and tubes of not more than 16 inches in outside diameter, except (a) finished conduit other than finished rigid conduit and (b) mechanical tubing that is not cold-drawn or cold-rolled. In its full first five-year review determinations, the Commission found one *Domestic Like Product* concerning the reviews listed in items (1)–(4) above, that is, circular welded non-alloy steel pipes and tubes up to and including 16 inches in outside diameter, regardless of wall thickness. In its full second and third five-year review determinations, the Commission again defined one *Domestic Like Product* in the same manner as it did in the first five-year reviews. It defined the *Domestic Like Product* corresponding to the circular welded pipe orders under review to be all circular, welded, non-alloy steel pipes and tubes not more than 16 inches in outside diameter.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determinations and full first, second, and third five-year review determinations, the Commission defined the *Domestic Industry* as all U.S. circular welded pipe producers.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the proceeding and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that information submitted in response to this request for

information and throughout this proceeding or other proceeding may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is July 3, 2017. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is August 14, 2017. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's Handbook on E-Filing, available on the Commission's Web site at *https://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117 0016/USITC No. 17–5–388, expiration date June 30, 2017. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determinations in the reviews.

Information To Be Provided in Response to This Notice of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country;* or produce *Subject Merchandise* in more than one *Subject Country,* you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country.* As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is an interested party under 19 U.S.C. 1677(9) and if so, how, including whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association (a majority of whose members are interested parties under the statute), or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping and/or countervailing duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in each *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2011.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2016, except as noted (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company

transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from any *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2016 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of *Subject Merchandise* imported from each *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from each *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in any *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2016 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in each *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in each *Subject Country* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in each *Subject Country* after 2011, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in each *Subject Country,* and such merchandise from other countries.

(13) (*Optional*) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This proceeding is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: May 24, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–11049 Filed 5–31–17; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA–201–75]

Crystalline Silicon Photovoltaic Cells' (Whether or Not Partially or Fully Assembled Into Other Products); Institution and Scheduling of Safeguard Investigation and Determination That the Investigation Is Extraordinarily Complicated

AGENCY: United States International Trade Commission.

ACTION: Notice of institution of investigation and scheduling of public hearings.

SUMMARY: Following receipt of a petition for import relief, as amended and properly filed on May 17, 2017, the Commission has instituted investigation No. TA–201–75 pursuant to section 202 of the Trade Act of 1974 (''the Act'') to determine whether crystalline silicon photovoltaic (''CSPV'') cells (whether or not partially or fully assembled into other products) are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported articles. The Commission has deemed the petition, as amended, to have been properly filed on May 17, 2017. The Commission has determined that this investigation is ''extraordinarily complicated'' and will make its injury determination within 128 days after the petition was filed, or by September 22, 2017. The Commission will submit to the President the report required within 180 days after the date on which the petition was filed, or by November 13, 2017.

DATES: Effective May 17, 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 investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted, pursuant to section 202 of the Act (19 U.S.C. 2252), in response to a petition, as amended and properly filed on May 17, 2017, by Suniva, Inc. (''Suniva''), a producer of CSPV cells and CSPV modules in the United States. Suniva seeks relief on CSPV cells (whether or not partially or fully assembled into other products).

The articles covered by this investigation are CSPV cells, whether or not partially or fully assembled into other products, including, but not limited to, modules, laminates, panels, and building-integrated materials. The investigation covers crystalline silicon photovoltaic cells of a thickness equal to or greater than 20 micrometers, having a p/n junction (or variant thereof) formed by any means, whether or not the cell has undergone other processing, including, but not limited to cleaning, etching, coating, and/or addition of materials (including, but not limited to, metallization and conductor patterns) to collect and forward the electricity that is generated by the cell.

Included in the scope of the investigation are photovoltaic cells that contain crystalline silicon in addition to other photovoltaic materials. This includes, but is not limited to, passivated emitter rear contact (''PERC'') cells, heterojunction with intrinsic thin-layer (''HIIT'') cells, and other so-called ''hybrid'' cells.

Articles under consideration also may be described at the time of importation as components for final finished products that are assembled after importation, including, but not limited to, modules, laminates, panels, and building-integrated materials.

Excluded from the investigation are CSPV cells, whether or not partially or fully assembled into other products, if the CSPV cells were manufactured in the United States.

Also excluded from the investigation are thin film photovoltaic products produced from amorphous silicon (a-Si), cadmium telluride (CdTe), or copper indium gallium selenide (CIGS).

Also excluded from the scope of the investigation are crystalline silicon photovoltaic cells, not exceeding 10,000mm^2 in surface area, that are permanently integrated into a consumer good whose function is other than power generation and that consumes the electricity generated by the integrated crystalline silicon photovoltaic cell. Where more than one cell is permanently integrated into a consumer good, the surface area for purposes of this exclusion shall be the total combined surface area of all cells that are integrated into the consumer good.

For Customs purposes, the CSPV cells covered by the investigation are provided for under Harmonized Tariff Schedule of the United States (''HTSUS'') subheading 8541.40.60. Within that 8-digit subheading, CSPV cells that are assembled into modules or panels are imported under HTSUS statistical reporting number 8541.40.6020, while CSPV cells that are not assembled into modules and are presented separately are imported under statistical reporting number 8541.40.6030. Inverters or batteries with CSPV cells attached can be imported under HTSUS subheadings 8501.61.00 and 8507.20.80, respectively. In addition, CSPV cells covered by the investigation may also be classifiable as DC generators of subheading 8501.31.80, when such generators are imported with CSPV cells attached. While HTSUS provisions are provided for convenience, the written description of the scope is dispositive.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 206, subparts A and B (19 CFR part 206).

Determination to institute this investigation.—Suniva initially submitted a petition on April 26, 2017. On May 1, 2017, Commission staff issued a letter requesting that Suniva clarify its description of the imported articles intended to be covered by the petition, provide more details concerning whether Suniva was ''representative of an industry'' within the meaning of section 202(a)(1) of the Act (19 U.S.C. 2252(a)(1)), and supply additional data on the performance indicators for the industry producing an article like or directly competitive with the imported article. On May 12, 2017, Suniva provided additional information to support its allegations. On May 17, 2017, Suniva further amended its petition and provided a revised description of the imported articles. The Commission determined that the petition, as amended, was properly filed as of May 17, 2017.

Determination that investigation is extraordinarily complicated.—The Commission has determined that this investigation is ''extraordinarily complicated'' within the meaning of section 202(b)(2)(B) of the Act (19 U.S.C. 2252(b)(2)(B)). The Commission's decision to designate this investigation ''extraordinarily complicated'' is based on the complexity of the issues, including the existence of antidumping and/or countervailing duty orders on certain imports covered by this investigation and the global supply chains for the imported articles under investigation. Ordinarily, the Commission would have been required to make its injury determination within 120 days after the petition was filed, or by September 14, 2017. The statute permits the Commission to take up to 30 additional days to make its injury determination in an investigation where it determines that the investigation is extraordinarily complicated. In this instance, the Commission intends to take eight extra days and make its injury determination by September 22, 2017.

Participation in the investigation and public service list.—Persons (other than petitioner) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, not later than 21 days after publication of this notice in the **Federal Register**. The Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited disclosure of confidential business information (CBI) under an administrative protective order (APO) and CBI service list.—Pursuant to section 206.17 of the Commission's rules, the Secretary will make CBI gathered in this investigation available to authorized applicants representing interested parties (as defined in 19 CFR 206.17(a)(3)(iii)) under the APO issued in the investigation, provided that the application is made not later than 21 days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive CBI under the APO.

The Commission may include CBI in the reports it sends to the President and to the U.S. Trade Representative. Additionally, all information, including CBI, submitted in this investigation may be disclosed to and used by (i) the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel for cybersecurity purposes. The Commission will not otherwise disclose any CBI in a manner that would reveal the operations of the firm supplying the information.

Hearings on injury and remedy.—The Commission has scheduled separate hearings in connection with the injury and remedy phases of this investigation. The hearing on injury will be held beginning at 9:30 a.m. on August 15, 2017, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. In the event that the Commission makes an affirmative injury determination or is equally divided on the question of injury in this investigation, a hearing on the question of remedy will be held beginning at 9:30 a.m. on October 3, 2017. Requests to appear at the hearings should be filed in writing with the Secretary to the Commission on or before August 9, 2017 for the injury hearing, and September 27, 2017 for the remedy hearing. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearings. All parties and nonparties desiring to appear at the hearings and make oral presentations should participate in prehearing conferences to be held on August 11, 2017 for the injury hearing and September 28, 2017 for the remedy hearing, if deemed necessary. Oral testimony and written materials to be submitted at the public hearings are governed by sections 201.6(b)(2) 201.13(f), and 206.5 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the respective hearings.

Written submissions.—Each party who is an interested party may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of sections 201.8, 206.7, and 206.8 of the Commission's rules. The deadline for filing prehearing briefs on injury is August 8, 2017; that for filing prehearing briefs on remedy, including any commitments pursuant to 19 U.S.C. 2252(a)(6)(B), is September 27, 2017. Parties may also file written testimony in connection with their presentation at the hearing, as provided in sections 201.13, 206.5, and 206.8 of the Commission's rules, and posthearing briefs, which must conform with the provisions of sections 201.8, 201.13, 206.7, and 206.8 of Commission's rules. The deadline for filing posthearing briefs for the injury phase of the investigation is August 22, 2017; the deadline for filing posthearing briefs for the remedy phase of the investigation, if any, is October 10, 2017. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the consideration of injury on or before August 22, 2017, and pertinent to the consideration of remedy on or before October 10, 2017. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain CBI must also conform with the requirements of sections 201.6 and 206.17 of the Commission's rules. The Commission's *Handbook on E-Filing,* available on the Commission's Web site at *https://www.usitc.gov/secretary/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's rules with respect to electronic filing.

Any additional written submission to the Commission, including requests pursuant to section 201.12 of the Commission's rules, will not be accepted unless good cause is shown for accepting such a submission, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with section 201.16(c) of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of Section 202 of the Act; this notice is published pursuant to section 203(b)(3) of the Act.

By order of the Commission.

Issued: May 23, 2017.

Katherine M. Hiner,

Supervisory Attorney.

[FR Doc. 2017–11013 Filed 5–31–17; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1058]

Certain Magnetic Tape Cartridges and Components Thereof Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 28, 2017, under section 337 of the Tariff Act of 1930, as amended, on behalf of Sony Corporation of Japan; Sony Storage Media Solutions Corporation of Japan; Sony Storage Media Manufacturing Corporation of Japan; Sony DADC US Inc. of Terre Haute, Indiana; and Sony Latin America Inc. of Miami, Florida. Supplements to the Complaint were filed on May 2, 2017 and May 19, 2017. The complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain magnetic tape cartridges and components thereof by reason of infringement of certain claims of U.S. Patent No. 6,674,596 (''the '596 patent''); U.S. Patent No. 6,979,501 (''the '501 patent''); and U.S. Patent No. 7,029,774 (''the '774 patent''). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainants request that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2017).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on May 25, 2017, *Ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a

violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain magnetic tape cartridges and components thereof by reason of infringement of one or more of claims 1–19 of the '596 patent; claims 1–6 and 8 of the '501 patent; and claims 1–11 and 15–20 of the '774 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to Commission Rule 210.50(b)(1), 19 CFR 210.50(b)(1), the presiding administrative law judge shall take evidence or other information and hear arguments from the parties and other interested persons with respect to the public interest in this investigation, as appropriate, and provide the Commission with findings of fact and a recommended determination on this issue, which shall be limited to the statutory public interest factors set forth in 19 U.S.C. 1337(d)(1), (f)(1), (g)(1);

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Sony Corporation, 1–7–1 Konan, Minato-ku, Tokyo 108–0075, Japan.

Sony Storage Media Solutions Corporation, 1–7–1 Konan, Minato-ku, Tokyo 108–0075, Japan.

Sony Storage Media Manufacturing Corporation, 3–4–1 Sakuragi, Tagajo, Miyagi 985–0842, Japan.

Sony DADC US Inc., 1800 North Fruitridge Avenue, Terre Haute, IN 47804.

Sony Latin America Inc., 5201 Blue Lagoon Drive, Suite 400, Miami, FL 33126.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Fujifilm Holdings Corporation, 7–3 Akasaka 9-chome, Minato-ku, Tokyo 107–0052, Japan.

Fujifilm Corporation, 7–3 Akasaka 9-chome, Minato-ku, Tokyo 107–0052, Japan.

Fujifilm Media Manufacturing Co., Ltd., 12–1 Ogimachi 2-chome, Odawara, Kanagawa 250–0001, Japan.

Fujifilm Holdings America Corporation, 200 Summit Lake Drive, Valhalla, NY 10595.

Fujifilm Recording Media U.S.A., Inc., 45 Crosby Drive, Bedford, MA 01730–1401.

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Suite 401, Washington, DC 20436; and

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: May 26, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–11307 Filed 5–31–17; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Registration

ACTION: Notice of registration.

SUMMARY: Registrants listed below have applied for and been granted registration by the Drug Enforcement Administration (DEA) as bulk manufacturers of various classes of controlled substances.

SUPPLEMENTARY INFORMATION: The companies listed below applied to be registered as manufacturers of various basic classes of controlled substances. Information on previously published notices is listed in the table below. No comments or objections were submitted for these notices.

Company	FR docket	Published
Cody Laboratories, Inc	81 FR 61249	September 6, 2016.
Alcami Wisconsin Corporation	81 FR 63219	September 14, 2016.
Johnson Matthey, Inc	81 FR 71767	October 18, 2016.
Noramco, Inc	82 FR 6645	January 19, 2017.
Organix, Inc	82 FR 8433	January 25, 2017.
Mallinckrodt, LLC	82 FR 13136	March 9, 2017.
Siemens Healthcare Diagnostics, Inc	82 FR 13506	March 13, 2017.

The DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of these registrants to manufacture the applicable basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated each of the company's maintenance of effective controls against diversion by inspecting and testing each company's physical security systems, verifying each company's compliance with state and local laws, and reviewing each company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the DEA has granted a registration as a bulk manufacturer to the above listed companies.

Dated: May 23, 2017.

Louis J. Milione,

Assistant Administrator.

[FR Doc. 2017–11383 Filed 5–31–17; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Chemtos, LLC

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic class, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.33(a) on or before July 31, 2017.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.33(a), this is notice that on July 5, 2016, Chemtos, LLC, 14101 W. Highway 290, Building 2000B, Austin, Texas 78737–9331 applied to be registered as a bulk manufacturer for 3,4-Methylenedioxymethamphetamine (7405), a basic class of controlled substance listed in schedule I.

The company plans to manufacture small quantities of the listed controlled substance in bulk for distribution to its customers.

Dated: May 23, 2017.

Louis J. Milione,

Assistant Administrator.

[FR Doc. 2017–11385 Filed 5–31–17; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Cerilliant Corporation

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before July 3, 2017]. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before July 3, 2017.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on April 6, 2017, Cerilliant Corporation, 811 Paloma Drive, Suite A, Round Rock, Texas 78665–2402 applied to be registered as an importer of U–47700 (3,4-dichloro-N-[2-dimethylamino)cyclohexyl]-N-methylbenzamide) (9547), a basic class of controlled substance listed in schedule I.

The company plans to import small quantities of the listed controlled substance for the manufacture of analytical reference standards and distribution to their research and forensic customers.

Dated: May 25, 2017.

Louis J. Milione,

Assistant Administrator.

[FR Doc. 2017–11387 Filed 5–31–17; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Registration

ACTION: Notice of registration.

SUMMARY: Registrants listed below have applied for and been granted registration by the Drug Enforcement Administration (DEA) as importers of various classes of schedule I or II controlled substances.

SUPPLEMENTARY INFORMATION: The companies listed below applied to be registered as importers of various basic classes of controlled substances. Information on previously published notices is listed in the table below. No comments or objections were submitted and no requests for hearing were submitted for these notices.

Company	FR docket	Published
Chattem Chemicals, Inc	81 FR 62177	September 8, 2016.
Anderson Brecon, Inc	81 FR 71766	October 18, 2016.
Hospira	82 FR 11241	February 21, 2017.
Myoderm	82 FR 13134	March 9, 2017.
Meridian Medical Technologies	82 FR 13135	March 9, 2017.

Company	FR docket	Published
Meda Pharmaceuticals, Inc	82 FR 13137	March 9, 2017.
Wildlife Laboratories, Inc	82 FR 14914	March 23, 2017.
Xcelience	82 FR 16420	April 4, 2017.

The DEA has considered the factors in 21 U.S.C. 823, 952(a) and 958(a) and determined that the registration of the listed registrants to import the applicable basic classes of schedule I or II controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated each company's maintenance of effective controls against diversion by inspecting and testing each company's physical security systems, verifying each company's compliance with state and local laws, and reviewing each company's background and history.

Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the DEA has granted a registration as an importer for schedule I or II controlled substances to the above listed companies.

Dated: May 23, 2017.

Louis J. Milione,

Assistant Administrator.

[FR Doc. 2017–11388 Filed 5–31–17; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–NEW]

Agency Information Collection Activities; Proposed eCollection eComments Requested; New Collection: Survey of State Attorney General Offices (SSAGO)—Cybercrime

AGENCY: Bureau of Justice Statistics, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics, 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 July 31, 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 Suzanne Strong, Statistician, Prosecution and Judicial Statistics, Bureau of Justice Statistics, 810 Seventh Street NW., Washington, DC 20531 (email: *Suzanne.M.Strong@usdoj.gov;* telephone: 202–616–3666).

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:* New collection.

(2) *The Title of the Form/Collection:* Survey of State Attorney General Offices (SSAGO): Cybercrime.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* No agency form number at this time. The applicable component within the Department of Justice is the Bureau of Justice Statistics, in the Office of Justice Programs.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Respondents will be state attorneys general or deputy attorneys within the state attorney general offices who work on cybercrime matters. *Abstract:* Among other responsibilities, the Bureau of Justice Statistics is charged with collecting data regarding the prosecution of crimes by state and federal offices. This survey will be directed towards state and territory attorney general offices regarding their jurisdiction over civil and criminal cybercrime matters. This is BJS's second survey of state attorney general offices, but the first survey from the Survey of State Attorney General Offices (SSAGO) program. The survey collects data on types and numbers of cybercrime matters referred to the state attorney general offices, the sources of the referrals of cybercrime matters, types and numbers of cybercrime cases closed by state attorney general offices, civil and criminal defendants in cybercrime matters, sanctions and punishments of civil defendants found liable and criminal defendants found guilty, and participation in state and federal cybercrime task forces.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An agency-level survey will be sent to approximately 56 state and territory attorney general offices. The expected burden placed on these respondents is about 65 minutes per respondent, including follow-up.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total respondent burden is approximately 61 burden hours.

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: May 26, 2017.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2017–11306 Filed 5–31–17; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Parole Commission

Sunshine Act Meeting; Record of Vote of Meeting Closure (Pub. L. 94–409) (5 U.S.C. 552b)

I, J. Patricia Wilson Smoot, of the United States Parole Commission, was present at a meeting of said Commission, which started at approximately 11:00 a.m., on Wednesday, May 24, 2017 at the U.S. Parole Commission, 90 K Street NE., Third Floor, Washington, DC 20530. The purpose of the meeting was to discuss original jurisdiction cases pursuant to 28 CFR 2.27. Three Commissioners were present, constituting a quorum when the vote to close the meeting was submitted.

Public announcement further describing the subject matter of the meeting and certifications of the General Counsel that this meeting may be closed by votes of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: Patricia K. Cushwa, J. Patricia Wilson Smoot and Charles T. Massarone.

In witness whereof, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Dated: May 24, 2017.

J. Patricia Wilson Smoot,

Chairperson, U.S. Parole Commission.

[FR Doc. 2017–11481 Filed 5–30–17; 4:15 pm]

BILLING CODE 4410–31–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Periodic Medical Surveillance Examinations for Coal Miners

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Mine Safety and Health Administration (MSHA) sponsored information collection request (ICR) revision titled, ''Periodic Medical Surveillance Examinations for Coal Miners,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995. Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before July 3, 2017.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201406-1219-003* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–MSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks approval under the PRA for revisions to the Periodic Medical Surveillance Examinations for Coal Miners information collection requirements codified in regulations 30 CFR 72.100(d) and (e). More specifically, this ICR covers requirements for each mine operator to develop and submit for approval for National Institute for Occupational Safety and Health (NIOSH) a plan in accordance with 42 CFR part 37 for providing miners with the required periodic examinations specified in 30 CFR 72.100(a) and a roster specifying the name and current address of each miner covered by the plan. Section 72.100(e) requires that each mine operator must post on the mine bulletin board at all times the approved plan for providing the examinations specified in 72.100(a). This information collection has been classified as a revision, because the agency has previously incorporated added information collection requirements also covered by this collection, including the associated burdens, to other approved information collections. In order not to double count those burdens, this collection would now drop those requirements from this collection. Federal Mine Safety and Health Act of 1977 sections 101(a) and 103(h) authorize this information collection. *See* 30 U.S.C. 811(a), 813(h).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1219–0152. The current approval is scheduled to expire on May 31, 2017; however, the DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on March 14, 2017 (82 FR 13658).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1219–0152. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the

use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–MSHA.

Title of Collection: Periodic Medical Surveillance Examinations for Coal Miners.

OMB Control Number: 1219–0152.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 1,223.

Total Estimated Number of Responses: 1,468.

Total Estimated Annual Time Burden: 1,142 hours.

Total Estimated Annual Other Costs Burden: $441.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: May 18, 2017.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2017–11240 Filed 5–31–17; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2006–0028]

MET Laboratories, Inc.: Applications for Expansion of Recognition and Proposed Modification to the NRTL Program's List of Appropriate Test Standards

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the applications of MET Laboratories, Inc. for expansion of its recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the Agency's preliminary finding to grant the applications. Additionally, OSHA proposes to add two new test standards to the NRTL Program's List of Appropriate Test Standards.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before June 16, 2017.

ADDRESSES: Submit comments by any of the following methods:

1. *Electronically:* Submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

2. *Facsimile:* If submissions, including attachments, are not longer than 10 pages, commenters may fax them to the OSHA Docket Office at (202) 693–1648.

3. *Regular or express mail, hand delivery, or messenger (courier) service:* Submit comments, requests, and any attachments to the OSHA Docket Office, Docket No. OSHA–2006–0028, Technical Data Center, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3508, Washington, DC 20210; telephone: (202) 693–2350 (TTY number: (877) 889–5627). Note that security procedures may result in significant delays in receiving comments and other written materials by regular mail. Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express mail, hand delivery, or messenger service. The hours of operation for the OSHA Docket Office are 10:00 a.m.–2:30 p.m., e.t.

4. *Instructions:* All submissions must include the Agency name and the OSHA docket number (OSHA–2006–0028). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at *http://www.regulations.gov.* Therefore, the Agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

5. *Docket:* To read or download submissions or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

6. *Extension of comment period:* Submit requests for an extension of the comment period on or before June 16, 2017 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3647, Washington, DC 20210; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210; phone: (202) 693–2110 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

The Occupational Safety and Health Administration is providing notice that MET Laboratories, Inc. (MET), is applying for expansion of its current recognition as an NRTL. MET requests the addition of three test standards to its NRTL scope of recognition.

OSHA recognition of an NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by its applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The Agency processes applications by an NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding. In the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA

maintains an informational Web page for each NRTL, including MET, which details the NRTL's scope of recognition. These pages are available from the OSHA Web site at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

MET currently has one facility (site) recognized by OSHA for product testing and certification, with its headquarters located at: MET Laboratories, Inc., 914 West Patapsco Avenue, Baltimore, Maryland 21230. A complete list of MET's scope of recognition is available at *https://www.osha.gov/dts/otpca/nrtl/met.html.*

II. General Background on the Application

MET submitted three applications, one dated October 15, 2015 (OSHA–2006–0028–0031), the second dated March 2, 2016 (OSHA–2006–0028–0032) and the third dated March 18, 2016 (OSHA–2006–0028–0033), to expand its recognition to include three additional test standards. OSHA staff performed a detailed analysis of the application packets and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to these applications.

Table 1 below lists the appropriate test standards found in MET's applications for expansion for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN MET'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 2108	Standard for Low Voltage Lighting Systems.
UL 61010–2–091 *	Standard for Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–091: Particular Requirements for Cabinet X-Ray Systems.
UL 61010–2–081 *	Standard for Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–081: Particular Requirements for Automatic and Semi-Automatic Laboratory Equipment for Analysis and Other Purposes.

* Represents the standards that OSHA proposes to add to the NRTL Program's List of Appropriate Test Standards.

III. Proposal To Add New Test Standard to the NRTL Program's List of Appropriate Test Standards

Periodically, OSHA will propose to add new test standards to the NRTL list of appropriate test standards following an evaluation of the test standard document. To qualify as an appropriate test standard, the Agency evaluates the document to (1) verify it represents a product category for which OSHA requires certification by an NRTL, (2) verify the document represents an end product and not a component, and (3) verify the document defines safety test specifications (not installation or operational performance specifications).

In this notice, OSHA proposes to add two new test standards to the NRTL Program's List of Appropriate Test Standards. Table 2, below, lists the test standards that are new to the NRTL Program. OSHA preliminarily determined these test standards are appropriate test standards and proposes to include them in the NRTL Program's List of Appropriate Test Standards. OSHA seeks public comment on this preliminary determination.

TABLE 2—TEST STANDARDS OSHA IS PROPOSING TO ADD TO THE NRTL PROGRAM'S LIST OF APPROPRIATE TEST STANDARDS

Test standard	Test standard title
UL 61010–2–091	Standard for Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–091: Particular Requirements for Cabinet X-Ray Systems.
UL 61010–2–081	Standard for Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–081: Particular Requirements for Automatic and Semi-Automatic Laboratory Equipment for Analysis and Other Purposes.

IV. Preliminary Findings on the Application

MET submitted acceptable applications for expansion of its scope of recognition. OSHA's review of the application file, and pertinent documentation, indicate that MET can meet the requirements prescribed by 29 CFR 1910.7 for expanding its recognition to include the addition of these three test standards for NRTL testing and certification listed above. This preliminary finding does not constitute an interim or temporary approval of MET's application.

OSHA welcomes public comment as to whether MET meets the requirements of 29 CFR 1910.7 for expansion of its recognition as an NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. Commenters must submit the written request for an extension by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer period. OSHA may deny a request for an extension if the request is not adequately justified. To obtain or review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Room N–3508, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address. These materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2006–0028.

OSHA staff will review all comments to the docket submitted in a timely manner and, after addressing the issues raised by these comments, will recommend to the Assistant Secretary for Occupational Safety and Health whether to grant MET's applications for expansion of its scope of recognition. The Assistant Secretary will make the final decision on granting the applications. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of its final decision in the **Federal Register**.

Authority and Signature

Dorothy Dougherty, Deputy Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on May 24, 2017.

Dorothy Dougherty,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2017–11239 Filed 5–31–17; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Advisory Board on Toxic Substances and Worker Health: Working Group on Presumptions

AGENCY: Office of Workers' Compensation Programs, Labor.

ACTION: Announcement of meeting of the Working Group on Presumptions of the Advisory Board on Toxic Substances and Worker Health (Advisory Board) for the Energy Employees Occupational Illness Compensation Program Act (EEOICPA).

SUMMARY: The working group will meet via teleconference on June 21, 2017, from 1:00 p.m. to 3:30 p.m. Eastern Time.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Louviere, Office of Public Affairs, U.S. Department of Labor, Room S–1028, 200 Constitution Ave. NW., Washington, DC 20210; telephone (202) 693–4672; email *Louviere.Amy@dol.gov.*

SUPPLEMENTARY INFORMATION: The Advisory Board is mandated by Section 3687 of EEOICPA. The Secretary of Labor established the Board under this authority and Executive Order 13699 (June 26, 2015). The purpose of the Advisory Board is to advise the Secretary with respect to: (1) The Site Exposure Matrices (SEM) of the Department of Labor; (2) medical guidance for claims examiners for claims with the EEOICPA program, with respect to the weighing of the medical evidence of claimants; (3) evidentiary requirements for claims under Part B of EEOICPA related to lung disease; and (4) the work of industrial hygienists and staff physicians and consulting physicians of the Department of Labor and reports of such hygienists and physicians to ensure quality, objectivity, and consistency. The Advisory Board sunsets on December 19, 2019. This working group is being assembled to gather and analyze data and continue working on providing EEOICP with updated presumptions.

The Advisory Board operates in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2) and its implementing regulations (41 CFR part 102–3).

Agenda: The tentative agenda for the meeting of the Working Group on Presumptions includes: Continue review of draft changes in current presumptions; discuss candidate topics for new presumptions.

OWCP will transcribe the Advisory Board working group meeting. OWCP will post the transcripts on the Advisory Board Web page, *http://www.dol.gov/owcp/energy/regs/compliance/AdvisoryBoard.htm,* along with written comments and other materials submitted to the working group or presented at the working group meeting.

Public Participation, Submissions, and Access to the Public Record

Working group meeting: The working group will meet via teleconference on Wednesday, June 21, 2017, from 1:00 p.m. to 3:30 p.m. Eastern Time. Advisory Board working group meetings are open to the public. The teleconference number and other details for listening to the meeting will be posted on the Advisory Board's Web site no later than 72 hours prior to the meeting. This information will be posted at *http://www.dol.gov/owcp/energy/regs/compliance/AdvisoryBoard.htm.*

Requests for special accommodations: Please submit requests for special accommodations to participate in the working group meeting by email, telephone, or hard copy to Ms. Carrie Rhoads, OWCP, Room S–3524, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 343–5580; email *EnergyAdvisoryBoard@dol.gov.*

Submission of written comments for the record: You may submit written comments, identified by the working group name and the meeting date of June 21, 2017, by any of the following methods:

- *Electronically:* Send to: *EnergyAdvisoryBoard@dol.gov* (specify in the email subject line, ''Working Group on Presumptions'').
- *Mail, express delivery, hand delivery, messenger, or courier service:* Submit one copy to the following address: U.S. Department of Labor, Office of Workers' Compensation Programs, Advisory Board on Toxic Substances and Worker Health, Room S–3522, 200 Constitution Ave. NW., Washington, DC 20210. Due to security-related procedures, receipt of submissions by regular mail may experience significant delays.

Comments must be received by June 14, 2017. OWCP will make available publically, without change, any written comments, including any personal information that you provide. Therefore, OWCP cautions interested parties against submitting personal information such as Social Security numbers and birthdates.

Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov.* This notice, as well as news releases and other relevant information, are also available on the Advisory Board's Web page at *http://www.dol.gov/owcp/energy/regs/compliance/AdvisoryBoard.htm.*

FOR FURTHER INFORMATION CONTACT: You may contact Douglas Fitzgerald, Designated Federal Officer, at *fitzgerald.douglas@dol.gov,* or Carrie Rhoads, Alternate Designated Federal Officer, at *rhoads.carrie@dol.gov,* U.S. Department of Labor, 200 Constitution Avenue NW., Suite S–3524, Washington, DC 20210, telephone (202) 343–5580. This is not a toll-free number.

Signed at Washington, DC, May 23, 2017.

Gary Steinberg,

Deputy Director, Office of Workers' Compensation Programs.

[FR Doc. 2017–11250 Filed 5–31–17; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Advisory Board on Toxic Substances and Worker Health: Joint Subcommittee Meeting Between Subcommittee on Medical Advice Re: Weighing Medical Evidence and Subcommittee on Industrial Hygienists (IH) & Contract Medical Consultants (CMC) and Their Reports

AGENCY: Office of Workers' Compensation Programs, Department of Labor.

ACTION: Announcement of joint meeting of the Subcommittee on Medical Advice re: Weighing Medical Evidence and the Subcommittee on IH & CMC and Their Reports of the Advisory Board on Toxic Substances and Worker Health (Advisory Board) for the Energy

Employees Occupational Illness Compensation Program Act (EEOICPA).

SUMMARY: The subcommittees will meet via teleconference on June 27, 2017, from 11:00 a.m. to 12:30 p.m. Eastern Time.

FOR FURTHER INFORMATION CONTACT: For press inquiries: Ms. Amy Louviere, Office of Public Affairs, U.S. Department of Labor, Room S–1028, 200 Constitution Ave. NW., Washington, DC 20210; telephone (202) 693–4672; email *Louviere.Amy@dol.gov.*

SUPPLEMENTARY INFORMATION: The Advisory Board is mandated by Section 3687 of EEOICPA. The Secretary of Labor established the Board under this authority and Executive Order 13699 (June 26, 2015). The purpose of the Advisory Board is to advise the Secretary with respect to: (1) The Site Exposure Matrices (SEM) of the Department of Labor; (2) medical guidance for claims examiners for claims with the EEOICPA program, with respect to the weighing of the medical evidence of claimants; (3) evidentiary requirements for claims under Part B of EEOICPA related to lung disease; and (4) the work of industrial hygienists and staff physicians and consulting physicians of the Department of Labor and reports of such hygienists and physicians to ensure quality, objectivity, and consistency. The Advisory Board sunsets on December 19, 2019. This joint subcommittee meeting is being held to gather and analyze data and continue working on advice under Area #2, Medical Advice re: Weighing Medical Evidence, and Area #4, IH & CMC and Their Reports.

The Advisory Board operates in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2) and its implementing regulations (41 CFR part 102–3).

Agenda: The tentative agenda for the joint subcommittee meeting includes: Discuss results of meeting with DEEOIC Seattle district office; discuss recommendations to be made followin full Board meetings and Seattle meeting.

OWCP transcribes Advisory Board subcommittee meetings. OWCP posts the transcripts on the Advisory Board Web page, *http://www.dol.gov/owcp/energy/regs/compliance/AdvisoryBoard.htm,* along with written comments and other materials submitted to the subcommittee or presented at subcommittee meetings.

Public Participation, Submissions, and Access to the Public Record

Subcommittee meeting: The subcommittees will meet via teleconference on Tuesday, June 27, 2017, from 11:00 a.m. to 12:30 p.m. Eastern time. Advisory Board subcommittee meetings are open to the public. The teleconference number and other details for listening to the meeting will be posted on the Advisory Board's Web site no later than 72 hours prior to the meeting. This information will be posted at *http://www.dol.gov/owcp/energy/regs/compliance/AdvisoryBoard.htm.*

Requests for special accommodations: Please submit requests for special accommodations to participate in the subcommittee meeting by email, telephone, or hard copy to Ms. Carrie Rhoads, OWCP, Room S–3524, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 343–5580; email *EnergyAdvisoryBoard@dol.gov.*

Submission of written comments for the record: You may submit written comments, identified by the subcommittee name and the meeting date of June 27, 2017, by any of the following methods:

- *Electronically:* Send to: *EnergyAdvisoryBoard@dol.gov* (specify in the email subject line, ''Subcommittee on Medical Advice re: Weighing Medical Evidence'').
- *Mail, express delivery, hand delivery, messenger, or courier service:* Submit one copy to the following address: U.S. Department of Labor, Office of Workers' Compensation Programs, Advisory Board on Toxic Substances and Worker Health, Room S–3522, 200 Constitution Ave. NW., Washington, DC 20210. Due to security-related procedures, receipt of submissions by regular mail may experience significant delays.

Comments must be received by June 20, 2017. OWCP will make available publically, without change, any written comments, including any personal information that you provide. Therefore, OWCP cautions interested parties against submitting personal information such as Social Security numbers and birthdates.

Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov.* This notice, as well as news releases and other relevant information, are also available on the Advisory Board's Web page at *http://www.dol.gov/owcp/energy/regs/compliance/AdvisoryBoard.htm.*

FOR FURTHER INFORMATION CONTACT: You may contact Douglas Fitzgerald, Designated Federal Officer, at *fitzgerald.douglas@dol.gov,* or Carrie Rhoads, Alternate Designated Federal Officer, at *rhoads.carrie@dol.gov,* U.S. Department of Labor, 200 Constitution Avenue NW., Suite S–3524, Washington, DC 20210, telephone (202) 343–5580.

This is not a toll-free number.

Signed at Washington, DC, this 23rd day of May 2017.

Gary Steinberg,

Deputy Director, Office of Workers' Compensation Programs.

[FR Doc. 2017–11247 Filed 5–31–17; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Advisory Board on Toxic Substances and Worker Health

AGENCY: Office of Workers' Compensation Programs, Labor.

ACTION: Announcement of telephonic meeting of the Advisory Board on Toxic Substances and Worker Health (Advisory Board) for the Energy Employees Occupational Illness Compensation Program Act (EEOICPA).

SUMMARY: The Advisory Board will meet June 19, 2017, via teleconference, from 1:00 p.m. to 4:00 p.m. Eastern time. Comments and submissions of materials for the record, and requests for special accommodations: You must submit (postmark, send, transmit) comments, materials, and requests for special accommodations for the meetings by June 12, 2017.

FOR FURTHER INFORMATION CONTACT: For press inquiries: Ms. Amy Louviere, Office of Public Affairs, U.S. Department of Labor, Room S–1028, 200 Constitution Ave. NW., Washington, DC 20210; telephone (202) 693–4672; email *Louviere.Amy@DOL.GOV.*

Additionally, you may contact Douglas Fitzgerald, Designated Federal Officer, at *fitzgerald.douglas@dol.gov,* or Carrie Rhoads, Alternate Designated Federal Officer, at *rhoads.carrie@dol.gov,* U.S. Department of Labor, 200 Constitution Avenue NW., Suite S–3524, Washington, DC 20210, telephone (202) 343–5580. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Advisory Board will meet telephonically on June 19, 2017, from 1:00 p.m. to 4:00 p.m. Eastern time. Advisory Board members will attend the meeting by teleconference. The teleconference number and other details for participating remotely will be posted on the Advisory Board's Web site, *http://www.dol.gov/owcp/energy/regs/compliance/AdvisoryBoard.htm,* 72

hours prior to the commencement of the first meeting date. Advisory Board meetings are open to the public.

The Advisory Board is mandated by section 3687 of EEOICPA. The Secretary of Labor established the Board under this authority and Executive Order 13699 (June 26, 2015). The purpose of the Advisory Board is to advise the Secretary with respect to: (1) The Site Exposure Matrices (SEM) of the Department of Labor; (2) medical guidance for claims examiners for claims with the EEOICPA program, with respect to the weighing of the medical evidence of claimants; (3) evidentiary requirements for claims under Part B of EEOICPA related to lung disease; and (4) the work of industrial hygienists and staff physicians and consulting physicians of the Department of Labor and reports of such hygienists and physicians to ensure quality, objectivity, and consistency. The Advisory Board sunsets on December 19, 2019.

The Advisory Board operates in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2) and its implementing regulations (41 CFR part 102–3).

Agenda: The tentative agenda for the Advisory Board meeting includes:

- Recommendation about solvents exposure and hearing loss;
- Recommendation about the Occupational Health Questionnaire in EEOICP; and
- Administrative issues raised by Advisory Board functions and future Advisory Board activities.

OWCP transcribes and prepares detailed minutes of Advisory Board meetings. OWCP will post the transcripts and minutes on the Advisory Board Web page, *http://www.dol.gov/owcp/energy/regs/compliance/AdvisoryBoard.htm,* along with written comments, speaker presentations, and other materials submitted to the Advisory Board or presented at Advisory Board meetings.

Public Participation, Submissions, and Access to the Public Record

Advisory Board meetings: The Advisory Board will meet via teleconference on Monday, June 19, 2017, from 1:00 p.m. to 4:00 p.m. Eastern time. All Advisory Board meetings are open to the public. The teleconference number and other details for listening to the meeting will be posted on the Advisory Board's Web site no later than 72 hours prior to the meeting. This information will be posted at *http://www.dol.gov/owcp/energy/regs/compliance/AdvisoryBoard.htm.*

Requests for special accommodations: Please submit requests for special accommodations to access the telephonic Advisory Board meeting by email, telephone, or hard copy to Ms. Carrie Rhoads, OWCP, Room S–3524, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC 20210; telephone (202) 343–5580; email *EnergyAdvisoryBoard@dol.gov.*

Submission of written comments for the record: You may submit written comments, identified as for the Advisory Board and the meeting date of June 19, 2017, by any of the following methods:

- *Electronically:* Send to: *EnergyAdvisoryBoard@dol.gov* (specify in the email subject line, ''Advisory Board Meeting June 19, 2017'').
- *Mail, express delivery, hand delivery, messenger, or courier service:* Submit one copy to the following address: U.S. Department of Labor, Office of Workers' Compensation Programs, Advisory Board on Toxic Substances and Worker Health, Room S–3522, 200 Constitution Ave. NW., Washington, DC 20210. Due to security-related procedures, receipt of submissions by regular mail may experience significant delays.

Comments must be received by June 12, 2017. OWCP will make available publically, without change, any written comments, including any personal information that you provide. Therefore, OWCP cautions interested parties against submitting personal information such as Social Security numbers and birthdates.

Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov.* This notice, as well as news releases and other relevant information, are also available on the Advisory Board's Web page at: *http://www.dol.gov/owcp/energy/regs/compliance/AdvisoryBoard.htm.*

Signed at Washington, DC, May 23, 2017.

Gary Steinberg,

Deputy Director, Office of Workers' Compensation Programs.

[FR Doc. 2017–11262 Filed 5–31–17; 8:45 am]

BILLING CODE 4510–24–P

LEGAL SERVICES CORPORATION

Legal Services Corporation Performance Criteria; Request for Comments on Performance Area 4

AGENCY: Legal Services Corporation.

ACTION: Request for comments; extension of comment period.

SUMMARY: The Legal Services Corporation (LSC) issued a notice requesting comments on proposed changes to the LSC Performance Criteria, Performance Area 4, ''Effectiveness of governance, leadership, and administration'' in the **Federal Register** of April 5, 2017 (FR Doc. 2017–06681). LSC requested comments by May 29, 2017. This notice extends the comment period for five business days to June 5, 2017.

DATES: Comments must be submitted by June 5, 2017.

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

- *Agency Web site: http://www.lsc.gov/about-lsc/matters-comment.*
- *Email: performancecriteria@lsc.gov.*
- *Fax:* (202) 337–6813.
- *Mail:* Legal Services Corporation, 3333 K Street NW., Washington, DC 20007.

Instructions: All comments should be addressed to Zoe Osterman, Project Coordinator for the Executive Office, Legal Services Corporation. Include ''Revisions to Performance Area 4'' as the heading or subject line for all comments submitted.

FOR FURTHER INFORMATION CONTACT: Zoe Osterman, *ostermanz@lsc.gov,* (202) 295–1617.

SUPPLEMENTARY INFORMATION: LSC is extending the public comment period stated in the **Federal Register** notice for this request for comments. 82 FR 16634, Apr. 5, 2017. In that notice, LSC requested comments on proposed changes to the Performance Criteria, Performance Area 4, ''Effectiveness of governance, leadership, and administration.'' LSC established a response deadline of May 29, 2017. LSC has received a request for an extension of the comment period to allow interested parties and stakeholders additional time to develop their comments on the proposed changes. LSC is therefore extending the comment period for five business days, from May 29, 2017, to June 5, 2017.

Dated: May 25, 2017.

Stefanie K. Davis,

Assistant General Counsel.

[FR Doc. 2017–11266 Filed 5–31–17; 8:45 am]

BILLING CODE 7050–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (17–028)]

Renewal of the Charter of the National Space-Based Positioning, Navigation, and Timing Advisory Board

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Notice is hereby given that in accordance with the National Security Presidential Directive (NSPD–39) dated December 8, 2004, and continued under Executive Order 13708 dated September 30, 2015, it has been determined that continuation of the National Space-Based Positioning, Navigation, and Timing (PNT) Advisory Board is necessary and in the public interest. Accordingly, NASA has renewed the charter of the National Space-Based PNT Advisory Board.

FOR FURTHER INFORMATION CONTACT: Mr. James J. Miller, Designated Federal Official (DFO) and Deputy Director of Policy and Strategic Communications, Space Communications and Navigation, Human Exploration and Operations Mission Directorate, NASA Headquarters, Washington, DC 20546, telephone 202–358–4417, email *jj.miller@nasa.gov.*

SUPPLEMENTARY INFORMATION: The National Space-Based PNT Advisory Board will continue to provide advice on U.S. space-based PNT policy, planning, program management, and funding profiles in relations to the current state of national and international space-based PNT services. The National Space-Based PNT Advisory Board will continue to function solely as an advisory body and comply fully with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App. 2. The charter is being filed with the U.S. General Services Administration, appropriate oversight committees of the U.S. Congress, and the Library of Congress.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2017–11280 Filed 5–31–17; 8:45 am]

BILLING CODE 7510–13–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0048]

Information Collection: Domestic Licensing of Special Nuclear Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, ''Domestic Licensing of Special Nuclear Material.''

DATES: Submit comments by July 31, 2017. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

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

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0048. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* David Cullison, Office of the Chief Information Officer, Mail Stop: T–2 F43, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@NRC.GOV.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0048 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–2017–0048.
- *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 by email to *pdr.resource@nrc.gov.* The supporting statement is available in ADAMS under Accession ML16309A059.
- *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.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@NRC.GOV.*

B. Submitting Comments

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering 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 OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that 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 submissions into ADAMS.

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* 10 CFR part 70, ''Domestic Licensing of Special Nuclear Material.''
2. *OMB approval number:* 3150–0009.
3. *Type of submission:* Extension.
4. *The form number, if applicable:* Not applicable.
5. *How often the collection is required or requested:* Required reports are collected and evaluated on a continuing basis as events occur. Applications for new licenses and amendments may be submitted at any time. Generally,

renewal applications are submitted every 10 years, although the Commission has allowed longer periods for major fuel cycle facilities, updates of the Integrated Safety Analysis are submitted annually.

6. *Who will be required or asked to respond:* Applicants for and holders of specific and General Licenses NRC licenses to receive title to, own, acquire, deliver, receive, possess, use, or initially transfer special nuclear material.

7. *The estimated number of annual responses:* 1,620.

8. *The estimated number of annual respondents:* 606.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 89,222 hours (81,781 hours reporting + 7,371 hours recordkeeping + 70 hours third-party disclosure).

10. *Abstract:* Part 70 of title 10 of the *Code of Federal Regulations* (10 CFR), establishes requirements for licensees to own, acquire, receive, possess, use, and transfer special nuclear material. The information in the applications, reports, and records is used by the NRC to make licensing and or regulatory determinations concerning the use of special nuclear material.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the estimate of the burden of the information collection accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated at Rockville, Maryland, this 25th day of May 2017.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2017–11249 Filed 5–31–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0267]

Information Collection: NUREG/BR–0254, Payment Methods and NRC Form 629, Authorization for Payment by Credit Card

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is titled, ''NUREG/BR–0254, Payment Methods and NRC Form 629, Authorization for Payment by Credit Card.''

DATES: Submit comments by July 3, 2017.

ADDRESSES: Submit comments directly to the OMB reviewer at: Aaron Szabo, Desk Officer, Office of Information and Regulatory Affairs, OMB 3150–0190, NEOB–10202, Office of Management and Budget, Washington, DC 20503; telephone: 202–395–3621, email: *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2016–0267 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–2016–0267.
- *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 by email to *pdr.resource@nrc.gov.* The supporting statement and ''NUREG/BR–0254, Payment Methods and NRC Form 629, Authorization for Payment by Credit Card,'' are available in ADAMS under Accession ML16341A835.
- *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 20852–2738.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@NRC.GOV.*

B. Submitting Comments

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering 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 OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that 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 submissions into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review titled, ''NUREG/BR–0254, Payment Methods and NRC Form 629, Authorization for Payment by Credit Card.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment

period on this information collection on February 17, 2017 (82 FR 11072).

1. *The title of the information collection:* NUREG/BR–0254, Payment Methods and NRC Form 629, Authorization for Payment by Credit Card.

2. *OMB approval number:* 3150–0190.

3. *Type of submission:* Revision.

4. *The form number if applicable:* NRC Form 629.

5. *How often the collection is required or requested:* As needed to process credit card payments.

6. *Who will be required or asked to respond:* Anyone doing business with the NRC, including licensees, applicants and individuals who are required to pay a fee for inspections and licenses.

7. *The estimated number of annual responses:* 677.

8. *The estimated number of annual respondents:* 677.

9. *An estimate of the total number of hours needed annually to comply with the information collection requirement or request:* 113.

10. *Abstract:* The U.S. Department of the Treasury encourages the public to pay monies owed to the government through use of the Automated Clearinghouse Network and credit cards. These two methods of payment are used by licensees, applicants, and individuals to pay civil penalties, full cost licensing fees, and annual licensing fees to the NRC.

Dated at Rockville, Maryland, this 25th day of May 2017.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2017–11248 Filed 5–31–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0107]

Information Collection: Fitness-for-Duty Programs

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled ''Fitness-for-Duty Programs.''

DATES: Submit comments by July 31, 2017. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

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

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0107. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* David Cullison, Office of the Chief Information Officer, Mail Stop: T–2 F43, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0107 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–2017–0107.
- *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 by email to *pdr.resource@nrc.gov.* Licensees and other entities can use the following three NRC forms to report information under part 26 requirements: NRC Form 890, ''Single Positive Test Form,'' NRC Form 891, ''Annual Reporting Form for Drug and Alcohol Tests,'' and NRC Form 892, ''Annual Fatigue Reporting Form.'' A copy of NRC Forms 890, 891 and 892 may be obtained without charge by accessing ADAMS Accession Nos. ML17013A578, ML17013A598, and ML17024A436, respectively. The supporting statement and burden change spreadsheet are available in ADAMS under Accession Nos. ML17062A871 and ML17129A588.
- *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.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov.*

B. Submitting Comments

Please include Docket ID NRC–2017–0107 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS, and 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. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* 10 CFR part 26, ''Fitness-for-Duty Programs.''

2. *OMB approval number:* 3150–0146.

3. *Type of submission:* Extension.

4. *The form number, if applicable:* NRC Form 890, ''Single Positive Test Form,'' NRC Form 891, ''Annual Reporting Form for Drug and Alcohol Tests,'' and NRC Form 892, ''Annual Fatigue Reporting Form.''

5. *How often the collection is required or requested:* Annually and on occasion. The NRC receives reports on an annual basis that detail fitness-for-duty (FFD) program performance. The NRC also receives, on occasion, reports associated with FFD policy violations or programmatic failures. Depending on the type of violation or programmatic failure, the report would be made within 24 hours of the event occurrence, or within 30 days of completing an investigation into a programmatic failure.

6. *Who will be required or asked to respond:* Nuclear power reactor licensees licensed under parts 50 and 52 of title 10 of the *Code of Federal Regulations* (10 CFR) (except those who have permanently ceased operations and have verified that fuel has been permanently removed from the reactor); all holders of nuclear power plant construction permits and early site permits with a limited work authorization and applicants for nuclear power plant construction permits that have a limited work authorization under the provisions of 10 CFR part 50; all holders of a combined license for a nuclear power plant issued under 10 CFR part 52 and applicants for a combined license that have a limited work authorization; all licensees who are authorized to possess, use, or transport formula quantities of strategic special nuclear material (SSNM) under the provisions of 10 CFR part 70; all holders of a certificate of compliance of an approved compliance plan issued under 10 CFR part 76, if the holder engages in activities involving formula quantities of SSNM; and all contractor/vendors (C/Vs) who implement FFD programs or program elements to the extent that the licensees and other entities listed in this paragraph rely on those C/V FFD programs or program elements to comply with 10 CFR part 26.

7. *The estimated number of annual responses:* 441,843 responses (217 reporting responses + 49 recordkeepers + 441,577 third-party disclosure responses).

8. *The estimated number of annual respondents:* 88,229 respondents (28 drug and alcohol testing programs + 21 fatigue management programs + 88,180 third-party disclosure respondents).

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 726,847.9 hours (6,184.0 hours reporting + 228,632.5 hours recordkeeping + 492,031.4 hours third-party disclosure).

10. *Abstract:* The NRC regulations in 10 CFR part 26 prescribe requirements to establish, implement, and maintain FFD programs at affected licensees and other entities. The objectives of these requirements are to provide reasonable assurance that persons subject to the rule are trustworthy, reliable, and not under the influence of any substance, legal or illegal, or mentally or physically impaired from any cause, which in any way could adversely affect their ability to safely and competently perform their duties. These requirements also provide reasonable assurance that the effects of fatigue and degraded alertness on individuals' abilities to safely and competently perform their duties are managed commensurate with maintaining public health and safety. The information collections required by part 26 are necessary to properly manage FFD programs and to enable effective and efficient regulatory oversight of affected licensees and other entities. These licensees and other entities must perform certain tasks, maintain records, and submit reports to comply with part 26 drug and alcohol and fatigue management requirements. These records and reports are necessary to enable regulatory inspection and evaluation of a licensee's or other entity's compliance with NRC regulations, FFD performance, and significant FFD-related events to help maintain public health and safety, promote the common defense and security, and protect the environment.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the estimate of the burden of the information collection accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated at Rockville, Maryland, this 26th day of May 2017.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2017–11282 Filed 5–31–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Notice of Meeting

In accordance with the purposes of Sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold a meeting June 7–9, 2017, 11545 Rockville Pike, Rockville, Maryland 20852.

Wednesday, June 7, 2017, Conference Room T–2B1, 11545 Rockville Pike, Rockville, Maryland 20852

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–12:00 p.m.: Advanced Power Reactor 1400 (APR 1400) (Open/Closed)—The Committee will hear briefings by and hold discussions with representatives of the NRC staff and Korea Hydro & Nuclear Power regarding selected chapters of the safety evaluation associated with the APR 1400 Design Certification. [Note: A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4)].

1:00 p.m.–3:00 p.m.: Browns Ferry Extended Power Uprate (EPU) Application (Open/Closed)—The Committee will hear briefings by and hold discussions with representatives of the NRC staff and Tennessee Valley Authority regarding the safety evaluation associated with the Browns Ferry EPU application. [Note: A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4)].

3:15 p.m.–5:15 p.m.: Westinghouse Proprietary Topical Report, PWROG–14001–P, Revision 1, ''PRA Model for the Generation III Westinghouse Shut Down Seal'' (Open/Closed)—The Committee will hear briefings by and hold discussions with representatives of the NRC staff, Westinghouse and the PWR Owners Group regarding the subject report and associated safety evaluation. [Note: A portion of this session may be closed in order to discuss and protect information

designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4)].

5:15 p.m.–6:00 p.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will discuss proposed ACRS reports on matters discussed during this meeting. [Note: A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4)].

Thursday, June 8, 2017, Conference Room T–2B1, 11545 Rockville Pike, Rockville, Maryland 20852

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10:30 a.m.: Proposed Rule and Draft Regulatory Guide DG–5062 on Cyber Security for Fuel Cycle Facilities (Open)—The Committee will hear briefings by and hold discussions with representatives of the NRC staff regarding the subject activities.

10:45 a.m.–12:15 p.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee and Reconciliation of ACRS Comments and Recommendations (Open/Closed)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the Full Committee during future ACRS Meetings, and matters related to the conduct of ACRS business, including anticipated workload and member assignments. The Committee will discuss the responses from the NRC Executive Director for Operations to comments and recommendations included in recent ACRS reports and letters. [Note: A portion of this meeting may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.]

1:00 p.m.–6:00 p.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports. [Note: A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4)].

Friday, June 9, 2017, Conference Room T–2B1, 11545 Rockville Pike, Rockville, Maryland 20852

8:30 a.m.–12:00 p.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports. [Note: A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4)].

1:00 p.m.–5:30 p.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports. [Note: A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4)].

5:30 p.m.–6:00 p.m.: Miscellaneous (Open)—The Committee will continue its discussion related to the conduct of Committee activities and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 17, 2016 (81 FR 71543). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Persons desiring to make oral statements should notify Quynh Nguyen, Cognizant ACRS Staff (Telephone: 301–415–5844, Email: *Quynh.Nguyen@nrc.gov*), 5 days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Cognizant ACRS staff if such rescheduling would result in major inconvenience.

Thirty-five hard copies of each presentation or handout should be provided 30 minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the Cognizant ACRS Staff one day before meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the Cognizant ACRS Staff with a CD containing each presentation at least 30 minutes before the meeting.

In accordance with Subsection 10(d) of Public Law 92–463 and 5 U.S.C. 552b(c), certain portions of this meeting may be closed, as specifically noted above. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Electronic recordings will be permitted only during the open portions of the meeting.

ACRS meeting agendas, meeting transcripts, and letter reports are available through the NRC Public Document Room at *pdr.resource@nrc.gov,* or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html or http://www.nrc.gov/reading-rm/doc-collections/ACRS/.*

Video teleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m. (ET), at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the video teleconferencing link. The availability of video teleconferencing services is not guaranteed.

Dated at Rockville, Maryland, this 25th day of May, 2017.

For the Nuclear Regulatory Commission.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 2017–11268 Filed 5–31–17; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80768; File No. SR–MIAX–2017–19]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing of a Proposed Rule Change To Amend MIAX Options Rules 515, Execution of Orders and Quotes; 515A, MIAX Price Improvement Mechanism ("PRIME") and PRIME Solicitation Mechanism; and 518, Complex Orders

May 25, 2017.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 12, 2017, Miami International Securities Exchange, LLC ("MIAX Options" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Exchange Rules 515, Execution of Orders and Quotes; 515A, MIAX Price Improvement Mechanism (''PRIME'') and PRIME Solicitation Mechanism; and 518, Complex Orders.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/rule-filings,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Exchange Rules 515, Execution of Orders and Quotes; 515A, MIAX Price Improvement Mechanism (''PRIME'') and PRIME Solicitation Mechanism; and 518, Complex Orders, to establish three new types of complex orders,[3] and to adopt new provisions that relate to the processing of those new complex order types. In particular, the Exchange is proposing to modify those rules to permit the entry and execution of Complex Customer Cross (''cC2C'') Orders, Complex Qualified Contingent Cross (''cQCC'') Orders, and Complex PRIME (''cPRIME'') Orders, each as discussed more fully below.

Background

Exchange Rule 515(h) currently permits the entry and execution of Customer Cross Orders[4] and Qualified Contingent Cross (''QCC'') Orders[5] in the Exchange's simple market. A Customer Cross Order is comprised of a Priority Customer[6] Order to buy and a Priority Customer Order to sell at the same price and for the same quantity. A Customer Cross Order is not valid during the opening rotation process described in Rule 503.[7] A QCC Order is comprised of an originating order to buy or sell at least 1,000 contracts, or 10,000 mini-option contracts, that is identified as being part of a qualified contingent trade,[8] as that term is defined in Rule 516, Interpretations and Policies .01, coupled with a contra-side order or orders totaling an equal number of contracts. A QCC Order is not valid during the opening rotation process described in Rule 503.[9]

Customer Cross Orders and QCC Orders are processed in a crossing mechanism of the Exchange's System[10] designed specifically for the execution of those order types, and Rule 515(h) contains order processing and execution requirements that are unique to these order types. The Exchange proposes to use that same crossing mechanism for the processing and execution of cC2C Orders and cQCC Orders. Accordingly, the Exchange is proposing to modify Rule 515(h) so that it also permits the execution of cC2C Orders and cQCC Orders, through the adoption of Rule 515(h)(3) (relating to cC2C Orders) and Rule 515(h)(4) (relating to cQCC Orders). Rules 515(h)(3) and (4) include processing and execution requirements for cC2C Orders and cQCC Orders that differ from the processing and execution requirements under 515(h)(1) and (2) for Customer Cross Orders and QCC Orders, respectively.

Exchange Rule 515A currently permits the entry and execution of PRIME Orders[11] and PRIME Solicitation Orders[12] in the Exchange's simple market. PRIME is a price-improvement mechanism of the Exchange's System pursuant to which a Member[13] (''Initiating Member'') electronically submits an order that it represents as agent (an ''Agency Order'') into a PRIME Auction (''Auction''). The Initiating Member, in submitting an Agency Order, must be willing to either (i) cross the Agency Order at a single price (a ''single-price submission'') against principal or solicited interest, or (ii) automatically match (''auto-match''), against principal or solicited interest, the price and size of responses to a Request for Response (''RFR'') that is broadcast to MIAX Options participants up to an optional designated limit price.[14]

PRIME Orders are processed in the PRIME mechanism of the Exchange's System that is designed specifically for the execution of those order types. Accordingly, Rule 515A contains order processing and execution requirements that are unique to these order types. The Exchange proposes to utilize that same PRIME mechanism for the processing and execution of cPRIME Orders. Accordingly, the Exchange is proposing to modify Rule 515A so that it also permits the execution of cPRIME Orders, through certain modifications to Rule 515A(a) and the adoption of Interpretations and Policies .12 (PRIME for Complex Orders). Interpretations and Policies .12 includes processing and execution requirements for cPRIME Orders that differ from the processing

[3] For a description of the trading of complex orders on the Exchange, *see* Exchange Rule 518. *See also,* Securities Exchange Act Release No. 79072 (October 7, 2016), 81 FR 71131 (October 14, 2016) (SR–MIAX–2016–26).

[4] *See* Exchange Rule 515(h)(1).

[5] *See* Exchange Rule 515(h)(2).

[6] The term ''Priority Customer'' means 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* Exchange Rule 100.

[7] *See* Exchange Rule 516(i).

[8] A ''qualified contingent trade'' is a transaction consisting of two or more component orders, executed as agent or principal, where: (a) At least one component is an NMS Stock, as defined in Rule 600 of Regulation NMS under the Act; (b) all components are effected with a product or price contingency that either has been agreed to by all the respective counterparties or arranged for by a broker-dealer as principal or agent; (c) the execution of one component is contingent upon the execution of all other components at or near the same time; (d) the specific relationship between the component orders (*e.g.,* the spread between the prices of the component orders) is determined by the time the contingent order is placed; (e) the component orders bear a derivative relationship to one another, represent different classes of shares of the same issuer, or involve the securities of participants in mergers or with intentions to merge that have been announced or cancelled; and (f) the transaction is fully hedged (without regard to any prior existing position) as a result of other components of the contingent trade. *See* Exchange Rule 516, Interpretations and Policies .01.

[9] *See* Exchange Rule 516(j).

[10] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

[11] *See* Exchange Rule 515A(a).

[12] *See* Exchange Rule 515A(b).

[13] The term ''Member'' means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed ''members'' under the Act. *See* Exchange Rule 100.

[14] *See* Exchange Rule 515A(a)(2)(i). When the Exchange receives a properly designated Agency Order for auction processing, an RFR detailing the option, side, size, and initiating price will be sent to all subscribers of the Exchange's data feeds. The RFR currently lasts for 500 milliseconds. Members may submit responses to the RFR (specifying prices and sizes). RFR responses shall be an Auction or Cancel (''AOC'') order or an AOC eQuote. Such responses cannot cross the disseminated MIAX Best Bid or Offer (''MBBO'') on the opposite side of the market from the response.

and execution requirements under 515A(a) for simple PRIME Orders.

The Exchange is also proposing to amend Exchange Rule 518, which governs the processing and execution of complex orders on the Exchange. In particular, Rule 518(b) lists and defines complex order types that are available for trading on the Exchange.[15] Accordingly, the Exchange proposes to amend Rule 518(b) to list and define the three new complex order types: cC2C, cQCC, and cPRIME.

cC2C Orders

As discussed above, the Exchange proposes to use the same crossing mechanism for the processing and execution of cC2C Orders that is used for Customer Cross Orders in the simple market. Accordingly, proposed Rule 515(h)(3) shall govern the trading of cC2C Orders, as defined in Rule 518(b)(5), on MIAX Options.

Proposed Rule 518(b)(5) defines a cC2C Order as a type of complex order which is comprised of one Priority Customer complex order to buy and one Priority Customer complex order to sell (the same strategy) at the same price (which must be better than (inside) the icMBBO [16] or the best net price of the complex order on the Strategy Book [17] for the strategy, whichever is more aggressive) and for the same quantity.

Proposed Rule 515(h)(3) describes the execution price requirements that are specific for cC2C Orders. Specifically, cC2C Orders are automatically executed upon entry provided that the execution is at least $0.01 better than (inside) the icMBBO (as defined in Rule 518(a)(11)) price or the best net price of a complex order (as defined in Rule 518(a)(5)) on the Strategy Book (as defined in Rule 518(a)(17)), whichever is more aggressive (*i.e.,* the higher bid and/or lower offer). The purpose of the requirement that the execution be at the more aggressive price of either the icMBBO or the best net price of the complex order on the Strategy Book is to ensure that each participant in the complex order receives a better price than it would receive if submitted as a single complex order, and to ensure that there is no interference between the simple and complex markets.

The System will reject a cC2C Order if, at the time of receipt of the cC2C Order, (i) the strategy is subject to a cPRIME Auction pursuant to Rule 515A proposed Interpretations and Policies .12, or to a Complex Auction pursuant to Rule 518(d); or (ii) any component of the strategy is subject to a SMAT Event as described in Rule 518(a)(16).[18] The purpose of this provision is to maintain an orderly market by avoiding the execution of cC2C Orders with components that are involved in other System functions (specifically a PRIME Auction, Route Timer, or liquidity refresh pause) that could affect the execution price of the cC2C Order, and by avoiding concurrent processing on the Exchange involving the same security. This methodology for the handling of cC2C Orders differs somewhat from the methodology for handling Customer Cross Orders, wherein the System will not reject a cC2C Order when a component of the strategy is subject to the managed interest process [19] pursuant to Rule 515(c) (as the System would reject a Customer Cross Order in the simple market during such a condition). A cC2C Order already has a guaranteed execution price at the better of $0.01 inside the icMBBO price or at the best net price of a complex order on the Strategy Book. Therefore, it is not necessary or desirable to reject and thereby preclude the execution of a cC2C Order in this circumstance.

Proposed Rule 515(h)(3)(A) states that cC2C Orders will be automatically cancelled if they cannot be executed. Proposed Rule 515(h)(3)(B) provides that cC2C Orders may only be entered in the minimum trading increments applicable to complex orders under Rule 518(c)(1)(i).[20]

As a regulatory matter, proposed Rule 515(h)(3)(C) states that Rule 520, Interpretations and Policies .01 [21] applies to the entry and execution of cC2C Orders.

Proposed Rule 515(h)(3)(D) states that the Exchange will determine, on a class-by-class basis, the option classes in which cC2C Orders are available for trading on the Exchange, and will announce such classes to Members via Regulatory Circular.

The following example illustrates the execution of a cC2C Order:

Example 1—A cC2C Order Is Executed

MIAX–LMM Mar 50 Call 6.00–6.50 (10x10)

MIAX–LMM Mar 55 Call 3.00–3.30 (10x10)

Strategy: Buy 1 Mar 50 Call, Sell 1 Mar 55 Call

The icMBBO is 2.70 debit bid at 3.50 credit offer

The dcMBBO is 2.70 debit bid at 3.50 credit offer

The Strategy Book contains a Priority Customer offer to sell the Strategy at 3.30 credit, 20 times.

The Exchange receives a cC2C Order representing Priority Customers on both sides for the simultaneous purchase and sale of the strategy at a net price of 3.29, 500 times.

Since the order price is at least $0.01 better than (inside) the icMBBO and the best net price of any order for the Strategy on the Strategy Book, the cC2C order is automatically executed upon entry.

cQCC Orders

As discussed above, the Exchange proposes to use the same crossing mechanism for the processing and execution of cQCC Orders that is used

[15] Exchange Rule 518(b), Types of Complex Orders, lists the various complex orders available for trading on the Exchange. The Exchange is proposing to add two new complex order types, cC2C and cQCC Orders, to this rule.

[16] The Implied Complex MIAX Best Bid or Offer (''icMBBO'') is a calculation that uses the best price from the Simple Order Book (defined below) for each component of a complex strategy including displayed and non-displayed trading interest. For stock-option orders, the icMBBO for a complex strategy will be calculated using the best price (whether displayed or non-displayed) on the Simple Order Book (defined below) in the individual option component(s), and the NBBO in the stock component. *See* Exchange Rule 518(a)(11).

[17] The ''Strategy Book'' is the Exchange's electronic book of complex orders and complex quotes. *See* Exchange Rule 518(a)(17).

[18] A Simple Market Auction or Timer, or ''SMAT'' Event, is defined as any of the following: (i) A PRIME Auction (pursuant to Rule 515A); (ii) a Route Timer (pursuant to Rule 529); or (iii) a liquidity refresh pause (pursuant to Rule 515(c)(2)). *See* Exchange Rule 518(a)(16).

[19] Under the managed interest process, if the limit price of a non-routable order locks or crosses the current opposite side NBBO, the System will display the order one Minimum Price Variation away from the current opposite side NBBO, and book the order at a price that will lock the current opposite side NBBO. *See* Exchange Rule 515(c)(ii).

[20] Bids and offers on complex orders and quotes may be expressed in $0.01 increments, and the component(s) of a complex order may be executed in $0.01 increments, regardless of the minimum increments otherwise applicable to individual components of the complex order. *See* Exchange Rule 518(c)(1)(i).

[21] Rule 520(b) prevents an Electronic Exchange Member from executing agency orders to increase its economic gain from trading against the order without first giving other trading interest on the Exchange an opportunity to either trade with the agency order or to trade at the execution price when the Member was already bidding or offering on the Book. However, the Exchange recognizes that it may be possible for an Electronic Exchange Member to establish a relationship with a customer or other person (including affiliates) to deny agency orders the opportunity to interact on the Exchange and to realize similar economic benefits as it would achieve by executing agency orders as principal. It will be a violation of Rule 520(b) for an Electronic Exchange Member to be a party to any arrangement designed to circumvent Rule 520(b) by providing an opportunity for a customer or other person (including affiliates) to regularly execute against agency orders handled by the Electronic Exchange Member immediately upon their entry into the System. *See* Exchange Rule 520, Interpretations and Policies .01.

for QCC Orders in the simple market.[22] Accordingly, proposed Rule 515(h)(4) shall govern the trading of cQCC Orders, as defined in Rule 518(b)(6), on MIAX Options.

Proposed Rule 518(b)(6) defines a cQCC Order as a type of complex order which is comprised of a complex order to buy or sell where each component is at least 1,000 contracts that is identified as being part of a qualified contingent trade, as defined in Rule 516, Interpretations and Policies .01,[23] coupled with a contra-side complex order or orders (for the same strategy) totaling an equal number of contracts.

Proposed Rule 515(h)(4) mirrors the execution price requirements for simple QCC Orders by providing that cQCC Orders are automatically executed upon entry provided that, with respect to each option leg of the cQCC Order, the execution (i) is not at the same price as a Priority Customer Order on the Exchange's Book;[24] and (ii) is at or between the NBBO. The purpose of the requirement that each option leg be executed at or between the NBBO is to ensure that no option component of the cQCC Order trades through the NBBO. The purpose of the requirement that each option leg be executed at a price better than any Priority Customer on the Book is to ensure that no option component of the cQCC Order trades ahead of a Priority Customer Order.

The Options Order Protection and Locked/Crossed Markets Plan (the ''Plan''), provides an exception to the requirement that Participants establish, maintain and enforce written policies and procedures that are reasonably designed to prevent Trade-Throughs when the transaction that constituted the Trade-Through was effected as a portion of a ''complex trade,'' as defined in the rules of a Participant.[25]

The System does not consider the NBBO price for the stock component because the Exchange does not execute the stock component; the Exchange executes the option components at a net price and ensures that the execution price of each option component of the strategy is (i) not at the same price as a Priority Customer Order on the Exchange's Simple Order Book;[26] and (ii) at or between the NBBO. The Exchange does require that the Member entering a QCC Order provide certain information to the Exchange regarding the execution of the stock component, such as the underlying price, quantity, price delta, execution time and executing venue.[27] The Exchange will require this same information from Members with respect to cQCC Orders.

This complex pricing requirement aligns with the simple order pricing requirement for a Qualified Contingent Trade (''QCT'') to consider the NBBO price. In each case, the parties to a contingent trade are focused on the spread or ratio between the transaction prices for each of the component instruments (*i.e.,* the net price of the entire contingent trade), rather than on the absolute price of any single component. Pursuant to the requirements of the NMS QCT Exemption, the spread or ratio between the relevant instruments must be determined at the time the order is placed, and this spread or ratio stands regardless of the market prices of the individual orders at their time of execution. As the Commission noted in the Original QCT Exemption, ''the difficulty of maintaining a hedge, and the risk of falling out of hedge, could dissuade participants from engaging in contingent trades, or at least raise the cost of such trades.'' Thus, the Commission found that, if each stock leg of a qualified contingent trade were required to meet the trade-through provisions of Rule 611 of Regulation NMS, such trades could become too risky and costly to be employed successfully and noted that the elimination or reduction of this trading strategy potentially could remove liquidity from the market.[28] This is also true for QCC Orders in options, and thus the Exchange believes that its proposal is consistent with the Original QCT Exemption.

The System will reject a cQCC Order if, at the time of receipt of the cQCC Order, (i) the strategy is subject to a cPRIME Auction pursuant to proposed Rule 515A, Interpretations and Policies .12, or to a Complex Auction pursuant to Rule 518(d); or any component of the strategy is subject to a SMAT Event as described in Rule 518(a)(16).[29] This provision is intended to maintain an orderly market by avoiding the execution of cQCC Orders with components that are involved in other System functions (specifically a PRIME Auction, Route Timer, or liquidity refresh pause) that could affect the execution price of the cQCC Order, and by avoiding concurrent processing on the Exchange involving the same security. For the same reasons as described above with respect to cC2C Orders, the System will not reject a cQCC Order when a component of the strategy that is subject to the managed interest process pursuant to Rule 515(c) (as the System would reject a QCC Order in the simple market during such a condition).

Proposed Rule 515(h)(4)(A) states that cQCC Orders will be automatically cancelled if they cannot be executed. Proposed Rule 515(h)(4)(B) provides that cQCC Orders may only be entered in the minimum trading increments applicable to complex orders under Rule 518(c)(1)(i).[30]

Just as with cC2C Orders, proposed Rule 515(h)(4)(C)states that the Exchange will determine, on a class-by-class basis, the option classes in which cQCC Orders are available for trading on the Exchange, and will announce such classes to Members via Regulatory Circular.

The following example illustrates the execution of a cQCC Order:

Example 2—A cQCC Order Is Executed

MIAX–LMM Mar 50 Call 6.00–6.50 (10x10—no Priority Customer interest)
MIAX–LMM Mar 55 Call 3.00–3.30 (10x10—no Priority Customer interest)
ABBO—Mar 50 Call 6.00–6.30 (10x10)
ABBO—Mar 55 Call 3.00–3.30 (10x10)
NBBO—Mar 50 Call 6.00–6.30 (20x10)
NBBO—Mar 55 Call 3.00–3.30 (20x20)

Strategy: Buy 1 Mar 50 Call, Sell 1 Mar 55 Call

The icMBBO is 2.70 debit bid at 3.50 credit offer
The dcMBBO is 2.70 debit bid at 3.50 credit offer
The ABBO is 2.70 debit bid at 3.30 credit offer

The Exchange receives a cQCC Order representing Public Customers on both sides for the simultaneous purchase and sale of the strategy at a net price of 3.30, 1000 times along with information regarding the execution of the stock component relating to the crossing of 20,000 shares of the underlying security (which information related to a separate

[22] *See* Exchange Rule 515(h)(2).

[23] *See supra* note 8.

[24] The term ''Book'' means the electronic book of buy and sell orders and quotes maintained by the System. *See* Exchange Rule 100.

[25] *See* Section 5(b)(viii) of the Plan. *See also,* Exchange Rule 1401(b)(7).

[26] The ''Simple Order Book'' is the Exchange's regular electronic book of orders and quotes, as defined in Exchange Rule 518, Complex Orders. *See* Exchange Rule 518(a)(15). For purposes of the instant proposed rule change, the terms ''Book'' (*see supra* note 24) and ''Simple Order Book'' have the same meaning and are interchangeable.

[27] *See* MIAX Options Regulatory Circular No. 2015–47 (October 2, 2015), describing Regulatory Requirements when entering a Qualified Contingent Cross Order.

[28] *See* Securities Exchange Act Release No. 54389 (August 31, 2006), 71 FR 52829 (September 7, 2006) (''Original QCT Exemption'').

[29] *See supra* note 18.

[30] *See supra* note 20.

order that was sent to the stock execution venue by the Clearing Member previously identified to the Exchange as a Designated Give Up for the Member that submitted the cQCC Order in accordance with the Rule).

Since the order can be executed at or between the NBBO for each leg of the Strategy, is not at the same price as a Priority Customer Order on the Exchange's Simple Order Book, and the order size and underlying security requirements have been met, the cQCC Order is automatically executed upon entry.

The Exchange is proposing the same price execution requirements that are currently in place on other exchanges.[31]

Complex PRIME Orders

As discussed above, the Exchange proposes to use the same PRIME mechanism for the processing and execution of cPRIME Orders that is used for PRIME Orders in the simple market. The manner in which cPRIME Orders will be processed and executed will be the same as the manner in which simple PRIME Orders are currently processed and executed, except as otherwise provided in proposed Interpretations and Policies .12 to Rule 515A. Accordingly, proposed Interpretations and Policies .12, PRIME for Complex Orders, states that, unless otherwise provided in Interpretations and Policies .12 to Rule 515A or unless the context otherwise requires, the provisions of Exchange Rule 515A(a) (which governs the processing and execution of simple PRIME orders) shall be applicable to the trading of complex orders on PRIME.

Proposed Rule 518(b)(7) defines a cPRIME Order as a type of complex order that is submitted for participation in a cPRIME Auction. Trading of cPRIME Orders is governed by Rule 515A, Interpretations and Policies .12.

The Exchange will determine, on a class-by-class basis, the option classes in which complex orders are available for trading on PRIME on the Exchange, and will announce such classes to Members via Regulatory Circular.

The Exchange is proposing to amend Rule 515A(a)(2)(D) by stating clearly in the rule that the System will reject RFR responses submitted with a price that is not equal to or better than the initiating price. The purpose of this proposal is to avoid the handling of RFR responses by the System that could not be executed in an Auction because they are inferior to the initiating price, at which the Agency Order has been stopped. The Exchange is proposing to delete the last sentence of Rule 515A(a)(2)(i)(D) which states simply that such RFR responses cannot cross the disseminated MBBO on the opposite side of the market from the response. Such a response would result in the conclusion of the Auction under current Rule 515A(2)(ii)(E), which states that the Auction will conclude any time an RFR response matches the NBBO on the opposite side of the market from the RFR responses. The Exchange is proposing to delete the last sentence of Rule 515A(a)(2)(i)(D), because the NBBO cannot be outside, or inferior to, the MBBO, and an RFR response therefore could not cross the MBBO without matching or crossing the NBBO, which stops the Auction. This provision in Rule 515A(a)(2)(i)(D) is unnecessary and should be deleted.

Proposed Interpretations and Policies .12(a) to Rule 515A includes general rules applicable to cPRIME Orders and cPRIME Auctions. Under the proposal, Members may use PRIME to execute complex orders at a net price. In order to distinguish PRIME Auctions involving simple PRIME Orders from cPRIME Auctions involving cPRIME Orders, the Exchange is proposing to add new defined terms to Interpretations and Policies .12(a). Proposed Interpretations and Policies .12(a) states that ''cPRIME'' is the process by which a Member may electronically submit a ''cPRIME Order'' (as defined in proposed Rule 518(b)(7)) it represents as agent (a ''cPRIME Agency Order'') against principal or solicited interest for execution (a ''cPRIME Auction''). The Exchange is proposing to adopt these new terms for clarity and ease of reference.

Proposed Interpretations and Policies .12(a)(i) to Rule 515A states that the initiating price for a cPRIME Agency Order must be better than (inside) the icMBBO[32] for the strategy and any other complex orders on the Strategy Book. This ensures that the execution price of the cPRIME Agency Order improves the best price on the Exchange at the time of receipt, and that there is no interference between the simple and complex markets. The System will reject cPRIME Agency Orders submitted with an initiating price that is equal to or worse than (outside) the icMBBO or any other complex orders on the Strategy Book.

Proposed Interpretations and Policies .12(a)(ii) to Rule 515A states that Members may enter RFR responses on the opposite side of the market from the cPRIME Agency Order at net prices, and bids and offers for complex orders may participate in the execution of an order as provided in MIAX Options Rule 515A. The purpose of this provision is to clarify that cPRIME Auctions, including the RFR and RFR responses, will, with certain exceptions described herein, be handled and executed in the same manner as simple PRIME Auctions.

Proposed Interpretations and Policies .12(a)(iii) to Rule 515A states that, except as provided in proposed Interpretations and Policies .12(c) (described below), with respect to bids and offers for the individual legs of a complex order entered into cPRIME, the order allocation rules contained in Rule 514 will apply. This ensures that simple orders on the Exchange's Simple Order Book are allocated under the simple order allocation rules when they are executed against the legs of a complex order.

Proposed Interpretations and Policies .12(a)(iv) to Rule 515A states that, if an improved net price for the complex order being executed can be achieved from bids and offers for the individual legs of the complex order in the simple market, and the complex order is otherwise eligible for Legging pursuant to Rule 518(c)(2)(iii),[33] the Strategy being matched will receive an execution at the better net price. The purpose of this provision is to ensure that the Exchange will provide the best net price available on the Exchange, whether by way of matching strategies or by way of Legging with the Simple Order Book, as long as the complex order is eligible for Legging.

Proposed Interpretations and Policies .12(a)(v) to Rule 515A states that all references to the NBBO in Rule 515A

[31] *See, e.g.,* Securities Exchange Act Release No. 69948 (July 9, 2013), 78 FR 42132 (July 15, 2013) (SR–CBOE–2013–41). *See also,* NYSEArca Regulatory Information Bulletin no. RBO–11–04 (May 26, 2011).

[32] *See supra* note 16.

[33] Complex orders up to a maximum number of legs (determined by the Exchange on a class-by-class basis as either two or three legs and communicated to Members via Regulatory Circular) may be automatically executed against bids and offers on the Simple Order Book for the individual legs of the complex order (''Legging''), provided the complex order can be executed in full or in a permissible ratio by such bids and offers, and provided that the execution price of each component is not executed at a price that is outside of the NBBO. Legging is not available for cAOC orders, complex Standard quotes, complex eQuotes, or stock-option orders. Notwithstanding the foregoing, complex orders with two option legs where both legs are buying or both legs are selling and both legs are calls or both legs are puts may only trade against other complex orders on the Strategy Book and will not be permitted to leg into the Simple Order Book. Complex orders with three option legs where all legs are buying or all legs are selling may only trade against other complex orders on the Strategy Book, regardless of whether the option leg is a call or a put. The System will not generate derived orders for these complex orders. *See* Exchange Rule 518(c)(2)(iii).

are inapplicable.[34] Any of the references to the NBBO in Rule 515A apply to simple orders and do not apply to complex orders; proposed Interpretations and Policies .12 replaces references to the NBBO with references to the icMBBO that apply to complex orders.

The following example illustrates the execution of a cPRIME Order with the single price submission election (no auto-match):

Example 3—A cPRIME Order Is Executed (Without Auto-Match)

MIAX–LMM Mar 50 Call 6.00–6.50 (10x10)
MIAX–LMM Mar 55 Call 3.00–3.30 (10x10)
Strategy: Buy 1 Mar 50 Call, Sell 1 Mar 55 Call
The icMBBO is 2.70 debit bid at 3.50 credit offer
The dcMBBO is 2.70 debit bid at 3.50 credit offer

The Strategy Book contains a Priority Customer offer to sell the Strategy at 3.30 credit, 20 times.

The Exchange receives a cPRIME Order with the cPRIME Agency Order representing the purchase of the Strategy at a net debit of 3.29, 500 times. Auto-match is not enabled.

Since the order price is at least $0.01 better than (inside) the icMBBO and the best net price of any order for the Strategy on the Book, a cPRIME Auction can begin.

An RFR is broadcast to all subscribers showing price, the quantity of matched complex orders at that price, and the side of the cPRIME Agency Order, is sent and a 500 millisecond RFR period is started.

The following responses are received:

- @50 milliseconds BD1 response, cAOC Order @3.25 credit sell of 100 arrives
- @150 milliseconds MM1 response, cAOC eQuote @3.27 credit sell of 100 arrives
- @200 milliseconds MM3 response, cAOC eQuote @3.29 credit sell of 200 arrives
- @300 milliseconds MM4 response, cAOC eQuote @3.29 credit sell of 200 arrives

The cPRIME Auction process will continue until the Response Time Interval ends. When the 500 millisecond Response Time Interval ends, the cPRIME Auction process will trade the cPRIME Agency Order with the best priced responses. The cPRIME Agency order will be filled as follows:

- The cPRIME Agency Order buys 100 from BD1 @3.25
- The cPRIME Agency Order buys 100 from MM1 @3.27
- At the final price, the cPRIME Agency Order buys:

—50 from MM3 @3.29;
—50 from MM4 @3.29; and
—200 (40%) from the cPRIME Contra Order @3.29.

The following example illustrates the execution of a cPRIME Order with the auto-match election:

Example 4—A cPRIME Order Is Executed (With Auto-Match)

MIAX–LMM Mar 50 Call 6.00–6.50 (10x10)
MIAX–LMM Mar 55 Call 3.00–3.30 (10x10)
Strategy: Buy 1 Mar 50 Call, Sell 1 Mar 55 Call
The icMBBO is 2.70 debit bid at 3.50 credit offer
The dcMBBO is 2.70 debit bid at 3.50 credit offer

The Strategy Book contains a Priority Customer offer to sell the Strategy at 3.30 credit, 20 times.

The Exchange receives a cPRIME Order with the cPRIME Agency Order representing the purchase of the Strategy at a net debit of 3.29, 500 times. Auto-match has been enabled with an auto-match limit price of 3.25.

Since the order price is at least $0.01 better than (inside) the icMBBO and the best net price of any order for the Strategy on the Book, a cPRIME Auction can begin.

An RFR is broadcast to all subscribers showing price, the quantity of matched complex orders at that price, and the side of the cPRIME Agency Order, is sent and a 500 millisecond RFR period is started.

The following responses are received:

- @50 milliseconds BD1 response, cAOC Order @3.25 credit sell of 100 arrives
- @150 milliseconds MM1 response, cAOC eQuote @3.27 credit sell of 300 arrives

The cPRIME Auction process will continue until the Response Time Interval ends. When the 500 millisecond Response Time Interval ends, the cPRIME Auction process will trade the Agency Order with the best priced responses. The Agency Order will be filled as follows:

- At the interim price, the cPRIME Agency Order buys:

—100 from BD1 @3.25; and
—100 (auto-match RFR Response) from the cPRIME Contra Order @3.25.

- At the final price, the cPRIME Agency Order buys:

—150 from MM1 @3.27; and
—150 (auto-match 50% of the remaining Agency Order size) from the cPRIME Contra Order @3.27

The following example illustrates the execution of a cPRIME Order that legs into the simple market:

Example 5—A cPRIME Order Is Executed (by Legging Into the Simple Market)

MIAX–LMM Mar 50 Call 6.00–6.50 (10x10)
MIAX–LMM Mar 55 Call 3.00–3.30 (10x10)
Strategy: Buy 1 Mar 50 Call, Sell 1 Mar 55 Call
The icMBBO is 2.70 debit bid at 3.50 credit offer
The dcMBBO is 2.70 debit bid at 3.50 credit offer

The Strategy Book contains a Priority Customer offer to sell the Strategy at 3.30 credit, 20 times.

The Exchange receives a cPRIME Order with the cPRIME Agency Order representing the purchase of the Strategy at a net debit of 3.29, 500 times. Auto-match is not enabled.

Since the order price is at least $0.01 better than (inside) the icMBBO and the best net price of any order for the Strategy on the Book, a cPRIME Auction can begin.

An RFR is broadcast to all subscribers showing price, the quantity of matched complex orders at that price, and the side of the cPRIME Agency Order, is sent and a 500 millisecond RFR period is started.

The following responses are received:

- @150 milliseconds MM2 response, cAOC Order @3.28 credit sell of 100 arrives
- @200 milliseconds MM1 response, cAOC Order @3.27 credit sell of 300 arrives
- @300 milliseconds the MIAX LMM improves its offer to sell 10 Mar 50 Calls to a price of 6.25

The offer to sell 10 Mar 50 Calls @6.25 changes the icMBBO credit offer to 3.25, crossing the Auction Start Price and causing the cPRIME Auction process to be terminated immediately.

The cPRIME Auction process will trade the Agency Order with the best priced liquidity opposite the Agency Order according to the allocation process contained in Rule 515A. The Agency Order will be filled as follows:

- The cPRIME Agency Order buys:

—10 from legging into the Simple market icMBBO @3.25 (buy 10 Mar 50 Calls at 6.25, and sell 10 Mar 55 Calls at 3.00); and

[34] Complex orders and quotes are executed without consideration of any prices for the complex strategy that might be available on other exchanges trading the same options contracts. *See* Exchange Rule 518(c)(2)(ii).

—300 from MM1 @3.27; and
—100 from MM2 @3.28; and
—90 from the cPRIME Contra Order @ 3.29

There are certain circumstances that are unique to cPRIME Orders (such as when a component of the cPRIME Order is in a certain state), where the System will reject the cPRIME Order. Accordingly, proposed Interpretations and Policies .12(b) describes each of these specific circumstances. Specifically, the System will reject a cPRIME Agency Order if, at the time of receipt of the cPRIME Agency Order: (i) The strategy is subject to a cPRIME Auction or to a Complex Auction pursuant to Rule 518(d); (ii) any component of the strategy is subject to a SMAT Event as described in Rule 518(a)(16); or (iii) any component of the strategy is subject to the managed interest process described in Rule 515(c)(1)(ii). The purpose of this provision is to maintain an orderly market by avoiding simultaneous multiple cPRIME Auctions and multiple concurrent PRIME, cPRIME and Complex Auctions, and to avoid executions during a Route Timer [35] or liquidity refresh pause [36] that could affect the price of the components and of the strategy.

The Exchange believes that, if the System were to accept and process cPRIME Agency Orders during the various circumstances described in proposed Interpretations and Policies .12(b) to Rule 515A, market participants could be faced with a number of simultaneous PRIME, cPRIME and/or Complex Auctions involving the same strategy or component, which in turn could have an impact the orderly functioning of the markets.

Proposed Interpretations and Policies .12(c) to Rule 515A describes various other situations that are unique to, or otherwise apply specifically to, cPRIME Orders. The purpose of this provision is to ''carve out'' rules for cPRIME Orders for which the rules for simple PRIME Orders do not apply and to otherwise make clear in the Exchange's rules the manner in which cPRIME Orders will be processed and executed under the proposal. Accordingly, proposed Interpretations and Policies .12(c) states that, notwithstanding the provisions of this Rule 515A with respect to PRIME, the following shall apply to cPRIME Orders only.

Proposed Interpretations and Policies .12(c)(i) to Rule 515A states that the RFR period for cPRIME Auctions shall be independent from the RFR for PRIME Auctions and shall last for a period of time set forth in Rule 515A(a)(2)(i)(C). The current RFR period for PRIME Auctions is 500 milliseconds.[37]

The Exchange is proposing to adopt Interpretations and Policies .12(c)(ii) to Rule 515A which states that participants that submit simple orders that are executed as individual legs of complex orders at the execution price point will be allocated contracts only after all complex interest at such price point have received allocations. cPRIME Orders are matched first against other complex orders and have priority over simple orders that are on the Book and ''legged,'' at the execution price, regardless of the origin code of the simple order. The Exchange believes that this is appropriate because the initiating price of the cPRIME Agency Order is always superior to the net price of simple orders resting on the Simple Order Book. The Agency Order is submitted at an improved price with an accompanying contra side order (principal or solicited interest) that is intended to trade with all components of the Agency Order at a net price at the time of submission. Simple orders resting on the Book do not necessarily intend to trade with the legs of the Agency Order, and thus the Exchange believes that it is equitable and not unfairly discriminatory to afford priority to complex interest over simple interest.

Additionally, under the proposal, when new interest is received in the simple market that causes the icMBBO on the opposite side of the market from the cPRIME Agency Order to be equal to or better than the initiating price, the cPRIME Auction ends before the expiration of the RFR period. In this situation, the receipt of such an order simply ends the cPRIME Auction and the execution and allocation process is accelerated, prior to the end of the RFR period.

Regardless of when the cPRIME Auction ends, contracts are first allocated by matching complex strategies; thereafter, contracts that are executed by way of Legging [38] complex strategy components against the Book are allocated among the complex strategies, and then finally among the simple orders on the Book that are matched with components of the Legged strategy. Thus, the allocation process is not changed, and simple orders resting on the book that may be executed by way of Legging are still subject to complex order priority interest and are allocated contracts only after all complex interest has been filled at that price. The Exchange believes that it is consistent, equitable and not unfairly discriminatory to afford priority to complex interest over simple interest even when Complex Auction ends early.[39]

The Exchange believes that its proposal to afford priority to complex orders in cPRIME over simple orders is appropriate because it rewards participants that assume greater market risk and actively improves the execution price by submitting complex RFR responses in a cPRIME Auction. A simple order on the Book is not responding to an RFR for price improvement, and thus the Exchange believes that it is equitable and not unfairly discriminatory to afford priority to complex orders in a cPRIME Auction over simple orders on the MIAX Options Book. The Exchange believes that affording priority to complex interest over simple interest on the Simple Order Book is consistent with Section 6(b) of the Act [40] in general, and furthers the objectives of Section 6(b)(5)

[35] For those initiating Public Customer orders that are routable, but do not meet the additional criteria for Immediate Routing, the System will implement a Route Timer not to exceed one second (the duration of the Timer will be announced to Members through a Regulatory Circular), in order to allow Market Makers and other participants an opportunity to interact with the initiating order. *See* Exchange Rule 529(b)(2)(i).

[36] The System will pause the market for a time period not to exceed one second to allow additional orders or quotes refreshing the liquidity at the MBBO to be received (''liquidity refresh pause'') when at the time of receipt or reevaluation of the initiating order by the System: (A) Either the initiating order is a limit order whose limit price crosses the NBBO or the initiating order is a market order, and the limit order or market order could only be partially executed; (B) a Market Maker quote was all or part of the MBBO when the MBBO is alone at the NBBO; and (C) and the Market Maker quote was exhausted. *See* Exchange Rule 515(c)(2).

[37] The Exchange notes that, on April 13, 2017, it filed with the Commission a proposed rule change (SR–MIAX–2017–16) that would amend the duration of the RFR period contained in Rule 515A(a)(2)(i)(c) so that the duration can be a period of time within a range of no less than 100 milliseconds and no more than 1 second, as determined by the Exchange and announced via Regulatory Circular. If approved, such provision would allow a separate and potentially different time period for simple PRIME Auctions and cPRIME Auctions, provided that each time period is within the permissible range. The Exchange notes that MIAX's proposed rule change to amend the duration of a PRIME Auction was published in the **Federal Register** on May 5, 2017 and is subject to a public comment period expiring on May 26, 2017. *See* Securities Exchange Act Release No. 80570 (May 1, 2017), 82 FR 21288 (May 5, 2017) (SR–MIAX–2017–16) Notice of Filing of a Proposed Rule Change to Amend MIAX Options Rule 515A, MIAX Price Improvement Mechanism (''PRIME'') and PRIME Solicitation Mechanism.

[38] *See* Exchange Rule 518(c)(2)(iii).

[39] The Exchange notes that other exchanges afford priority to complex interest over simple interest. *See, e.g.,* NASDAQ PHLX, LLC (''PHLX'') Rule 1098(e)(vi)(A)(2); *see also,* PHLX Rule 1098(e)(viii)(C)(3).

[40] 15 U.S.C. 78f(b).

of the Act[41] in particular, in that it promotes just and equitable principles of trade by affording priority to participants submitting cPRIME Orders and RFR responses that are intended to improve the then-existing price on the Exchange. The Exchange believes that affording this priority encourages participants to submit more price-improving complex orders, and that they should be rewarded with priority over simple orders that are resting on the Simple Order Book that were not submitted or intended to be price improving orders.

The following example illustrates the execution and allocation of a cPRIME Order (with simple interest allocated after all complex interest has been allocated):

Example 6—A cPRIME Order Is Executed (Simple Interest Allocated After Complex Interest)

MIAX–LMM Mar 50 Call 6.00–6.50 (10x10)

MIAX–LMM Mar 55 Call 3.00–3.30 (10x10)

Strategy: Buy 1 Mar 50 Call, Sell 1 Mar 55 Call

The icMBBO is 2.70 debit bid at 3.50 credit offer

The dcMBBO is 2.70 debit bid at 3.50 credit offer

The Strategy Book contains a Priority Customer offer to sell the Strategy at 3.30 credit, 20 times.

The Exchange receives a cPRIME Order with the cPRIME Agency Order representing the purchase of the Strategy at a net debit of 3.29, 500 times. Auto-match is not enabled.

Since the order price is at least $0.01 better than (inside) the icMBBO and the best net price of any order for the Strategy on the Book, a cPRIME Auction can begin.

An RFR is broadcast to all subscribers showing price, the quantity of matched complex orders at that price, and the side of the cPRIME Agency Order, is sent and a 500 millisecond RFR period is started.

The following responses are received:

- @250 milliseconds MM2 response, cAOC Order @3.25 credit sell of 500 arrives
- @300 milliseconds the MIAX LMM improves its offer to sell 10 Mar 50 Calls to a price of 6.25

The offer to sell 10 Mar 50 Calls @6.25 changes the icMBBO credit offer to 3.25, crossing the Auction Start Price and causing the cPRIME Auction process to be terminated immediately.

The cPRIME Auction process will trade the Agency Order with the best priced liquidity opposite the Agency Order according to the allocation process contained in Rule 515A. The Agency Order will be filled as follows:

- The cPRIME Agency Order buys:

—500 from MM2 @3.25

—Simple Interest receives no allocation

Proposed Interpretations and Policies .12(c)(iii) to Rule 515A states that the size and bid/ask differential provisions contained in Exchange Rule 515A(a)(1)(iii)[42] shall not apply to cPRIME Orders. Rule 515A(a)(1) is intended to apply to simple PRIME Auctions, and not to apply to complex orders.[43] Under Rule 515A(a)(1)(iii), with respect to Agency Orders that have a size of less than 50 contracts, if at the time of receipt of the Agency Order, the NBBO has a bid/ask differential of $0.01, the System will reject the Agency Order. This rule would not apply to complex orders, including cPRIME Orders, because the NBBO is not a consideration in determining the execution price of a complex order.[44]

Proposed Interpretations and Policies .12(c)(iv) to Rule 515A states that the conclusion of auction provisions contained in Rule 515A(a)(2)(ii) shall not apply to cPRIME Auctions. Rather, the Exchange is proposing to adopt a separate set of provisions relating to the conclusion of auctions that apply only to cPRIME Auctions, in proposed Interpretations and Policies .12(d), discussed below.

Proposed Rule 515A, Interpretations and Policies .12(c)(v), states that the order allocation provisions contained in Rule 515A(a)(2)(iii) shall apply to cPRIME Auctions, provided that (A) all references to contracts shall be deemed to be references to complex strategies;[45] and (B) the last priority allocation option described in Rule 515A(a)(2)(iii)(L) is not available for Initiating Members that submit cPRIME Agency Orders. With respect to cPRIME Auctions, the System allocates complex strategies, not contracts. Additionally, the last priority allocation option described in Rule 515A(a)(iii)(L)[46] is not available for Initiating Members that submit cPRIME Agency Orders. The Exchange believes that there is not significant Member demand for the use of the last priority allocation option in cPRIME Auctions, which obviates the need for its inclusion in the allocation model for cPRIME Auctions.

Finally, proposed Interpretations and Policies .12(c)(vi), which states that provisions contained in Interpretations and Policies .06 and .07 of Rule 515A shall not apply to cPRIME Auctions. Interpretations and Policies .06 and .07 relate to the managed interest process and route timers on the same and opposite sides of the Agency Order in PRIME Auctions. Proposed Interpretations and Policies .12(b) specifically states that cPRIME Agency Orders will be rejected if received during these conditions. Therefore, Interpretations and Policies .06 and .07 will not apply to cPRIME Auctions.

Conclusion of the cPRIME Auction

Proposed Interpretations and Policies .12(d) to Rule 515A describes the circumstances under which a cPRIME Auction is concluded. Proposed Interpretations and Policies .12(d)(i) to Rule 515A states that the cPRIME Auction shall conclude at the sooner to occur of the following events (described below) with the cPRIME Agency Order executing pursuant to proposed Rule 515A(2)(iii).

First, a cPRIME Auction will conclude at the end of the RFR period. This completes the cPRIME Auction.

A cPRIME Auction will conclude when an AOC eQuote[47] or cAOC

[41] 15 U.S.C. 78f(b)(5).

[42] With respect to Agency Orders that have a size of less than 50 contracts, if at the time of receipt of the Agency Order, the NBBO has a bid/ask differential of $0.01, the System will reject the Agency Order. *See* Exchange Rule 515A(a)(1)(iii).

[43] In late 2016, the Exchange filed to adopt new Rule 515A(a)(1)(iii), upon the expiration of a Pilot, to establish on a permanent basis that, with respect to Agency Orders that have a size of less than 50 contracts, if at the time of receipt of the Agency Order, the NBBO has a bid/ask differential of $0.01, the System will reject the Agency Order. Agency Orders with a size of under 50 contracts will be accepted and processed by the System when the NBBO bid/ask differential is greater than $0.01, and all Agency Orders with a size of 50 contracts or greater will be accepted and processed by the System, regardless of the NBBO bid/ask differential. The Pilot and Rule 515A(a)(1)(iii) do not apply to Complex Orders. *See* Securities Exchange Act Release No. 79837 (January 18, 2017), 82 FR 8472 (January 25, 2017) (SR–MIAX–2016–46).

[44] *See* proposed Exchange Rule 515A, Interpretations and Policies .12(a)(v).

[45] The term ''complex strategy'' means a particular combination of components and their ratios to one another. New complex strategies can be created as the result of the receipt of a complex order or by the Exchange for a complex strategy that is not currently in the System. The Exchange may limit the number of new complex strategies that may be in the System at a particular time and will communicate this limitation to Members via Regulatory Circular. *See* Exchange Rule 518(a)(6).

[46] If the Initiating Member elected to have last priority in allocation when submitting an Agency Order to initiate an Auction against a single-price submission, the Initiating Member will be allocated only the amount of contracts remaining, if any, after the Agency Order is allocated to all other responses at the single price specified by the Initiating Member. *See* Exchange Rule 515A(a)(iii)(L).

[47] A ''Complex Auction or Cancel eQuote'' or ''cAOC eQuote,'' is an eQuote submitted by a Market Maker that is used to provide liquidity during a specific Complex Auction with a time in force that corresponds with the duration of the Complex Auction. *See* Exchange Rule 518, Interpretations and Policies .02(c)(1).

Order [48] (the permitted RFR responses [49]) on the opposite side of the market from the cPRIME Agency Order locks or crosses: (A) The icMBBO, or (B) the best net price of a complex order in the same strategy on the Strategy Book, whichever is more aggressive.

Pursuant to proposed Interpretations and Policies .12(d)(iii) to Rule 515A, a cPRIME Auction will conclude when unrelated interest on the same side of the market as the cPRIME Agency Order locks or crosses the best price on the opposite side of the market.

Proposed Interpretations and Policies .12(d)(iv) to Rule 515A states that a cPRIME Auction will conclude when unrelated interest on the opposite side of the market from the cPRIME Agency Order (A) locks or crosses (1) the icMBBO, or (2) the best net price of a complex order in the same strategy on the Strategy Book, whichever is more aggressive (*e.g.,* a higher bid or lower offer); or (B) improves the price of any RFR response.

Under proposed Interpretations and Policies .12(d)(v) to Rule 515A, a cPRIME Auction will conclude when a simple order or quote in a component of the strategy on the same side of the market as the cPRIME Agency Order locks or crosses the NBBO for such component. Proposed Interpretations and Policies .12(d)(vi) states that a cPRIME Auction will conclude when a simple order or quote in a component of the strategy on the opposite side of the market from the cPRIME Agency Order (A) locks or crosses the NBBO for such component, or (B) causes the icMBBO to be equal to or better than the initiating price. These provisions ensure that a cPRIME Agency Order will always receive the best price on the Exchange, while at the same time preserving the sanctity of the simple market.

Allocation of Contracts at the Conclusion of the cPRIME Auction

Except as provided in proposed Interpretations and Policies .12(c) to Rule 515A, at the conclusion of the Auction, the cPRIME Order will be allocated in the same manner as simple PRIME Orders in the simple PRIME Auction at the best price(s) as set forth in Rule 515A. Proposed Interpretations and Policies .12(c)(v) states that the order allocation provisions contained in Rule 515A(a)(2)(iii) shall apply to cPRIME Auctions, provided that, as described above: All references to contracts shall be deemed to be references to complex strategies as defined in Rule 518(a)(6); and the last priority allocation option described in Rule 515A(a)(2)(iii)(L) is not available for Initiating Members that submit cPRIME Agency Orders.

Exchange Rule 515A(a)(2)(iii) currently provides that at the conclusion of the PRIME Auction, the Agency Order will be allocated at the best price(s), subject to the following: (A) Such best prices include non-Auction quotes and orders; (B) Priority Customer [50] orders resting on the Book before, or that are received during, the Response Time Interval and Priority Customer RFR responses shall, collectively have first priority to trade against the Agency Order. The allocation of an Agency Order against the Priority Customer orders resting in the Book, Priority Customer orders received during the Response Time Interval, and Priority Customer RFR responses shall be in the sequence in which they are received by the System; (C) Market Maker priority quotes and RFR responses from Market Makers [51] with priority quotes will collectively have second priority. The allocation of Agency Orders against these contra sided quotes and RFR responses shall be on a size pro rata basis as defined in Rule 514(c)(2); (D) Professional Interest orders resting in the Book, Professional Interest orders placed in the Book during the Response Time Interval, Professional Interest quotes, and Professional Interest RFR responses will collectively have third priority. The allocation of Agency Orders against these contra sided orders and RFR Responses shall be on a size pro rata basis as defined in Rule 514(c)(2); (E) No participation entitlement shall apply to orders executed pursuant to this Rule; (F) If an unrelated market or marketable limit order on the opposite side of the market as the Agency Order was received during the Auction and ended the Auction, such unrelated order shall trade against the Agency Order at the midpoint of the best RFR response (or in the absence of a RFR response, the initiating price) and the NBBO on the other side of the market from the RFR responses (rounded towards the disseminated quote when necessary). (G) If an unrelated non-marketable limit order on the opposite side of the market as the Agency Order was received during the Auction and ended the Auction, such unrelated order shall trade against the Agency Order at the midpoint of the best RFR response and the unrelated order's limit price (rounded towards the unrelated order's limit price when necessary).

Rules 515A(a)(2)(iii)(H) and (I) describe the allocation of contracts executed when the Initiating Member selects the single-price submission or the auto-match option, respectively, when submitting their Agency Order and there are either two or more participants at the execution price or when there is only one other participant on parity with the Initiating Member at either the single price execution price or at the final auto-match price point.

Exchange Rules 515A(a)(2)(iii)(H) and (I) currently state that, upon conclusion of an Auction, an Initiating Member will retain certain priority and trade allocation privileges for a single-price submission and for an auto-match submission. Under current Rule 515A(a)(2)(iii)(H), if the best price equals the Initiating Member's single-price submission, the Initiating Member's single-price submission shall be allocated the greater of one contract or a certain percentage of the order, which percentage will be determined by the Exchange and may not be larger than 40% of the Agency Order. However, if only one Member's response matches the Initiating Member's single price submission, then the Initiating Member may be allocated up to 50% of the Agency Order.

Similarly, current Exchange Rule 515A(a)(2)(iii)(I) provides that if the Initiating Member selected the auto-match option of the Auction, the Initiating Member shall be allocated its

[48] A Complex Auction-or-Cancel or ''cAOC'' order is a complex limit order used to provide liquidity during a specific Complex Auction with a time in force that corresponds with that event. *See* Exchange Rule 518(b)(3).

[49] Members may submit responses to the RFR (specifying prices and sizes). RFR responses shall be an Auction or Cancel (''AOC'') order or an AOC eQuote. *See* Exchange Rule 515A(a)(2)(i)(D). This applies by reference to cPRIME Auctions (and cAOC eQuotes and cAOC orders). *See* proposed Interpretations and Policies .12(a).

[50] *See supra* note 6.

[51] The term ''Market Makers'' refers to ''Lead Market Makers,'' ''Primary Lead Market Makers,'' and ''Registered Market Makers,'' collectively. The term ''Lead Market Maker'' means a Member registered with the Exchange for the purpose of making markets in securities traded on the Exchange and that is vested with the rights and responsibilities specified in Chapter VI of the Exchange's Rules with respect to Lead Market Makers. When a Lead Market Maker is appointed to act in the capacity of a Primary Lead Market Maker, the additional rights and responsibilities of a Primary Lead Market Maker specified in Chapter VI of the Exchange's Rules will apply. The term ''Primary Lead Market Maker'' means a Lead Market Maker appointed by the Exchange to act as the Primary Lead Market Maker for the purpose of making markets in securities traded on the Exchange. The Primary Lead Market Maker is vested with the rights and responsibilities specified in Chapter VI of the Exchange's Rules with respect to Primary Lead Market Makers. The term ''Registered Market Maker'' means a Member registered with the Exchange for the purpose of making markets in securities traded on the Exchange, who is not a Lead Market Maker and is vested with the rights and responsibilities specified in Chapter VI of the Exchange's Rules with respect to Registered Market Makers. *See* Exchange Rule 100.

full size of RFR responses at each price point until the final auto-match price point is reached. At the final auto-match price point, the Initiating Member shall be allocated the greater of one contract[52] or a certain percentage of the remainder of the Agency Order, which percentage will be determined by the Exchange and may not be larger than 40%. However, if only one Member's response matches the Initiating Member's submission at the final auto-match price point, then the Initiating Member may be allocated up to 50% of the remainder of the Agency Order at the final auto-match price point.

At the conclusion of the Auction, the Agency Order is allocated at the best price(s) pursuant to the matching algorithm in effect for the class.[53] The System first must determine the number of participants that are entitled to receive contracts to be allocated, and whether any participant(s) such as Priority Customers are entitled to receive contracts first. Thereafter, contracts are allocated among participants at the execution price.

Finally, the Exchange is proposing to amend Rule 518(c) to clarify that the processing and execution of these three new complex order types is governed by Exchange Rule 515 (for cC2C Orders and cQCC Orders) and Exchange Rule 515A (for cPRIME Orders), as specified in the definition of each new complex order type under 518(b).

As a technical numbering matter, the Exchange is proposing to mark Interpretations and Policies .10 and .11 to Rule 515A ''Reserved'' because these two numbers are being used in a separate proposed rule change which has not been published as of the filing date of the instant proposed rule change.

The Exchange will announce the implementation date of the proposed rule change by Regulatory Circular to be published no later than 60 days following the operative date of the proposed rule. The implementation date will be no later than 60 days following the issuance of the Regulatory Circular.

2. Statutory Basis

MIAX believes that its proposed rule change is consistent with Section 6(b) of the Act[54] in general, and furthers the objectives of Section 6(b)(5) of the Act[55] 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 mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The proposal to amend Exchange Rules 515, 515A, and 518 to establish three new complex order types, and to adopt new provisions that relate to the processing of those new complex order types is consistent with Section 6(b)(5) of the Act because this proposal promotes just and equitable principles of trade and protects investors and the public interest by providing increased opportunities for the execution of complex orders. The Exchange believes that the new cC2C, cQCC, and cPRIME order types will benefit MIAX Options participants and the marketplace as a whole by providing more ways in which complex orders are able to interact with one another, and in some instances through Legging with the simple market. The Exchange believes the proposed rule change removes impediments to and perfects the mechanism of a free and open market and a national market system and will result in more efficient trading and enhance the likelihood that complex orders execute at the best prices by providing additional order types resulting in potentially greater liquidity available for trading on the Exchange.

The proposed rule change will make existing functionality available to additional order types. Making PRIME available for complex orders removes impediments to and perfects the mechanisms of a free and open market and a national market system because Members will be given additional ways in which they can seek liquidity for complex orders with the potential for price improvement on the Exchange.

The proposed rule change will protect investors and the public interest by assuring that the existing priority and allocation rules applicable to the processing and execution of Customer Cross Orders, QCC Orders, and PRIME Orders remains consistent with the processing and execution of these new order types, unless as otherwise specifically set forth in the rules.

The Exchange believes that the requirement that the execution of cC2C be at least $0.01 better than (inside) either the icMBBO price or the best net price of a complex order on the Strategy Book, whichever is more aggressive, protects investors and the public interest by ensuring that each side of the cC2C Order receives a better price than it would receive if submitted as a single complex order. MIAX Options participants will thus receive the best prices available for both sides of a cC2COrder.

The Exchange further believes that the proposed methodology for the execution of cQCC Orders without consideration of the NBBO of the stock component is consistent with the Plan. As stated above, the Plan provides an exception to the requirement that Participants establish, maintain and enforce written policies and procedures that are reasonably designed to prevent Trade-Throughs when the transaction that constituted the Trade-Through was effected as a portion of a ''complex trade,'' as defined in the rules of a Participant.[56] Therefore, the System considers the NBBO for each option leg of the cQCC Order, and not the NBBO for the stock component, in calculating the pricing requirement for cQCC Orders.

The System does not consider the NBBO price for the stock component because the Exchange does not execute the stock component; the Exchange executes the option components at a net price and ensures that the execution price of each option component of the strategy is (i) not at the same price as a Priority Customer Order on the Exchange's Book; and (ii) at or between the NBBO. The Exchange does require that the Member entering the cQCC Order provide certain information to the Exchange regarding the execution of the stock component, such as the underlying price, quantity, price delta, execution time and executing venue.[57]

This complex pricing requirement aligns with the simple order pricing requirement for a Qualified Contingent Trade (''QCT'') to consider the NBBO price. In each case, the parties to a contingent trade are focused on the spread or ratio between the transaction prices for each of the component instruments (*i.e.,* the net price of the entire contingent trade), rather than on the absolute price of any single component. Pursuant to the requirements of the NMS QCT Exemption, the spread or ratio between the relevant instruments must be determined at the time the order is placed, and this spread or ratio stands regardless of the market prices of the individual orders at their time of execution. As the Commission noted in the Original QCT Exemption, ''the

[52] Under the proposal, with respect to order allocation, all references to contracts shall be deemed to be references to complex strategies. *See* Proposed Rule 515A, Interpretations and Policies .12(c)(v)(A).

[53] See Exchange Rule 515A(a)(2)(iii).

[54] 15 U.S.C. 78f(b).

[55] 15 U.S.C. 78f(b)(5).

[56] *See supra* note 25.

[57] *See supra* note 27.

difficulty of maintaining a hedge, and the risk of falling out of hedge, could dissuade participants from engaging in contingent trades, or at least raise the cost of such trades.'' Thus, the Commission found that, if each stock leg of a qualified contingent trade were required to meet the trade-through provisions of Rule 611 of Regulation NMS, such trades could become too risky and costly to be employed successfully and noted that the elimination or reduction of this trading strategy potentially could remove liquidity from the market.[58] This is also true for QCC Orders in options, and thus the Exchange believes that its proposal is consistent with the Original QCT Exemption.[59]

The Exchange believes that the proposal to reject a cC2C or cQCC Order at the time of receipt of the Order when any component of the strategy is subject to a PRIME Auction, Complex Auction, or a SMAT Event removes impediments to and perfects the mechanisms of a free and open market and a national market system by avoiding concurrent order processing in the same security on the Exchange.

The Exchange believes that the rejection of cC2C Orders and cQCC Orders when the strategy is subject to a cPRIME or Complex Auction removes impediments to and perfects the mechanisms of a free and open market by ensuring orderly markets involving multiple complex orders with common components.

Similarly, the proposed rejection of cPRIME Agency Orders when the strategy is subject to a cPRIME Auction or a Complex Auction, or any component of the strategy is subject to a SMAT Event or the managed interest process, protects investors and the public interest by ensuring that the strategy and its components are handled by the System in an orderly fashion without multiple simultaneous cPRIME Auctions, SMAT Events or the managed interest processes.

The Exchange also believes that the pricing requirements under which the initiating price for a cPRIME Agency Order must be better than (inside) the icMBBO for the strategy and any other complex orders on the Strategy Book perfects the mechanisms of a free and open market and a national market system and, in general, protects investors and the public interest, by ensuring that the initiating price results in executions in cPRIME Auctions at an improved price or prices.

The proposal to establish rules setting forth the various circumstances under which the system will conclude cPRIME Auction is designed to facilitate transactions, to remove impediments to and perfect the mechanism of a free and open market by freeing up interest in the cPRIME Auction when unrelated orders or other conditions cause the initiating price of the cPRIME Order to no longer be at the best price available to market participants.

The Exchange believes that its proposal to afford priority to complex orders in cPRIME over simple orders is appropriate because it rewards participants that assume greater market risk and actively improve the execution price by submitting complex RFR responses in a cPRIME Auction. A simple order on the Book is not responding to an RFR for price improvement, and thus the Exchange believes that it is equitable and not unfairly discriminatory to afford priority to complex orders in a cPRIME Auction over simple orders on the Simple Order Book. The Exchange believes that affording priority to complex interest over simple interest on the Simple Order Book promotes just and equitable principles of trade by affording priority to participants submitting cPRIME Orders and RFR responses that are intended to improve the execution price on the Exchange. The Exchange believes that affording this priority encourages participants to submit more price-improving complex orders, and that they should be rewarded with priority over simple orders that are resting on the Simple Order Book that were not submitted or intended to be price improving orders.

Additionally, when the cPRIME Auction ends prior to the expiration of the RFR period due to the receipt of new interest that causes the icMBBO to be equal to or better than the initiating price, the Exchange believes that it is equitable and not unfairly discriminatory to continue to afford priority at each price point to complex interest over simple interest resting on the Simple Order Book that is executed against the individual legs of a complex order. In this situation, the new interest is arriving after complex orders at the same price; the receipt of such an order simply ends the cPRIME Auction and the execution and allocation process is accelerated, prior to the end of the RFR period. The allocation process is not changed, and simple orders resting on the book that may be executed by way of Legging are still subject to complex order priority interest at each price point and are allocated contracts only after all complex interest at that price has been filled. The Exchange believes that it is consistent and equitable and not unfairly discriminatory to afford priority at each price point to complex interest over simple interest even when the cPRIME Auction ends early.

The Exchange also believes that the proposed rule change removes impediments to and perfects the mechanisms of a free and open market and a national market system by attracting more order flow and by increasing the frequency with which Initiating Members initiate Auctions in complex orders through PRIME, using complex orders. Moreover, the proposed rule change is consistent with the rules of other exchanges.[60]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

On the contrary, the proposed rule change is intended to promote competition by adding new order types that enable MIAX Options participants to execute complex orders on the Exchange. The Exchange believes that this enhances inter-market competition by enabling MIAX Options to compete for this type of order flow with other exchanges that have similar rules and functionalities in place.

The Exchange further believes that adding complex orders to the PRIME mechanism enhances intra-market competition by adding another manner in which competing MIAX Options participants may submit competitive bids and offers into the System. This should result in enhanced liquidity and more competition on the Exchange.

For all the reasons stated, 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, and believes the proposed change will in fact enhance competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

[58] *See supra* note 28.

[59] *Id.*

[60] See International Securities Exchange LLC (''ISE'') Rule 723, Supplementary Materials .09; Chicago Board Options Exchange, Inc. (''CBOE'') Rule 6.74, Interpretations and Policies .07; NASDAQ PHLX LLC (''Phlx'') Rule 1080(n).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MIAX–2017–19 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–MIAX–2017–19. 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–MIAX–2017–19 and should be submitted on or before June 22, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[61]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–11251 Filed 5–31–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80795; File No. SR–BatsEDGX–2017–23]

Self-Regulatory Organizations; Bats EDGX Exchange, Inc.; Notice of Filing of Proposed Rule Change To Eliminate Requirements That Will Be Duplicative of CAT

May 26, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 15, 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, 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 filed a proposal to modify requirements for the collection of information that is duplicative of information intended to be collected for the consolidated audit trail (''CAT'') adopted pursuant to the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'').[3] The Exchange will announce the implementation date of the proposed rule change and effective date of the retirement of any related systems by Regulatory Circular that will be published once the options exchanges determine the thresholds for accuracy and reliability described below have been met and that the Plan Processor for CAT is sufficiently meeting all of its obligations under the CAT NMS Plan.

The text of the proposed rule change is available at the Exchange's Web site at *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

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC,[4] NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. and NYSE National, Inc.[5] (collectively, the ''Participants'') filed with the Commission, pursuant to Section 11A of the Exchange Act [6] and

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[61] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth herein, or in the CAT Compliance Rule Series or in the CAT NMS Plan.

[4] ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. *See* Securities Exchange Act Rel. No. 80248 (Mar. 15, 2017), 82 FR 14547 (Mar. 21, 2017); Securities Exchange Act Rel. No. 80326 (Mar. 29, 2017), 82 FR 16460 (Apr. 4, 2017); and Securities Exchange Act Rel. No. 80325 (Mar. 29, 2017), 82 FR 16445 (Apr. 4, 2017).

[5] National Stock Exchange, Inc. has been renamed NYSE National, Inc. *See* Securities Exchange Act Rel. No. 79902 (Jan. 30, 2017), 82 FR 9258 (Feb. 3, 2017).

[6] 15 U.S.C. 78k–1.

Rule 608 of Regulation NMS thereunder,[7] the CAT NMS Plan.[8] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,[9] and approved by the Commission, as modified, on November 15, 2016.[10] The Plan is designed to create, implement and maintain a CAT that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. Pursuant to Appendix C of the CAT NMS Plan, each Participant is required to conduct analyses of which of its existing trade and order data rules and systems require the collection of information that is duplicative of information collected for the CAT.[11] In addition, among other things, Section C.9 of Appendix C to the Plan, as modified by the Commission, requires each Participant to ''file with the SEC the relevant rule change filing to eliminate or modify its duplicative rules within six (6) months of the SEC's approval of the CAT NMS Plan.'' [12] The Plan notes that ''the elimination of such rules and the retirement of such systems [will] be effective at such time as CAT Data meets minimum standards of accuracy and reliability.'' [13]

After conducting its analysis of its rules in accordance with the CAT NMS Plan, the Exchange determined Rules 22.7 and 24.4 require the reporting of information intended to be collected by the CAT. Therefore, the Exchange believes those provisions will no longer be necessary once the CAT is operational and proposes to modify those Rules as described below. Additionally, the Exchange describes below additional reporting requirements that it may reduce for which no rule changes are necessary. These changes will be implemented in accordance with the timeline described below.

Initially, the Exchange notes that options exchanges, including the Exchange, utilize consolidated options audit trail system (''COATS'') to collect and review data regarding options orders, quotes and transactions. The Participants have provided COATS technical specifications to the Plan Processor for the CAT for use in developing the Technical Specifications for the CAT, and the Participants are working with the Plan Processor to include the necessary COATS data elements in the CAT Technical Specifications. Accordingly, although the Technical Specifications for the CAT have not yet been finalized, the Exchange and the other options exchanges propose to eliminate COATS in accordance with the proposed timeline discussed below. The Exchange notes that it does not have any specific rules or requirements related to COATS but refers to its retirement below in an effort to provide transparency.

(1) Market Maker Equity Order Reports

Rule 22.7(b) requires Market Makers, upon request and in the prescribed form, report to the Exchange every order entered by the Market Maker for the purchase or sale of (1) a security underlying options traded on the Exchange, or (2) a security convertible into or exchangeable for such underlying security, as well as opening and closing positions in all such securities held in each account reported pursuant to Rule 22.7(a). The report pertaining to orders must include the terms of each order, identification of the brokerage firms through which the orders were entered, the times of entry or cancellation, the times report of execution were received and, if all or part of the order was executed, the quantity and execution price. CAT will require Market Makers to report order information for such securities. Therefore, this rule provision as it relates to order reports is duplicative of CAT requirements, and the Exchange proposes to delete it. CAT does not require reporting of positions, so the Exchange will maintain the position reporting requirement in Rule 22.7(b). The Exchange also proposes a conforming change to the rule name and Interpretation and Policy .01.

(2) EBS

Rule 24.4 is the Exchange's rule regarding the automated submission of specific trading data to the Exchange upon request using the Electronic Blue Sheet (''EBS'') system. Rule 24.4 requires an Options Member [14] to submit requested trade data elements in such automated format as may be prescribed by the Exchange from time to time, in regard to a transaction(s) that is the subject of the particular request for information. The Rule sets forth in paragraphs (b) and (c) the data elements required if the transaction was a proprietary transaction or if it was effected for a customer account, respectively. Paragraph (d) provides an Options Member must submit such other information as may from time to time be required. Paragraph (e) permits the Exchange to grant exceptions from these requirements in such cases and for such time periods as it deems appropriate.

The Exchange proposes to amend Rule 24.4 to state it will request information under the Rule only if the information is not available in the CAT because, for example, the transaction(s) in question occurred before the firm was reporting information to the CAT or involved securities that are not reportable to the CAT. In essence, under the proposed rule change, the Exchange will make requests under Rule 24.4 if and only if the information is not otherwise available through the CAT.

Once broker-dealer reporting to the CAT has begun, the CAT will contain the data the Participants would otherwise have requested via the EBS system for purposes of NMS Securities and OTC Equity Securities. Consequently, the Exchange will not need to use the EBS system or request information pursuant to Rule 24.4 for NMS Securities or OTC Equity Securities for time periods after CAT reporting has begun if the appropriate accuracy and reliability thresholds are achieved, including an acceptable accuracy rate for customer and account information. However, Rule 24.4 cannot be completely eliminated immediately upon the CAT achieving the appropriate thresholds because Exchange staff may still need to request information pursuant to Rule 24.4 for trading activity occurring before a member was reporting to the CAT.[15] In addition, Rule 24.4 applies to information regarding transactions involving securities that

[7] 17 CFR 242.608.

[8] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

[9] Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 FR 30614 (May 17, 2016).

[10] Securities Exchange Act Rel. No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016) (''Approval Order'').

[11] Appendix C of CAT NMS Plan, Approval Order at 85010.

[12] *Id.*

[13] *Id.*

[14] An Options Member is a Member of the Exchange that is registered to participate in options trading on EDGX Options. *See* Rule 16.1(a)(38). A Member is a registered broker or dealer that has been admitted to membership in the Exchange. *See* Rule 1.5(n).

[15] Firms are required to maintain the trade information for pre-CAT transactions in equities and options pursuant to applicable rules, such as books and records retention requirements, for the relevant time period, which is generally three or six years depending upon the record. *See* 17 CFR 240.17a–3(a), 240.17a–4.

will not be reportable to the CAT, such as fixed-income securities; thus, the rule must remain in effect with respect to those transactions indefinitely or until those transactions are captured in the CAT.

(3) Other Reports

Various other Exchange Rules require Members to report information to the Exchange upon request.[16] While the Exchange believes it is necessary to retain these Rules to ensure it has access to the necessary data to perform its regulatory duties and meet its surveillance obligations, it expects it will need to make fewer information requests pursuant to these Rule once Members begin reporting to the CAT and accuracy and reliability standards are met.

In connection with these Rules requiring Members to report information to the Exchange upon request, Members must currently submit to the Exchange stock transaction information for each Qualified Contingent Cross order executed at the Exchange. CAT will require Members to report stock transaction information. Therefore, the Exchange intends to eliminate this reporting requirement in accordance with the proposed timeline below.

(4) Timeline for Elimination of Duplicative Rules

The CAT NMS Plan states that the elimination of rules that are duplicative of the requirements of the CAT and the retirement of the related systems should be effective at such time as CAT Data meets minimum standards of accuracy and reliability.[17] As discussed in more detail below, the Exchange believes the Rule provisions and related systems described above may be retired at a date after all Industry Members are reporting to the CAT when the proposed error rate thresholds have been met, and the Exchange has determined that its usage of the CAT Data has not revealed material issues that have not been corrected, confirmed that the CAT includes all data necessary to allow the Exchange to continue to meet its surveillance obligations, and confirmed that the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan.

The Exchange believes the proposed rule changes should not be effective until all Participants and Industry Members that report data pursuant to the Rules described above are reporting comparable data to the CAT. In this way, the Exchange will continue to have access to the necessary data to perform its regulatory duties.

The CAT NMS Plan requires that a rule filing to eliminate a duplicative rule address whether ''the availability of certain data from Small Industry Members two years after the Effective Date would facilitate a more expeditious retirement of duplicative systems.'' [18] The Exchange believes COATS should not be retired until all Participants and Industry Members that report data to COATS are reporting comparable data to the CAT. While the early submission of options data to the CAT by Small Industry Members could expedite the retirement of COATS, the Exchange believes that it premature [sic] to consider such a change and that additional analysis would be necessary to determine whether such early reporting by Small Industry Members would be feasible.

The CAT NMS Plan requires that this rule filing address ''whether individual Industry Members can be exempted from reporting to duplicative systems once their CAT reporting meets specified accuracy and reliability standards, including, but not limited to, ways in which establishing cross-system regulatory functionality or integrating data from existing systems and the CAT would facilitate such Individual Industry Member exemptions.'' [19] The Exchange believes that a single cut-over from the reporting requirements described above to CAT is highly preferable to a firm-by-firm approach and is not proposing to exempt members from such reporting requirements on a firm-by-firm basis. The Exchange believes that providing such individual exemptions to Industry Members would be inefficient, more costly, and less reliable than the single cut-over. Providing individual exemptions would require the options exchanges to create, for a brief temporary period, a cross-system regulatory function and to integrate data from reports received pursuant to the above requirements and the CAT to avoid creating any regulatory gaps as a result of such exemptions. Such a function would be costly to create and would give rise to a greater likelihood of data errors or other issues. Given the limited time in which such exemptions would be necessary, the Exchange does not believe that such exemptions would be an appropriate use of limited resources.

The CAT NMS Plan also requires that a rule filing to eliminate a duplicative rule to provide ''specific accuracy and reliability standards that will determine when duplicative systems will be retired, including, but not limited to, whether the attainment of a certain Error Rate should determine when a system duplicative of the CAT can be retired.'' [20] The Exchange believes that it is critical that the CAT Data be sufficiently accurate and reliable for the Exchange to perform the regulatory functions that it now performs using the information it receives pursuant to the reporting requirements described above. Accordingly, the Exchange believes that the CAT Data should meet specific quantitative error rates, as well as certain qualitative requirements.

The Exchange believes (and the other options exchanges with respect to COATS and EBS) believe that, before reporting requirements may be modified or eliminated, as applicable, and related systems may be retired, the CAT would need to achieve a sustained error rate for a period of at least 180 days of 5% or lower measured on a pre-correction or as-submitted basis, and 2% or lower on a post-correction basis (measured at T+5).[21] The Exchange proposes to measure the 5% pre-correction and 2% post-correction thresholds by averaging the error rate across the period, not require a 5% pre-correction and 2% post-correction maximum each day for 180 consecutive days. The Exchange believes that measuring each of the thresholds over the course of 180 days will ensure that the CAT consistently meets minimum accuracy and reliability thresholds while also ensuring that single-day measurements do not unduly affect the overall measurements. The Exchange proposes to measure the appropriate error rates in the aggregate, rather than firm-by-firm. In addition, with respect to COATS, the Exchange proposes to measure the error rates for options only, not equity securities, as only options are subject to COATS. The 2% and 5% error rates are in line with the proposed retirement threshold for FINRA's Order Audit Trail System (''OATS'').

In addition to these minimum error rates before reporting requirements may be modified or eliminated, as applicable, and related systems may be retired, the Exchange believes that during the minimum 180-day period during which the thresholds are calculated, the Exchange's use of the data in the CAT must confirm that (i) usage over that time period has not

[16] *See, e.g.,* Rule 4.2 (Furnishing of Records).

[17] *Id.* [sic]

[18] *Id.*

[19] *Id.*

[20] *Id.*

[21] The Plan requires that the Plan Processor must ensure that regulators have access to corrected and linked order and Customer data by 8:00 a.m. Eastern Time on T+5. *See* CAT NMS Plan, at C–15.

revealed material issues that have not been corrected, (ii) the CAT includes all data necessary to allow the Exchange to continue to meet its surveillance obligations, and (iii) the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan. The Exchange believes this time period to use the CAT Data is necessary to reveal any errors that may manifest themselves only after surveillance patterns and other queries have been run and to confirm that the Plan Processor is meeting its obligations and performing its functions adequately.

If the Commission approves the proposed rule change, the Exchange will announce the date for modification or elimination, as applicable, of reporting requirements and retirement of related systems and the implementation date of the proposed rule change via Regulatory Circular that will be published once the Exchange (and other options exchanges with respect to COATS and EBS) determines that the thresholds for accuracy and reliability described above have been met and that the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Exchange Act,[22] which requires, among other things, that Exchange Rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealer. The Exchange believes that this proposal is consistent with the Exchange Act because it fulfills the obligation in the CAT NMS Plan for the Exchange to submit a proposed rule change to eliminate or modify duplicative rules. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [23] As this proposal implements the Plan, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Exchange Act.

Moreover, the purpose of the proposed rule change is to amend rules that require the submission of duplicative data to the Exchange. The elimination of such duplicative requirements will reduce unnecessary costs and other compliance burdens for the Exchange and its Members, and therefore, will enhance the efficiency of the securities markets. Furthermore, the Exchange believes that the approach set forth in the proposed rule change strikes the appropriate balance between ensuring that the Exchange is able to continue to fulfill its statutory obligation to protect investors and the public interest by ensuring its surveillance of market activity remains accurate and effective while also establishing a reasonable timeframe for elimination or modification of its rules that will be rendered duplicative after implementation of the CAT.

(B) Self-Regulatory Organization's Statement on Burden on Competition

Section 6(b)(8) of the Exchange Act [24] requires that Exchange Rules not impose any burden on competition that is not necessary or appropriate. 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 Exchange Act. The Exchange notes that the proposed rule change implements the requirements of the CAT NMS Plan approved by the Commission regarding the elimination of rules and systems that are duplicative the CAT, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. Similarly, all exchanges and FINRA are proposing the elimination of reporting requirements related to COATS and EBS, as well as other duplicative rules, to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive rule filing and, therefore, it does not raise competition issues between and among the self-regulatory organizations and/or their members.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Although written comments on the proposed rule change were not solicited, the Exchange received comments from two commenters, the Financial Information Forum (''FIF'') and the Securities Industry and Financial Markets Association (''SIFMA''), regarding the retirement of systems related to the CAT.[25] In its comment letters, with regard to the retirement of duplicative systems more generally, FIF recommended that the Participants continue the effort to incorporate current reporting obligations into the CAT in order to replace existing reportable systems with the CAT. In addition, FIF further recommended that, once a CAT Reporter achieved satisfactory reporting data quality, the CAT Reporter should be exempt from reporting to any duplicative reporting systems. FIF believed that these recommendations ''would serve both an underlying regulatory objective of more immediate and accurate access to data as well as an industry objective of reduced costs and burdens of regulatory oversight.'' [26] In its comments about EBS specifically, FIF stated that the retirement of the EBS requirements should be a high priority, and that the CAT should be designed to include the requisite data elements to permit the rapid retirement of EBS.[27] Similarly, SIFMA stated that ''the establishment of the CAT must be accompanied by the prompt elimination of duplicative systems,'' and ''recommend[ed] that the initial technical specifications be designed to facilitate the immediate retirement of . . . duplicative reporting systems.'' [28]

As discussed above, the Exchange agrees with the commenters that the reporting requirements proposed to be modified or eliminated should be replaced by the CAT reporting requirements as soon as accurate and reliable CAT Data is available. To this end, the Exchange anticipates that the CAT will be designed to collect the data necessary to permit the modification or elimination, as applicable, of these reporting requirements and the retirement of related systems. However, as discussed above, the Exchange disagrees with the recommendation to provide individual exemptions to those CAT Reporters who obtain satisfactory data reporting quality.

[22] 15 U.S.C. 78f(b)(5).

[23] Approval Order at 84697.

[24] 15 U.S.C. 78f(b)(8).

[25] Letter from William H. Hebert, FIF, to Participants re: Milestone for Participants' rule change filings to eliminate/modify duplicative rules (Apr. 12, 2017) (''FIF Letter''); Letter from William H. Hebert, FIF, to Brent J. Fields, SEC re: Milestone for Participants' rule change filings to eliminate/modify duplicative rules (Apr. 12, 2017); and Letter from Kenneth E. Bentsen, Jr., SIFMA, to Participants re: Selection of Thesys as CAT Processor (Apr. 4, 2017) (''SIFMA Letter'') at 2.

[26] FIF Letter at 2.

[27] FIF Letter at 2.

[28] SIFMA Letter at 2.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will: (a) by order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

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.* Please include File Number SR–BatsEDGX–2017–23 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–2017–23. 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 Number SR–BatsEDGX–2017–23 and should be submitted on or before June 22, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–11371 Filed 5–31–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80791; File No. SR–NYSEArca–2017–59]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To Eliminate Requirements That Will Be Duplicative of CAT

May 26, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 22, 2017, NYSE Arca, Inc. (''NYSE Arca'' or the ''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 to delete the Order Audit Trail System (''OATS'') rules in the NYSE Arca Equities Rule 7400 Series (Order Audit Trail System) and amend NYSE Arca Rule 10.2 (Investigations and Regulatory Cooperation) and NYSE Arca Equities Rule 10.2 (Investigations and Regulatory Cooperation) governing submission of Electronic Blue Sheet trading data (''EBS'') as these Rules provide for the collection of information that is duplicative of the data collection requirements of the CAT once the Financial Industry Regulatory Authority (''FINRA'') publishes a notice announcing the date that it will retire its OATS and EBS rules. The proposed change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., FINRA, Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC,[3] NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, the New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. and NYSE National, Inc.[4] (collectively, the ''Participants'') filed with the Commission, pursuant to Section 11A of the Exchange Act[5] and Rule 608 of Regulation NMS thereunder,[6] the CAT

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[29] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. *See* Securities Exchange Act Release No. 80248 (March 15, 2017), 82 FR 14547 (March 21, 2017) (SR–ISEGemini–2017–13); Securities Exchange Act Release No. 80326 (March 29, 2017), 82 FR 16460 (April 4, 2017) (SR–ISEMercury–2017–05); and Securities Exchange Act Release No. 80325 (March 29, 2017), 82 FR 16445 (April 4, 2017) (SR–ISE–2017–25).

[4] National Stock Exchange, Inc. has been renamed NYSE National, Inc. *See* Securities Exchange Act Release No. 79902 (January 30, 2017), 82 FR 9258 (February 3, 2017) (SR–NSX–2016–16).

[5] 15 U.S.C. 78k–1.

[6] 17 CFR 242.608.

NMS Plan.[7] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act.[8] The Plan was published for comment in the **Federal Register** on May 17, 2016,[9] and approved by the Commission, as modified, on November 15, 2016.[10] On March 21, 2017, the Commission approved [11] the Exchange's new NYSE Arca Rule 11.6800 Series and the NYSE Arca Equities Rule 6.6800 Series to implement provisions of the CAT NMS Plan that are applicable to the Exchange's OTP Holders, OTP Firms and ETP Holders, respectively.[12]

The Plan is designed to create, implement and maintain a CAT that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. Pursuant to Appendix C of the CAT NMS Plan, each Participant is required to conduct analyses of which of its existing trade and order data rules and systems require the collection of information that is duplicative of information collected for the CAT.[13] In addition, among other things, Section C.9 of Appendix C to the Plan, as modified by the Commission, requires each Participant to ''file with the SEC the relevant rule change filing to eliminate or modify its duplicative rules within six (6) months of the SEC's approval of the CAT NMS Plan.'' [14] The Plan notes that ''the elimination of such rules and the retirement of such systems [will] be effective at such time as CAT Data meets minimum standards of accuracy and reliability.'' [15]

After conducting its analysis of its rules in accordance with the CAT NMS Plan, the Exchange has determined that the information collected pursuant to the OATS and EBS rules is intended to be collected by CAT. Therefore, the Exchange believes that the NYSE Arca Equities Rule 7400 Series will no longer be necessary once FINRA publishes notice announcing the date it will retire its OATS rules. Similarly, the Exchange believes that it will be necessary to clarify how the Exchange will request data under NYSE Arca Rule 10.2 and NYSE Arca Equities Rule 10.2 after members are reporting to the CAT. Accordingly, the Exchange proposes to amend NYSE Arca Rule 10.2 and NYSE Arca Equities Rule 10.2 to add a new subsection (E) to Commentary .01 clarifying how the Exchange will request data under these rules after member organizations are reporting to the CAT once FINRA publishes notice announcing the date it will retire its OATS rules. Discussed below is a description of the duplicative rule requirements as well as the timeline for eliminating the duplicative rules.

If the Commission approves the proposed rule change, the rule text will be effective; however, the amendments will not be implemented until FINRA publishes a notice announcing the date that it will retire its OATS rules, at which time the Exchange will publish a regulatory notice announcing implementation date of the proposed rule change. As discussed below, FINRA will publish its notice once the CAT achieves certain specific accuracy and reliability standards and FINRA has determined that its usage of the CAT Data has not revealed material issues that have not been corrected, confirmed that the CAT includes all data necessary to allow FINRA to continue to meet its surveillance obligations,[16] and confirmed that the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan.

Duplicative OATS Requirements

The NYSE Arca Equities Rule 7400 Series consists of NYSE Arca Equities Rules 7410 through 7470 and sets forth the recording and reporting requirements of the OATS Rules. The OATS Rules require all Exchange member organizations and associated persons to record in electronic form and report to FINRA, on a daily basis, certain information with respect to orders originated, received, transmitted, modified, canceled, or executed by members in all NMS stocks, as that term is defined in Rule 600(b)(47) of Regulation NMS,[17] traded on the Exchange, including NYSE-listed securities. This information is used by FINRA staff to conduct surveillance and investigations of member firms for violations of FINRA rules and federal securities laws. The Exchange has determined that the requirements of the NYSE Arca Equities Rule 7400 Series are duplicative of information available in the CAT and thus will no longer be necessary once the CAT is operational.

The Participants have provided OATS technical specifications to the Plan Processor for the CAT for use in developing the Technical Specifications for the CAT, and the Participants are working with the Plan Processor to include the necessary OATS data elements in the CAT Technical Specifications. Accordingly, the Exchange proposes to eliminate its OATS Rules in accordance with the proposed timeline discussed below.

Timeline for Elimination of Duplicative Rules

The CAT NMS Plan states that the elimination of rules that are duplicative of the requirements of the CAT and the retirement of the related systems should be effective at such time as CAT Data meets minimum standards of accuracy and reliability.[18] As discussed in more detail in its rule filing, FINRA believes that OATS may be retired at a date after all Industry Members are reporting to the CAT when the proposed error rate thresholds have been met, and FINRA has determined that its usage of the CAT

[7] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

[8] 17 CFR 242.613.

[9] Securities Exchange Act Release No. 77724 (April 27, 2016), 81 FR 30614 (May 17, 2016) (File No. 4–698).

[10] Securities Exchange Act Release No. 79318 (Nov. 15, 2016), 81 FR 84696 (November 23, 2016) (File No. 4–698) (''Approval Order'').

[11] *See* Securities Exchange Act Release No. 80256 (March 15, 2017), 82 FR 14526 (March 21, 2017) (SR–NYSEArca–2017–03; SR–NYSEArca–2017–04) (Order Approving Proposed Rule Changes to Adopt Consolidated Audit Trail Compliance Rules).

[12] The NYSE Arca Rule 11.6800 Series and the NYSE Arca Equities Rule 6.6800 Series utilize the term ''Industry Member,'' which applies to the Exchange's OTP Holders, OTP Firms and ETP Holders, respectively. Pursuant to NYSE Arca Rule 1.1(q), an ''OTP Holder'' refers to a natural person, in good standing, who has been issued an OTP. An OTP Holder must be a registered broker or dealer pursuant to Section 15 of the Act. Rule 1.1(p) defines ''OTP'' as an Options Trading Permit issued by the Exchange for effecting approved securities transactions on the Exchange. NYSE Arca Equities Rule 1.1(n) defines the term ''ETP Holder'' as a sole proprietorship, partnership, corporation, limited liability company or other organization in good standing that has been issued an ETP. An ETP Holder must be a registered broker or dealer pursuant to Section 15 of the Act. NYSE Arca Equities Rule 1.1(m) defines ''ETP'' as an Equity Trading Permit issued by the Exchange for effecting approved securities transactions on the Exchange.

[13] Appendix C of CAT NMS Plan, Approval Order at 85010.

[14] *Id.*

[15] *Id.*

[16] As noted in the Participants' September 23, 2016 response to comment letters on the Plan, the Participants ''worked to keep [the CAT] gap analyses up-to-date by including newly-added data fields in these duplicative systems, such as the new OATS data fields related to the tick size pilot and ATS order book changes, in the gap analyses.'' Letter from Participants to Brent J. Fields, Secretary, Commission, dated September 23, 2016, at 21. The Participants noted that they ''will work with the Plan Processor and the industry to develop detailed Technical Specifications to ensure that by the time Industry Members are required to report to the CAT, the CAT will include all data elements necessary to facilitate the rapid retirement of duplicative systems.'' *Id.*

[17] 17 CFR 242.600(B)(47).

[18] Appendix C of CAT NMS Plan, Approval Order at 85010.

Data has not revealed material issues that have not been corrected, confirmed that the CAT includes all data necessary to allow FINRA to continue to meet its surveillance obligations, and confirmed that the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan.[19]

The CAT NMS Plan requires that a rule filing to eliminate a duplicative rule address whether ''the availability of certain data from Small Industry Members two years after the Effective Date would facilitate a more expeditious retirement of duplicative systems.'' [20] FINRA believes that there is no effective way to retire OATS until all current OATS reporters are reporting to the CAT. As discussed in FINRA's filing, FINRA believes that having data from those Small Industry Members currently reporting to OATS available two years after the Effective Date would substantially facilitate a more expeditious retirement of OATS and therefore supports an amendment to the Plan that would require current OATS Reporters that are ''Small Industry Members'' to report two years after the Effective Date (instead of three).[21]

The CAT NMS Plan also requires that this rule filing address ''whether individual Industry Members can be exempted from reporting to duplicative systems once their CAT reporting meets specified accuracy and reliability standards, including, but not limited to, ways in which establishing cross-system regulatory functionality or integrating data from existing systems and the CAT would facilitate such Individual Industry Member exemptions.'' [22]

FINRA believes that a single cut-over from OATS to CAT is highly preferable to a firm-by-firm approach and is not proposing to exempt members from the OATS requirements on a firm-by-firm basis. FINRA believes that that the overall accuracy and reliability thresholds for the CAT described above [sic] would need to be met under any conditions before firms could stop reporting to OATS. Moreover, as discussed above [sic], FINRA supports amending the Plan to accelerate the reporting requirements for Small Industry Members that are OATS Reporters to report on the same timeframe as all other OATS Reporters. If such an amendment were approved by the Commission, there would be no need to exempt members from OATS requirements on a firm-by-firm basis.[23]

The CAT NMS Plan also requires that a rule filing to eliminate a duplicative rule to provide ''specific accuracy and reliability standards that will determine when duplicative systems will be retired, including, but not limited to, whether the attainment of a certain Error Rate should determine when a system duplicative of the CAT can be retired.'' [24] As discussed in Section A.3.(b) of Appendix C to the CAT NMS Plan, the Participants established an initial Error Rate, as defined in the Plan, of 5% on initially submitted data (*i.e.,* data as submitted by a CAT Reporter before any required corrections are performed). The Participants noted in the Plan that their expectation was that ''error rates after reprocessing of error corrections will be de minimis.'' [25] The Participants based this Error Rate on their consideration of ''current and historical OATS Error Rates, the magnitude of new reporting requirements on the CAT Reporters and the fact that many CAT Reporters may have never been obligated to report data to an audit trail.'' [26]

As set forth in its filing, FINRA believes that, when assessing the accuracy and reliability of the data for the purposes of retiring OATS, the error thresholds should be measured in more granular ways and should also include minimum error rates of post-correction data, which represents the data most likely to be used by FINRA to conduct surveillance. To ensure the CAT's accuracy and reliability, FINRA is thus proposing that, before OATS could be retired, the CAT would generally need to achieve a sustained error rate for Industry Member reporting in each of the categories below for a period of at least 180 days of 5% or lower, measured on a pre-correction or as-submitted basis and 2% or lower on a post-correction basis (measured at T+5).[27] FINRA is proposing to measure the 5% pre-correction and 2% post-correction thresholds by averaging the error rate across the period, not require a 5% pre-correction and 2% post-correction maximum each day for 180 consecutive days. FINRA believes that measuring each of the thresholds over the course of 180 days will ensure that the CAT consistently meets minimum accuracy and reliability thresholds for Industry Member reporting while also ensuring that single-day measurements do not unduly affect the overall measurements.[28] Consequently, FINRA is proposing to use error rates in four categories, measured separately for options and for equities, to assess whether the threshold pre- and post-correction error rates are being met.[29]

In addition to these minimum error rates before OATS can be retired FINRA believes that during the minimum 180-day period during which the thresholds are calculated, FINRA's use of the data in the CAT must confirm that (i) usage over that time period has not revealed material issues that have not been corrected, (ii) the CAT includes all data necessary to allow the Exchange to continue to meet its surveillance obligations, and (iii) the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan. The Exchange believes this time period to use the CAT Data is necessary to reveal any errors that may manifest themselves only after surveillance patterns and other queries have been run and to confirm that the Plan Processor is meeting its obligations and performing its functions adequately.[30]

NYSE Arca Rule 10.2 and NYSE Arca Equities Rule 10.2

In addition to the OATS rules, NYSE Arca Rule 10.2 and NYSE Arca Equities Rule 10.2 will also be affected by the implementation of the CAT. NYSE Arca Rule 10.2 and NYSE Arca Equities Rule 10.2 provide for the automated submission of equities trading data and options trading data, respectively, upon request (commonly referred to as ''blue sheet'' data) using the EBS system.

Once broker-dealer reporting to the CAT has begun, the CAT will contain much of the data the Participants would otherwise have requested via the EBS system for purposes of NMS Securities and OTC Equity Securities. Consequently, the Exchange will not need to use the EBS system or request information pursuant to NYSE Arca Rule 10.2 and NYSE Arca Equities Rule 10.2 for NMS Securities or OTC Equity Securities for time periods after CAT reporting has begun if the appropriate accuracy and reliability thresholds are achieved, including an acceptable accuracy rate for customer and account

[19] *See* SR–FINRA–2017–013.

[20] *Id.* [sic]

[21] *See* SR–FINRA–2017–013. FINRA has represented that it intends to work with the other Participants to submit a proposed amendment to the Plan to require Small Industry Members that are OATS Reporters to report two years after the Effective Date.

[22] *Id.* [sic]

[23] *Id.*

[24] *Id.* [sic]

[25] *See* CAT NMS Plan, Appendix C, Section A.3(b), at n.102.

[26] *Id.*

[27] The Plan requires that the Plan Processor must ensure that regulators have access to corrected and linked order and Customer data by 8:00 a.m. Eastern Time on T+5. *See* CAT NMS Plan, Appendix C, Section A.2(a).

[28] *See* SR–FINRA–2017–013.

[29] The categories are (1) rejection rates and data validations; (2) intra-firm linkages; (3) order linkage rates; and (4) Exchange and TRF/ORF match rates.

[30] *See* SR–FINRA–2017–013.

information. However, NYSE Arca Rule 10.2 and NYSE Arca Equities Rule 10.2 cannot be completely eliminated upon the CAT achieving the appropriate thresholds because Exchange staff may still need to request for trading activity occurring before an OTP Holder, OTP Firm and ETP Holder was reporting to the CAT.[31] In addition, NYSE Arca Rule 10.2 and NYSE Arca Equities Rule 10.2 applies to information regarding transactions involving securities that will not be reportable to the CAT, such as fixed-income securities; thus, the rule must remain in effect with respect to those transactions until those transactions are captured in the CAT.

The proposed rule change proposes to add a new subsection (E) to Commentary .01 of each Rule to clarify how the Exchange will request data under these rules after member organizations are reporting to the CAT. Specifically, the proposed new subsection (E) to Commentary .01 of NYSE Arca Rule 10.2 and NYSE Arca Equities Rule 10.2 will note that the Exchange will request information under each Rule only if the information is not available in the CAT because, for example, the transactions in question occurred before the firm was reporting information to the CAT or involved securities that are not reportable to the CAT. In essence, under the new Supplementary Material, the Exchange will make requests under these rules if and only if the information is not otherwise available through the CAT.

However, as noted above, FINRA believes that the CAT must meet certain minimum accuracy and reliability standards before FINRA could rely on the CAT Data to replace existing regulatory tools, including EBS. Consequently, the proposed Supplementary Material will be implemented only after FINRA publishes its notice after the CAT achieves the thresholds set forth above with respect to OATS and an accuracy rate for customer and account information of 95% for pre-corrected data and 98% for post-correction data. In addition, as discussed above, FINRA can rely on CAT Data to replace EBS requests only after FINRA has determined that its usage of the CAT Data over a 180-day period has not revealed material issues that have not been corrected, confirmed that the CAT includes all data necessary to allow FINRA to continue to meet its surveillance obligations, and confirmed that the CAT Plan Processor is fulfilling its obligations under the CAT NMS Plan.

As noted, if the Commission approves the proposed rule change, the Exchange will announce the implementation date of the proposed rule change in a regulatory notice that will be published once FINRA publishes a notice announcing the date that it will retire its EBS rules, which FINRA will do once it concludes the thresholds for accuracy and reliability described above have been met and that the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[32] in general, and furthers the objectives of Section 6(b)(5) of the Act,[33] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, 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 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.

In particular, the Exchange believes that the proposed rule change implements, supports, interprets or clarifies the provisions of the Plan, and is designed to assist the Exchange and its Members in meeting regulatory obligations pursuant to, and milestones established by, the Plan. In approving the Plan, the SEC noted that it ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [34] To the extent that this proposal implements, interprets or clarifies the Plan and applies specific requirements to Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

The Exchange also believes that adding a preamble to each current Rule impacted by the Plan would remove impediments to and perfect the mechanism of a free and open market and a national market system by adding clarity and transparency to the Exchange's rules, reducing potential confusion, and making the Exchange's rules easier to navigate and understand.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is not designed to address any competitive issue but rather implement provisions of the CAT NMS Plan, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2017–59 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.

[31] Firms are required to maintain the trade information for pre-CAT transactions in equities and options pursuant to applicable rules, such as books and records retention requirements, for the relevant time period, which is generally three or six years depending upon the record. *See* 17 CFR 240.17a–3(a), 240.17a–4.

[32] 15 U.S.C. 78f(b).

[33] 15 U.S.C. 78f(b)(5).

[34] Approval Order, 81 FR at 84697.

All submissions should refer to File Number SR–NYSEArca–2017–59. 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–NYSEArca–2017–59, and should be submitted on or before June 22, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[35]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–11367 Filed 5–31–17; 8:45 am]

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[35] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80790; File No. SR–MIAX–2017–20]

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing of Proposed Rule Change To Eliminate Requirements That Will Be Duplicative of CAT

May 26, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 15, 2017, Miami International Securities Exchange, LLC (''MIAX Options'' 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend MIAX Options Rule 607, Securities Accounts and Orders of Market Makers (''Rule 607'' or the ''Position Reporting Rule'') by adding new Interpretation and Policy .01 to Rule 607, and MIAX Options Rule 804, Automated Submission of Trade Data (''Rule 804'' or the ''EBS Rule'' and together with the Position Reporting Rule, the ''CAT Duplicative Rules'') by adding new Interpretation and Policy .01 to Rule 804, as the CAT Duplicative Rules provide for the collection of information that is duplicative of the data collection requirements of the consolidated audit trail (''CAT'') adopted pursuant to the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'').[3]

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/rule-filings,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[3] Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth herein, or in the CAT Compliance Rule Series or in the CAT NMS Plan.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC,[4] NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. and NYSE National, Inc.[5] (collectively, the ''Participants'') filed with the Commission, pursuant to Section 11A of the Exchange Act[6] and Rule 608 of Regulation NMS thereunder,[7] the CAT NMS Plan.[8] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,[9] and approved by the Commission, as modified, on November 15, 2016.[10] The Plan is designed to create, implement and maintain a CAT that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. Pursuant to Appendix C of the CAT NMS Plan, each Participant is

[4] ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. *See* Securities Exchange Act Rel. No. 80248 (Mar. 15, 2017), 82 FR 14547 (Mar. 21, 2017); Securities Exchange Act Rel. No. 80326 (Mar. 29, 2017), 82 FR 16460 (Apr. 4, 2017); and Securities Exchange Act Rel. No. 80325 (Mar. 29, 2017), 82 FR 16445 (Apr. 4, 2017).

[5] National Stock Exchange, Inc. has been renamed NYSE National, Inc. *See* Securities Exchange Act Rel. No. 79902 (Jan. 30, 2017), 82 FR 9258 (Feb. 3, 2017).

[6] 15 U.S.C. 78k–1.

[7] 17 CFR 242.608.

[8] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

[9] *See* Securities Exchange Act Release No. 77724 (Apr. 27, 2016), 81 FR 30614 (May 17, 2016).

[10] *See* Securities Exchange Act Rel. No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016) (''Approval Order'').

required to conduct analyses of which of its existing trade and order data rules and systems require the collection of information that is duplicative of information collected for the CAT.[11] In addition, among other things, Section C.9 of Appendix C to the Plan, as modified by the Commission, requires each Participant to ''file with the SEC the relevant rule change filing to eliminate or modify its duplicative rules within six (6) months of the SEC's approval of the CAT NMS Plan.'' [12] The Plan notes that ''the elimination of such rules and the retirement of such systems [will] be effective at such time as CAT Data meets minimum standards of accuracy and reliability.'' [13] The Exchange has determined that the Position Reporting Rule and the EBS Rule is affected by the implementation of the CAT and, therefore, is filing this proposed rule change.

(1) The CAT Duplicative Rules

MIAX Options Rule 607, the Position Reporting Rule, is the Exchange's rule requiring Market Makers to (a) keep current and file with the Exchange a list identifying specified accounts in which it may engage in trading activities or over which it exercises investment discretion (''MM account information'') and (b) report to the Exchange every order entered by the Market Maker for the purchase or sale of a security underlying options traded on the Exchange or convertible into or exercisable for such underlying security (''MM order information''), as well as opening and closing positions in all such securities held in each of the aforementioned specified accounts (''MM position information''), in each case in a manner prescribed by the Exchange.

MIAX Options Rule 804, the EBS Rule, is the Exchange's rule requiring Members to submit requested trade data elements (''Member trade data'') to the Exchange in such automated format as may be prescribed by the Exchange from time to time, in regard to a transaction(s) that is the subject of a particular request for information. Rule 804 contemplates using the Electronic Blue Sheet (''EBS'') system for the automated submission of Member trade data as requested by the Exchange, including, among other information, clearing house number or alpha symbol, identifying symbol assigned to the security, options month and/or series, transaction execution date, number of option contracts for transaction and whether opening or closing purchase or sale, transaction price, account number and/or market center where executed.

Once broker-dealer reporting to the CAT has begun, the CAT will contain certain of the data the Participants would otherwise have requested via the Position Reporting Rule or via the EBS system for purposes of NMS Securities and OTC Equity Securities. Consequently, the Exchange will not need to use the Position Reporting Rule to obtain MM account information or MM order information (although Exchange still anticipates the need to obtain MM position information pursuant to Rule 607 because the CAT does not currently address position reporting) or use the EBS system to obtain Member trade data or request information pursuant to the CAT Duplicative Rules for NMS Securities or OTC Equity Securities for time periods after CAT reporting has begun if the appropriate accuracy and reliability thresholds are achieved, including an acceptable accuracy rate for customer and account information. However, the Position Reporting Rule cannot be completely eliminated immediately upon the CAT achieving the appropriate thresholds because Exchange staff will still need to request information pursuant to the Position Reporting Rule regarding MM position information (because the CAT does not currently address position reporting), and Exchange staff may still need to request information pursuant to the Position Reporting Rule for MM account information and MM order information before a Market Maker was reporting to the CAT. Further, the EBS Rule cannot be completely eliminated immediately upon the CAT achieving the appropriate thresholds because Exchange staff may still need to request information pursuant to the EBS Rule for trading activity occurring before a Member was reporting to the CAT.[14]

The proposed rule change proposes to: (1) Add new Interpretation and Policy .01 to the Position Reporting Rule to clarify how the Exchange will request Market Maker account, order and position data under Rule 607 after MIAX Options Market Makers are reporting to the CAT, and (2) add new Interpretation and Policy .01 to the EBS Rule to clarify how the Exchange will request trade data under Rule 804 after MIAX Options Members are reporting to the CAT.

With respect to the Position Reporting Rule, proposed Interpretation and Policy .01 to Rule 607 will specifically permit the Exchange to request information under such rule only if the information is not available in the CAT because, for example, the transactions in question occurred before the Market Maker was reporting information to the CAT or relates to position information because the CAT does not currently address position reporting. In essence, under the new Interpretation and Policy .01 to Rule 607, the Exchange will make requests under Rule 607 if and only if the information is not otherwise available through the CAT.

With respect to the EBS Rule, proposed Interpretation and Policy .01 to Rule 804 will specifically permit the Exchange to request information under such rule only if the information is not available in the CAT because, for example, the transactions in question occurred before the Member was reporting information to the CAT. In essence, under the new Interpretation and Policy .01 to Rule 804, the Exchange will make requests under Rule 804 if and only if the information is not otherwise available through the CAT.

The CAT NMS Plan states, however, that the elimination of rules that are duplicative of the requirements of the CAT and the retirement of the related systems should be effective at such time as CAT Data meets minimum standards of accuracy and reliability.[15] Accordingly, as discussed in more detail below, the Exchange believes that MM account information and MM order information (but not MM position information) may be replaced by CAT Data at a date after all Industry Members are reporting to the CAT when the proposed error rate thresholds have been met, and MIAX Options has determined that its usage of the CAT Data has not revealed material issues that have not been corrected, confirmed that the CAT includes all data necessary to allow MIAX Options to continue to meet its surveillance obligations, and confirmed that the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan.

The Exchange further believes, as discussed in more detail below, that the EBS data may be replaced by CAT Data at a date after all Industry Members are reporting to the CAT when the proposed error rate thresholds have been met, and MIAX Options has determined that its usage of the CAT Data has not revealed material issues that have not been

[11] Appendix C of CAT NMS Plan, Approval Order at 85010.

[12] *Id.*

[13] *Id.*

[14] Firms are required to maintain the trade information for pre-CAT transactions in equities and options pursuant to applicable rules, such as books and records retention requirements, for the relevant time period, which is generally three or six years depending upon the record. *See* 17 CFR 240.17a–3(a), 240.17a–4.

[15] *Id.* [sic].

corrected, confirmed that the CAT includes all data necessary to allow MIAX Options to continue to meet its surveillance obligations, and confirmed that the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan.

MIAX Options believes CAT Data should not be used in place of MM account information and MM order information or EBS data until all Participants and Industry Members are reporting data to CAT. In this way, MIAX Options will continue to have access to the necessary data to perform its regulatory duties.

The CAT NMS Plan requires that a rule filing to eliminate a duplicative rule address whether ''the availability of certain data from Small Industry Members two years after the Effective Date would facilitate a more expeditious retirement of duplicative systems.'' [16] The Exchange believes that MM account information and MM order information reporting should not be eliminated until all Participants and Industry Members that report such information are reporting comparable data to the CAT. The Exchange further believes that the EBS system should not be retired until all Participants and Industry Members that report EBS data to the EBS system are reporting comparable data to the CAT. While the early submission of data to the CAT by Small Industry Members could expedite the replacement of MM account information, MM order information and EBS data with CAT Data, the Exchange believes that it is premature to consider such a change and that additional analysis would be necessary to determine whether such early reporting by Small Industry Members would be feasible.

The CAT NMS Plan requires that this rule filing address ''whether individual Industry Members can be exempted from reporting to duplicative systems once their CAT reporting meets specified accuracy and reliability standards, including, but not limited to, ways in which establishing cross-system regulatory functionality or integrating data from existing systems and the CAT would facilitate such Individual Industry Member exemptions.'' [17] The Exchange believes that a single cut-over from current reporting systems to CAT is highly preferable to a firm-by-firm approach and is not proposing to exempt Members from the Position Reporting Rule or EBS Rule requirements on a firm-by-firm basis. The Exchange believes that providing such individual exemptions to Industry Members would be inefficient, more costly, and less reliable than the single cut-over. Providing individual exemptions would require the exchanges to create, for a brief temporary period, a cross-system regulatory function and to integrate data from current reporting systems and the CAT to avoid creating any regulatory gaps as a result of such exemptions. Such a function would be costly to create and would give rise to a greater likelihood of data errors or other issues. Given the limited time in which such exemptions would be necessary, the Exchange does not believe that such exemptions would be an appropriate use of limited resources.

The CAT NMS Plan also requires that a rule filing to eliminate a duplicative rule to provide ''specific accuracy and reliability standards that will determine when duplicative systems will be retired, including, but not limited to, whether the attainment of a certain Error Rate should determine when a system duplicative of the CAT can be retired.'' [18] The Exchange believes that it is critical that the CAT Data be sufficiently accurate and reliable for the Exchange to perform the regulatory functions that it now performs via current reporting systems. Accordingly, the Exchange believes that the CAT Data should meet specific quantitative error rates, as well as certain qualitative requirements.

The Exchange believes that, before CAT Data may be used in place of MM account information and MM order information or EBS data, the CAT would need to achieve a sustained error rate for a period of at least 180 days of 5% or lower measured on a pre-correction or as-submitted basis, and 2% or lower on a post-correction basis (measured at T+5).[19] The Exchange proposes to measure the 5% pre-correction and 2% post-correction thresholds by averaging the error rate across the period, not require a 5% pre-correction and 2% post-correction maximum each day for 180 consecutive days. The Exchange believes that measuring each of the thresholds over the course of 180 days will ensure that the CAT consistently meets minimum accuracy and reliability thresholds while also ensuring that single-day measurements do not unduly affect the overall measurements. The Exchange proposes to measure the appropriate error rates in the aggregate, rather than firm-by-firm. The 2% and 5% error rates are in line with the proposed retirement threshold for other systems, such as FINRA's Order Audit Trail System (''OATS'') and the consolidated options audit trail system (''COATS'').

In addition to these minimum error rates before using CAT Data instead of MM account information and MM order information or EBS data, the Exchange believes that during the minimum 180-day period during which the thresholds are calculated, the Exchange's use of the data in the CAT must confirm that (i) usage over that time period has not revealed material issues that have not been corrected, (ii) the CAT includes all data necessary to allow the Exchange to continue to meet its surveillance obligations, and (iii) the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan. The Exchange believes this time period to use the CAT Data is necessary to reveal any errors that may manifest themselves only after surveillance patterns and other queries have been run and to confirm that the Plan Processor is meeting its obligations and performing its functions adequately.

If the Commission approves the proposed rule change, the Exchange will announce the implementation date for the proposed rule change in a Regulatory Circular that will be published once the Exchange concludes the thresholds for accuracy and reliability described above have been met and that the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Exchange Act,[20] which require, among other things, that the Exchange rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealers. The Exchange believes that this proposal is consistent with the Exchange Act because it fulfills the obligation in the CAT NMS Plan for the Exchange to submit a proposed rule change to eliminate or modify duplicative rules. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove

[16] *Id.*

[17] *Id.*

[18] *Id.*

[19] The Plan requires that the Plan Processor must ensure that regulators have access to corrected and linked order and Customer data by 8:00 a.m. Eastern Time on T+5. *See* CAT NMS Plan, at C–15.

[20] 15 U.S.C. 78f(b)(5).

impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [21] As this proposal implements the Plan, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Exchange Act.

Moreover, the purpose of the proposed rule change is to amend rules that require the submission of duplicative data to the Exchange. The elimination of such duplicative requirements will reduce unnecessary costs and other compliance burdens for the Exchange and its Members, and therefore, will enhance the efficiency of the securities markets. Furthermore, the Exchange believes that the approach set forth in the proposed rule change strikes the appropriate balance between ensuring that the Exchange is able to continue to fulfill its statutory obligation to protect investors and the public interest by ensuring its surveillance of market activity remains accurate and effective while also establishing a reasonable timeframe for elimination or modification of its rules that will be rendered duplicative after implementation of the CAT.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 6(b)(8) of the Exchange Act [22] requires that Exchange rules not impose any burden on competition that is not necessary or appropriate. 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 Exchange Act. The Exchange notes that the proposed rule change implements the requirements of the CAT NMS Plan approved by the Commission regarding the elimination of rules and systems that are duplicative the CAT, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. Similarly, all exchanges and FINRA are proposing the elimination of their EBS and other CAT duplicative rules to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive rule filing and, therefore, it does not raise competition issues between and among the self-regulatory organizations and/or their members.

[21] Approval Order at 84697.

[22] 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

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MIAX–2017–20 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–MIAX–2017–20. 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–MIAX–2017–20, and should be submitted on or before June 22, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–11366 Filed 5–31–17; 8:45 am]

BILLING CODE 8011–01–P

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80781; File No. SR–NYSEArca–2017–60]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change for a New NYSE Arca Rule 11.6900 and a New NYSE Arca Equities Rule 6.6900 To Establish the Procedures for Resolving Potential Disputes Related to CAT Fees Charged to Industry Members

May 26, 2017.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'' or the ''Exchange Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on May 16, 2017, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''SEC'' or 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

The Exchange proposes a new NYSE Arca Rule 11.6900 and a new NYSE Arca Equities Rule 6.6900 to establish

[1] 15 U.S.C.78s (b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

the procedures for resolving potential disputes related to CAT Fees charged to Industry Members.[4] The proposed change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC,[5] NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. and NYSE National, Inc.[6] (collectively, the ''Participants'') filed with the Commission, pursuant to Section 11A of the Exchange Act[7] and Rule 608 of Regulation NMS thereunder,[8] the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'').[9] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,[10] and approved by the Commission, as modified, on November 15, 2016.[11] The Plan is designed to create, implement and maintain a consolidated audit trail (''CAT'') that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. The Plan accomplishes this by creating CAT NMS, LLC (the ''Company''), of which each Participant is a member, to operate the CAT.[12] Under the CAT NMS Plan, the Operating Committee of the Company (''Operating Committee'') has discretion to establish funding for the Company to operate the CAT, including establishing fees that the Participants will pay, and establishing fees for Industry Members that will be implemented by the Participants (''CAT Fees'').[13] The Participants are required to file with the SEC under Section 19(b) of the Exchange Act any such CAT Fees applicable to Industry Members that the Operating Committee approves.[14] Accordingly, the Exchange filed a proposed rule change with the SEC to adopt the Consolidated Audit Trail Funding Fees, which will require Industry Members that are Exchange members to pay the CAT Fees determined by the Operating Committee.[15] The Exchange submits this rule filing to adopt a new NYSE Arca Rule 11.6900 and a new NYSE Arca Equities Rule 6.6900 to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members. Proposed Rule 11.6900 would apply to Industry Members of the Exchange's options market and proposed Rule 6.6900 would apply to Industry Members of the Exchange's equities markets. Proposed Rule 11.6900 is described below.

(1) Definitions

Paragraph (a) of proposed Rule 11.6900 sets forth the definitions for proposed Rule 11.6900. Paragraph (a)(1) of proposed Rule 11.6900 states that, for purposes of Rule 11.6900, the terms ''CAT NMS Plan'', ''Industry Member'', ''Operating Committee'', and ''Participant'' are defined as set forth in the Rule 11.6810 (Consolidated Audit Trail—Definitions), and the term ''CAT Fee'' is defined in the Consolidated Audit Trail Funding Fees section of the NYSE Arca Options Fee Schedule. In addition, the Exchange proposes to add paragraph (a)(2) to proposed Rule 11.6900. New paragraph (a)(2) would define the term ''Subcommittee'' to mean a subcommittee designated by the Operating Committee pursuant to the CAT NMS Plan. This definition is the same substantive definition as set forth in Section 1.1 of the CAT NMS Plan.

(2) Fee Dispute Resolution

Section 11.5 of the CAT NMS Plan requires Participants to adopt rules requiring that disputes with respect to fees charged to Industry Members pursuant to the CAT NMS Plan be determined by the Operating Committee or Subcommittee. Section 11.5 of the CAT NMS Plan also states that decisions by the Operating Committee or Subcommittee on such matters will be binding on Industry Members, without prejudice to the right of any Industry Member to seek redress from the SEC pursuant to SEC Rule 608 or in any other appropriate forum. The Exchange proposes to adopt paragraph (b) of proposed Rule 11.6900. Paragraph (b) of proposed Rule 11.6900 states that disputes initiated by an Industry Member with respect to CAT Fees charged to such Industry Member pursuant to the Consolidated Audit Trail Funding Fees, including disputes related to the designated tier and the fee calculated pursuant to such tier, will be resolved by the Operating Committee, or a Subcommittee designated by the Operating Committee, of the CAT NMS Plan, pursuant to the Fee Dispute Resolution Procedures adopted pursuant to the CAT NMS Plan and set forth in paragraph (c) of proposed Rule 11.6900. Decisions on such matters will be binding on Industry Members,

[4] Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth herein or in the Consolidated Audit Trail Funding Fees sections of the NYSE Arca Options Fee Schedule and the NYSE Arca Equities Fee Schedule, the NYSE Arca and NYSE Arca Equities CAT Compliance Rule Series or in the CAT NMS Plan.

[5] ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. *See* Securities Exchange Act Release Nos. 80248 (March 15, 2017), 82 FR 14547 (March 21, 2017); 80326 (March 29, 2017), 82 FR 16460 (April 4, 2017); and 80325 (March 29, 2017), 82 FR 16445 (April 4, 2017).

[6] National Stock Exchange, Inc. has been renamed NYSE National, Inc. *See* Securities Exchange Act Release No. 79902 (January 30, 2017), 82 FR 9258 (February 3, 2017).

[7] 15 U.S.C. 78k–1.

[8] 17 CFR 242.608.

[9] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

[10] Securities Exchange Act Release No. 77724 (April 27, 2016), 81 FR 30614 (May 17, 2016).

[11] Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016) (''Approval Order'').

[12] The Plan also serves as the limited liability company agreement for the Company.

[13] Section 11.1(b) of the CAT NMS Plan.

[14] Section 11.1(b) of the CAT NMS Plan.

[15] *See* SR–NYSEArca–2017–52, filed on May 10, 2017.

without prejudice to the rights of any such Industry Member to seek redress from the SEC or in any other appropriate forum.

The Operating Committee has adopted ''Fee Dispute Resolution Procedures'' governing the manner in which disputes regarding CAT Fees charged pursuant to the Consolidated Audit Trail Funding Fees will be addressed. These Fee Dispute Resolution Procedures, as they relate to Industry Members, are set forth in paragraph (c) of proposed Rule 11.6900. Specifically, the Fee Dispute Resolution Procedures provide the procedure for Industry Members that dispute CAT Fees charged to such Industry Member pursuant to one or more of the Participants' Consolidated Audit Trail Funding Fees Rules, including disputes related to the designated tier and the fee calculated pursuant to such tier, to apply for an opportunity to be heard and to have the CAT Fees charged to such Industry Member reviewed.

Under these Procedures, an Industry Member that disputes CAT Fees charged to such Industry Member and that desires to have an opportunity to be heard with respect to such disputed CAT Fees must file a written application with the Company within 15 business days after being notified of such disputed CAT Fees. The application must identify the disputed CAT Fees, state the specific reasons why the applicant takes exception to such CAT Fees, and set forth the relief sought. In addition, if the applicant intends to submit any additional documents, statements, arguments or other material in support of the application, the same should be so stated and identified.

The Company will refer applications for hearing and review promptly to the Subcommittee designated by the Operating Committee pursuant to Section 4.12 of the CAT NMS Plan with responsibility for conducting the reviews of CAT Fee disputes pursuant to these Procedures. This Subcommittee will be referred to as the Fee Review Subcommittee. The members of the Fee Review Subcommittee will be subject to the provisions of Section 4.3(d) of the CAT NMS Plan regarding recusal and Conflicts of Interest. The Fee Review Subcommittee will keep a record of the proceedings.

The Fee Review Subcommittee will hold hearings promptly. The Fee Review Subcommittee will set a hearing date. The parties to the hearing will furnish the Fee Review Subcommittee with all materials relevant to the proceedings at least 72 hours prior to the date of the hearing. Each party will have the right to inspect and copy the other party's materials prior to the hearing.

The parties to the hearing will consist of the applicant and a representative of the Company who will present the reasons for the action taken by the Company that allegedly aggrieved the applicant. The applicant is entitled to be accompanied, represented and advised by counsel at all stages of the proceedings.

The Fee Review Subcommittee will determine all questions concerning the admissibility of evidence and will otherwise regulate the conduct of the hearing. Each of the parties will be permitted to make an opening statement, present witnesses and documentary evidence, cross examine opposing witnesses and present closing arguments orally or in writing as determined by the Fee Review Subcommittee. The Fee Review Subcommittee also will have the right to question all parties and witnesses to the proceeding. The Fee Review Subcommittee must keep a record of the hearing. The formal rules of evidence will not apply.

The Fee Review Subcommittee must set forth its decision in writing and send the written decision to the parties to the proceeding. Such decisions will contain the reasons supporting the conclusions of the Fee Review Subcommittee.

The decision of the Fee Review Subcommittee will be subject to review by the Operating Committee either on its own motion within 20 business days after issuance of the decision or upon written request submitted by the applicant within 15 business days after issuance of the decision. The applicant's petition must be in writing and must specify the findings and conclusions to which the applicant objects, together with the reasons for such objections. Any objection to a decision not specified in writing will be considered to have been abandoned and may be disregarded. Parties may petition to submit a written argument to the Operating Committee and may request an opportunity to make an oral argument before the Operating Committee. The Operating Committee will have sole discretion to grant or deny either request.

The Operating Committee will conduct the review. The review will be made upon the record and will be made after such further proceedings, if any, as the Operating Committee may order. Based upon such record, the Operating Committee may affirm, reverse or modify, in whole or in part, the decision of the Fee Review Subcommittee. The decision of the Operating Committee will be in writing, will be sent to the parties to the proceeding and will be final.

The Procedures state that a final decision regarding the disputed CAT Fees by the Operating Committee, or the Fee Review Subcommittee (if there is no review by the Operating Committee), must be provided within 90 days of the date on which the Industry Member filed a written application regarding disputed CAT Fees with the Company. The Operating Committee may extend the 90-day time limit at its discretion.

In addition, the Procedures state that any notices or other documents may be served upon the applicant either personally or by leaving the same at its, his or her place of business or by deposit in the United States post office, postage prepaid, by registered or certified mail, addressed to the applicant at its, his or her last known business or residence address. The Procedures also state that any time limits imposed under the Procedures for the submission of answers, petitions or other materials may be extended by permission of the Operating Committee. All papers and documents relating to review by the Fee Review Subcommittee or the Operating Committee must be submitted to the Fee Review Subcommittee or Operating Committee, as applicable.

The Procedures also note that decisions on such CAT Fee disputes made pursuant to these Procedures will be binding on Industry Members, without prejudice to the rights of any such Industry Member to seek redress from the SEC or in any other appropriate forum.

Finally, an Industry Member that files a written application with the Company regarding disputed CAT Fees in accordance with these Procedures is not required to pay such disputed CAT Fees until the dispute is resolved in accordance with these Procedures, including any review by the SEC or in any other appropriate forum. For these purposes, the disputed CAT Fees means the amount of the invoiced CAT Fees that the Industry Member has asserted pursuant to these Procedures that such Industry Member does not owe to the Company. The Industry Member must pay any invoiced CAT Fees that are not disputed CAT Fees when due as set forth in the original invoice.

Once the dispute regarding CAT Fees is resolved pursuant to these Procedures, if it is determined that the Industry Member owes any of the disputed CAT Fees, then the Industry Member must pay such disputed CAT Fees that are owed as well as interest on such disputed CAT Fees from the original due date (that is, 30 days after

receipt of the original invoice of such CAT Fees) until such disputed CAT Fees are paid at a per annum rate equal to the lesser of (i) the Prime Rate plus 300 basis points, or (ii) the maximum rate permitted by applicable law.

The Exchange also proposes to adopt new NYSE Arca Equities Rule 6.6900 that would be substantially the same as proposed NYSE Arca Rule 11.6900.

Like its NYSE Arca counterpart, paragraph (a) of proposed NYSE Arca Equities Rule 6.6900 sets forth the definitions for proposed Rule 6.6900. Paragraph (a)(1) of proposed Rule 6.6900 states that, for purposes of Rule 6.6900, the terms ''CAT NMS Plan'', ''Industry Member'', ''Operating Committee'', and ''Participant'' are defined as set forth in the Rule 6.6810 (Consolidated Audit Trail—Definitions), and the term ''CAT Fee'' is defined in the Consolidated Audit Trail Funding Fees section of the NYSE Arca Equities Fee Schedule. In addition, the Exchange proposes to add paragraph (a)(2) to proposed Rule 6.6900. New paragraph (a)(2) would define the term ''Subcommittee'' to mean a subcommittee designated by the Operating Committee pursuant to the CAT NMS Plan. This definition is the same substantive definition as set forth in Section 1.1 of the CAT NMS Plan.

Like its NYSE Arca counterpart, paragraph (b) of proposed Rule 6.6900 states that disputes initiated by an Industry Member with respect to CAT Fees charged to such Industry Member pursuant to the Consolidated Audit Trail Funding Fees, including disputes related to the designated tier and the fee calculated pursuant to such tier, will be resolved by the Operating Committee, or a Subcommittee designated by the Operating Committee, of the CAT NMS Plan, pursuant to the Fee Dispute Resolution Procedures adopted pursuant to the CAT NMS Plan and set forth in paragraph (c) of proposed Rule 6.6900.

As discussed above, the Operating Committee has adopted ''Fee Dispute Resolution Procedures'' governing the manner in which disputes regarding CAT Fees charged pursuant to the Consolidated Audit Trail Funding Fees will be addressed. These Fee Dispute Resolution Procedures, as they relate to Industry Members, are set forth in paragraph (c) of proposed Rule 6.6900, and are identical to those set forth in paragraph (c) of proposed NYSE Arca Rule 11.6900. The Fee Dispute Resolution Procedures provide the procedure for Industry Members that dispute CAT Fees charged to such Industry Member pursuant to one or more of the Participants' Consolidated Audit Trail Funding Fees Rules, including disputes related to the designated tier and the fee calculated pursuant to such tier, to apply for an opportunity to be heard and to have the CAT Fees charged to such Industry Member reviewed.

As described above for paragraph (c) of proposed NYSE Arca Rule 11.6900, under the Fee Dispute Resolution Procedures, an Industry Member that disputes CAT Fees charged to such Industry Member and that desires to have an opportunity to be heard with respect to such disputed CAT Fees must file a written application with the Company within 15 business days after being notified of such disputed CAT Fees. The application must identify the disputed CAT Fees, state the specific reasons why the applicant takes exception to such CAT Fees, and set forth the relief sought. In addition, if the applicant intends to submit any additional documents, statements, arguments or other material in support of the application, the same should be so stated and identified.

The Company will refer applications for hearing and review promptly to the Subcommittee designated by the Operating Committee pursuant to Section 4.12 of the CAT NMS Plan with responsibility for conducting the reviews of CAT Fee disputes pursuant to these Procedures. This Subcommittee will be referred to as the Fee Review Subcommittee. The members of the Fee Review Subcommittee will be subject to the provisions of Section 4.3(d) of the CAT NMS Plan regarding recusal and Conflicts of Interest. The Fee Review Subcommittee will keep a record of the proceedings.

The Fee Review Subcommittee will hold hearings promptly. The Fee Review Subcommittee will set a hearing date. The parties to the hearing will furnish the Fee Review Subcommittee with all materials relevant to the proceedings at least 72 hours prior to the date of the hearing. Each party will have the right to inspect and copy the other party's materials prior to the hearing.

The parties to the hearing will consist of the applicant and a representative of the Company who will present the reasons for the action taken by the Company that allegedly aggrieved the applicant. The applicant is entitled to be accompanied, represented and advised by counsel at all stages of the proceedings.

The Fee Review Subcommittee will determine all questions concerning the admissibility of evidence and will otherwise regulate the conduct of the hearing. Each of the parties will be permitted to make an opening statement, present witnesses and documentary evidence, cross examine opposing witnesses and present closing arguments orally or in writing as determined by the Fee Review Subcommittee. The Fee Review Subcommittee also will have the right to question all parties and witnesses to the proceeding. The Fee Review Subcommittee must keep a record of the hearing. The formal rules of evidence will not apply.

The Fee Review Subcommittee must set forth its decision in writing and send the written decision to the parties to the proceeding. Such decisions will contain the reasons supporting the conclusions of the Fee Review Subcommittee.

The decision of the Fee Review Subcommittee will be subject to review by the Operating Committee either on its own motion within 20 business days after issuance of the decision or upon written request submitted by the applicant within 15 business days after issuance of the decision. The applicant's petition must be in writing and must specify the findings and conclusions to which the applicant objects, together with the reasons for such objections. Any objection to a decision not specified in writing will be considered to have been abandoned and may be disregarded. Parties may petition to submit a written argument to the Operating Committee and may request an opportunity to make an oral argument before the Operating Committee. The Operating Committee will have sole discretion to grant or deny either request.

The Operating Committee will conduct the review. The review will be made upon the record and will be made after such further proceedings, if any, as the Operating Committee may order. Based upon such record, the Operating Committee may affirm, reverse or modify, in whole or in part, the decision of the Fee Review Subcommittee. The decision of the Operating Committee will be in writing, will be sent to the parties to the proceeding and will be final.

The Procedures state that a final decision regarding the disputed CAT Fees by the Operating Committee, or the Fee Review Subcommittee (if there is no review by the Operating Committee), must be provided within 90 days of the date on which the Industry Member filed a written application regarding disputed CAT Fees with the Company. The Operating Committee may extend the 90-day time limit at its discretion.

In addition, the Procedures state that any notices or other documents may be served upon the applicant either

personally or by leaving the same at its, his or her place of business or by deposit in the United States post office, postage prepaid, by registered or certified mail, addressed to the applicant at its, his or her last known business or residence address. The Procedures also state that any time limits imposed under the Procedures for the submission of answers, petitions or other materials may be extended by permission of the Operating Committee. All papers and documents relating to review by the Fee Review Subcommittee or the Operating Committee must be submitted to the Fee Review Subcommittee or Operating Committee, as applicable.

The Procedures also note that decisions on such CAT Fee disputes made pursuant to these Procedures will be binding on Industry Members, without prejudice to the rights of any such Industry Member to seek redress from the SEC or in any other appropriate forum.

Finally, an Industry Member that files a written application with the Company regarding disputed CAT Fees in accordance with these Procedures is not required to pay such disputed CAT Fees until the dispute is resolved in accordance with these Procedures, including any review by the SEC or in any other appropriate forum. For these purposes, the disputed CAT Fees means the amount of the invoiced CAT Fees that the Industry Member has asserted pursuant to these Procedures that such Industry Member does not owe to the Company. The Industry Member must pay any invoiced CAT Fees that are not disputed CAT Fees when due as set forth in the original invoice.

Once the dispute regarding CAT Fees is resolved pursuant to these Procedures, if it is determined that the Industry Member owes any of the disputed CAT Fees, then the Industry Member must pay such disputed CAT Fees that are owed as well as interest on such disputed CAT Fees from the original due date (that is, 30 days after receipt of the original invoice of such CAT Fees) until such disputed CAT Fees are paid at a per annum rate equal to the lesser of (i) the Prime Rate plus 300 basis points, or (ii) the maximum rate permitted by applicable law.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,[16] which require, among other things, that the Exchange's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealers, and Section 6(b)(8) of the Act,[17] which requires that the Exchange's rules not impose any burden on competition that is not necessary or appropriate.

The Exchange believes that this proposal is consistent with the Act because it implements, interprets or clarifies Section 11.5 of the Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [18] To the extent that this proposal implements, interprets or clarifies the Plan and applies specific requirements to Industry Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change implements Section 11.5 of the CAT NMS Plan approved by the Commission, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. Similarly, all national securities exchanges and FINRA are proposing this proposed rule to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive rule filing, and, therefore, it does not raise competition issues between and among the exchanges and FINRA.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

[16] 15 U.S.C. 78f(b)(5).

[17] 15 U.S.C. 78f(b)(8).

[18] Approval Order at 84697.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2017–60 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2017–60. 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–NYSEArca–2017–60, and should be submitted on or before June 22, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–11357 Filed 5–31–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80796; File No. SR–BatsBZX–2017–37]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing of Proposed Rule Change To Eliminate Requirements That Will Be Duplicative of CAT

May 26, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 15, 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, 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 filed a proposal to modify requirements for the collection of information that is duplicative of information intended to be collected for the consolidated audit trail (''CAT'') adopted pursuant to the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'').[3] The Exchange will announce the implementation date of the proposed rule change and effective date of the retirement of any related systems by Regulatory Circular that will be published once the options exchanges determine the thresholds for accuracy and reliability described below have been met and that the Plan Processor for CAT is sufficiently meeting all of its obligations under the CAT NMS Plan.

The text of the proposed rule change is available at the Exchange's Web site at *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

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC,[4] NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. and NYSE National, Inc.[5] (collectively, the ''Participants'') filed with the Commission, pursuant to Section 11A of the Exchange Act [6] and Rule 608 of Regulation NMS thereunder,[7] the CAT NMS Plan.[8] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,[9] and approved by the Commission, as modified, on November 15, 2016.[10] The Plan is designed to create, implement and maintain a CAT that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. Pursuant to Appendix C of the CAT NMS Plan, each Participant is required to conduct analyses of which of its existing trade and order data rules and systems require the collection of information that is duplicative of information collected for the CAT.[11] In addition, among other things, Section C.9 of Appendix C to the Plan, as modified by the Commission, requires each Participant to ''file with the SEC the relevant rule change filing to eliminate or modify its duplicative rules within six (6) months of the SEC's approval of the CAT NMS Plan.'' [12] The Plan notes that ''the elimination of such rules and the retirement of such systems [will] be effective at such time as CAT Data meets minimum standards of accuracy and reliability.'' [13]

After conducting its analysis of its rules in accordance with the CAT NMS Plan, the Exchange determined Rules 22.7 and 24.4 require the reporting of information intended to be collected by the CAT. Therefore, the Exchange believes those provisions will no longer be necessary once the CAT is operational and proposes to modify those Rules as described below. Additionally, the Exchange describes below additional reporting requirements that it may reduce for which no rule changes are necessary. These changes will be implemented in accordance with the timeline described below.

[19] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth herein, or in the CAT Compliance Rule Series or in the CAT NMS Plan.

[4] ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. *See* Securities Exchange Act Rel. No. 80248 (Mar. 15, 2017), 82 FR 14547 (Mar. 21, 2017); Securities Exchange Act Rel. No. 80326 (Mar. 29, 2017), 82 FR 16460 (Apr. 4, 2017); and Securities Exchange Act Rel. No. 80325 (Mar. 29, 2017), 82 FR 16445 (Apr. 4, 2017).

[5] National Stock Exchange, Inc. has been renamed NYSE National, Inc. *See* Securities Exchange Act Rel. No. 79902 (Jan. 30, 2017), 82 FR 9258 (Feb. 3, 2017).

[6] 15 U.S.C. 78k–1.

[7] 17 CFR 242.608.

[8] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

[9] Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 FR 30614 (May 17, 2016).

[10] Securities Exchange Act Rel. No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016) (''Approval Order'').

[11] Appendix C of CAT NMS Plan, Approval Order at 85010.

[12] *Id.*

[13] *Id.*

Initially, the Exchange notes that options exchanges, including the Exchange, utilize consolidated options audit trail system (''COATS'') to collect and review data regarding options orders, quotes and transactions. The Participants have provided COATS technical specifications to the Plan Processor for the CAT for use in developing the Technical Specifications for the CAT, and the Participants are working with the Plan Processor to include the necessary COATS data elements in the CAT Technical Specifications. Accordingly, although the Technical Specifications for the CAT have not yet been finalized, the Exchange and the other options exchanges propose to eliminate COATS in accordance with the proposed timeline discussed below. The Exchange notes that it does not have any specific rules or requirements related to COATS but refers to its retirement below in an effort to provide transparency.

(1) Market Maker Equity Order Reports

Rule 22.7(b) requires Market Makers, upon request and in the prescribed form, report to the Exchange every order entered by the Market Maker for the purchase or sale of (1) a security underlying options traded on the Exchange, or (2) a security convertible into or exchangeable for such underlying security, as well as opening and closing positions in all such securities held in each account reported pursuant to Rule 22.7(a). The report pertaining to orders must include the terms of each order, identification of the brokerage firms through which the orders were entered, the times of entry or cancellation, the times report of execution were received and, if all or part of the order was executed, the quantity and execution price. CAT will require Market Makers to report order information for such securities. Therefore, this rule provision as it relates to order reports is duplicative of CAT requirements, and the Exchange proposes to delete it. CAT does not require reporting of positions, so the Exchange will maintain the position reporting requirement in Rule 22.7(b). The Exchange also proposes a conforming change to the rule name and Interpretation and Policy .01.

(2) EBS

Rule 24.4 is the Exchange's rule regarding the automated submission of specific trading data to the Exchange upon request using the Electronic Blue Sheet (''EBS'') system. Rule 24.4 requires an Options Member [14] to submit requested trade data elements in such automated format as may be prescribed by the Exchange from time to time, in regard to a transaction(s) that is the subject of the particular request for information. The Rule sets forth in paragraphs (b) and (c) the data elements required if the transaction was a proprietary transaction or if it was effected for a customer account, respectively. Paragraph (d) provides an Options Member must submit such other information as may from time to time be required. Paragraph (e) permits the Exchange to grant exceptions from these requirements in such cases and for such time periods as it deems appropriate.

The Exchange proposes to amend Rule 24.4 to state it will request information under the Rule only if the information is not available in the CAT because, for example, the transaction(s) in question occurred before the firm was reporting information to the CAT or involved securities that are not reportable to the CAT. In essence, under the proposed rule change, the Exchange will make requests under Rule 24.4 if and only if the information is not otherwise available through the CAT.

Once broker-dealer reporting to the CAT has begun, the CAT will contain the data the Participants would otherwise have requested via the EBS system for purposes of NMS Securities and OTC Equity Securities. Consequently, the Exchange will not need to use the EBS system or request information pursuant to Rule 24.4 for NMS Securities or OTC Equity Securities for time periods after CAT reporting has begun if the appropriate accuracy and reliability thresholds are achieved, including an acceptable accuracy rate for customer and account information. However, Rule 24.4 cannot be completely eliminated immediately upon the CAT achieving the appropriate thresholds because Exchange staff may still need to request information pursuant to Rule 24.4 for trading activity occurring before a member was reporting to the CAT.[15] In addition, Rule 24.4 applies to information regarding transactions involving securities that will not be reportable to the CAT, such as fixed-income securities; thus, the rule must remain in effect with respect to those transactions indefinitely or until those transactions are captured in the CAT.

(3) Other Reports

Various other Exchange Rules require Members to report information to the Exchange upon request.[16] While the Exchange believes it is necessary to retain these Rules to ensure it has access to the necessary data to perform its regulatory duties and meet its surveillance obligations, it expects it will need to make fewer information requests pursuant to these Rule once Members begin reporting to the CAT and accuracy and reliability standards are met.

(4) Timeline for Elimination of Duplicative Rules

The CAT NMS Plan states that the elimination of rules that are duplicative of the requirements of the CAT and the retirement of the related systems should be effective at such time as CAT Data meets minimum standards of accuracy and reliability.[17] As discussed in more detail below, the Exchange believes the Rule provisions and related systems described above may be retired at a date after all Industry Members are reporting to the CAT when the proposed error rate thresholds have been met, and the Exchange has determined that its usage of the CAT Data has not revealed material issues that have not been corrected, confirmed that the CAT includes all data necessary to allow the Exchange to continue to meet its surveillance obligations, and confirmed that the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan.

The Exchange believes the proposed rule changes should not be effective until all Participants and Industry Members that report data pursuant to the Rules described above are reporting comparable data to the CAT. In this way, the Exchange will continue to have access to the necessary data to perform its regulatory duties.

The CAT NMS Plan requires that a rule filing to eliminate a duplicative rule address whether ''the availability of certain data from Small Industry Members two years after the Effective Date would facilitate a more expeditious retirement of duplicative systems.'' [18] The Exchange believes COATS should not be retired until all Participants and

[14] An Options Member is a Member of the Exchange that is registered to participate in options trading on BZX Options. *See* Rule 16.1(a)(38). A Member is a registered broker or dealer that has been admitted to membership in the Exchange. *See* Rule 1.5(n).

[15] Firms are required to maintain the trade information for pre-CAT transactions in equities and options pursuant to applicable rules, such as books and records retention requirements, for the relevant time period, which is generally three or six years depending upon the record. *See* 17 CFR 240.17a–3(a), 240.17a–4.

[16] *See, e.g.,* Rule 4.2 (Furnishing of Records).

[17] *Id.* [sic]

[18] *Id.*

Industry Members that report data to COATS are reporting comparable data to the CAT. While the early submission of options data to the CAT by Small Industry Members could expedite the retirement of COATS, the Exchange believes that it premature [sic] to consider such a change and that additional analysis would be necessary to determine whether such early reporting by Small Industry Members would be feasible.

The CAT NMS Plan requires that this rule filing address ''whether individual Industry Members can be exempted from reporting to duplicative systems once their CAT reporting meets specified accuracy and reliability standards, including, but not limited to, ways in which establishing cross-system regulatory functionality or integrating data from existing systems and the CAT would facilitate such Individual Industry Member exemptions.'' [19] The Exchange believes that a single cut-over from the reporting requirements described above to CAT is highly preferable to a firm-by-firm approach and is not proposing to exempt members from such reporting requirements on a firm-by-firm basis. The Exchange believes that providing such individual exemptions to Industry Members would be inefficient, more costly, and less reliable than the single cut-over. Providing individual exemptions would require the options exchanges to create, for a brief temporary period, a cross-system regulatory function and to integrate data from reports received pursuant to the above requirements and the CAT to avoid creating any regulatory gaps as a result of such exemptions. Such a function would be costly to create and would give rise to a greater likelihood of data errors or other issues. Given the limited time in which such exemptions would be necessary, the Exchange does not believe that such exemptions would be an appropriate use of limited resources.

The CAT NMS Plan also requires that a rule filing to eliminate a duplicative rule to provide ''specific accuracy and reliability standards that will determine when duplicative systems will be retired, including, but not limited to, whether the attainment of a certain Error Rate should determine when a system duplicative of the CAT can be retired.'' [20] The Exchange believes that it is critical that the CAT Data be sufficiently accurate and reliable for the Exchange to perform the regulatory functions that it now performs using the information it receives pursuant to the reporting requirements described above. Accordingly, the Exchange believes that the CAT Data should meet specific quantitative error rates, as well as certain qualitative requirements.

The Exchange believes (and the other options exchanges with respect to COATS and EBS) believe that, before reporting requirements may be modified or eliminated, as applicable, and related systems may be retired, the CAT would need to achieve a sustained error rate for a period of at least 180 days of 5% or lower measured on a pre-correction or as-submitted basis, and 2% or lower on a post-correction basis (measured at T+5).[21] The Exchange proposes to measure the 5% pre-correction and 2% post-correction thresholds by averaging the error rate across the period, not require a 5% pre-correction and 2% post-correction maximum each day for 180 consecutive days. The Exchange believes that measuring each of the thresholds over the course of 180 days will ensure that the CAT consistently meets minimum accuracy and reliability thresholds while also ensuring that single-day measurements do not unduly affect the overall measurements. The Exchange proposes to measure the appropriate error rates in the aggregate, rather than firm-by-firm. In addition, with respect to COATS, the Exchange proposes to measure the error rates for options only, not equity securities, as only options are subject to COATS. The 2% and 5% error rates are in line with the proposed retirement threshold for FINRA's Order Audit Trail System (''OATS'').

In addition to these minimum error rates before reporting requirements may be modified or eliminated, as applicable, and related systems may be retired, the Exchange believes that during the minimum 180-day period during which the thresholds are calculated, the Exchange's use of the data in the CAT must confirm that (i) usage over that time period has not revealed material issues that have not been corrected, (ii) the CAT includes all data necessary to allow the Exchange to continue to meet its surveillance obligations, and (iii) the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan. The Exchange believes this time period to use the CAT Data is necessary to reveal any errors that may manifest themselves only after surveillance patterns and other queries have been run and to confirm that the Plan Processor is meeting its obligations and performing its functions adequately.

If the Commission approves the proposed rule change, the Exchange will announce the date for modification or elimination, as applicable, of reporting requirements and retirement of related systems and the implementation date of the proposed rule change via Regulatory Circular that will be published once the Exchange (and other options exchanges with respect to COATS and EBS) determines that the thresholds for accuracy and reliability described above have been met and that the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Exchange Act,[22] which requires, among other things, that Exchange Rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealer. The Exchange believes that this proposal is consistent with the Exchange Act because it fulfills the obligation in the CAT NMS Plan for the Exchange to submit a proposed rule change to eliminate or modify duplicative rules. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [23] As this proposal implements the Plan, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Exchange Act.

Moreover, the purpose of the proposed rule change is to amend rules that require the submission of duplicative data to the Exchange. The elimination of such duplicative requirements will reduce unnecessary costs and other compliance burdens for the Exchange and its Members, and therefore, will enhance the efficiency of the securities markets. Furthermore, the Exchange believes that the approach set forth in the proposed rule change strikes

[19] *Id.*

[20] *Id.*

[21] The Plan requires that the Plan Processor must ensure that regulators have access to corrected and linked order and Customer data by 8:00 a.m. Eastern Time on T+5. *See* CAT NMS Plan, at C–15.

[22] 15 U.S.C. 78f(b)(5).

[23] Approval Order at 84697.

the appropriate balance between ensuring that the Exchange is able to continue to fulfill its statutory obligation to protect investors and the public interest by ensuring its surveillance of market activity remains accurate and effective while also establishing a reasonable timeframe for elimination or modification of its rules that will be rendered duplicative after implementation of the CAT.

(B) Self-Regulatory Organization's Statement on Burden on Competition

Section 6(b)(8) of the Exchange Act [24] requires that Exchange Rules not impose any burden on competition that is not necessary or appropriate. 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 Exchange Act. The Exchange notes that the proposed rule change implements the requirements of the CAT NMS Plan approved by the Commission regarding the elimination of rules and systems that are duplicative the CAT, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. Similarly, all exchanges and FINRA are proposing the elimination of reporting requirements related to COATS and EBS, as well as other duplicative rules, to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive rule filing and, therefore, it does not raise competition issues between and among the self-regulatory organizations and/or their members.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Although written comments on the proposed rule change were not solicited, the Exchange received comments from two commenters, the Financial Information Forum (''FIF'') and the Securities Industry and Financial Markets Association (''SIFMA''), regarding the retirement of systems related to the CAT.[25] In its comment letters, with regard to the retirement of duplicative systems more generally, FIF recommended that the Participants continue the effort to incorporate current reporting obligations into the CAT in order to replace existing reportable systems with the CAT. In addition, FIF further recommended that, once a CAT Reporter achieved satisfactory reporting data quality, the CAT Reporter should be exempt from reporting to any duplicative reporting systems. FIF believed that these recommendations ''would serve both an underlying regulatory objective of more immediate and accurate access to data as well as an industry objective of reduced costs and burdens of regulatory oversight.'' [26] In its comments about EBS specifically, FIF stated that the retirement of the EBS requirements should be a high priority, and that the CAT should be designed to include the requisite data elements to permit the rapid retirement of EBS.[27] Similarly, SIFMA stated that ''the establishment of the CAT must be accompanied by the prompt elimination of duplicative systems,'' and ''recommend[ed] that the initial technical specifications be designed to facilitate the immediate retirement of . . . duplicative reporting systems.'' [28]

As discussed above, the Exchange agrees with the commenters that the reporting requirements proposed to be modified or eliminated should be replaced by the CAT reporting requirements as soon as accurate and reliable CAT Data is available. To this end, the Exchange anticipates that the CAT will be designed to collect the data necessary to permit the modification or elimination, as applicable, of these reporting requirements and the retirement of related systems. However, as discussed above, the Exchange disagrees with the recommendation to provide individual exemptions to those CAT Reporters who obtain satisfactory data reporting quality.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

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.* Please include File Number SR–BatsBZX–2017–37 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–BatsBZX–2017–37. 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 Number SR–BatsBZX–2017–37 and should be submitted on or before June 22, 2017.

[24] 15 U.S.C. 78f(b)(8).

[25] Letter from William H. Hebert, FIF, to Participants re: Milestone for Participants' rule change filings to eliminate/modify duplicative rules (Apr. 12, 2017) (''FIF Letter''); Letter from William H. Hebert, FIF, to Brent J. Fields, SEC re: Milestone for Participants' rule change filings to eliminate/modify duplicative rules (Apr. 12, 2017); and Letter from Kenneth E. Bentsen, Jr., SIFMA, to Participants re: Selection of Thesys as CAT Processor (Apr. 4, 2017) (''SIFMA Letter'') at 2.

[26] FIF Letter at 2.

[27] FIF Letter at 2.

[28] SIFMA Letter at 2.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–11372 Filed 5–31–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80777; File No. SR–NYSEArca–2017–30]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Approving a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To Amend Commentary .01 and Commentary .02 to NYSE Arca Equities Rule 5.2(j)(3) To Provide for the Inclusion of Cash in an Index Underlying a Series of Investment Company Units

May 25, 2017.

I. Introduction

On March 29, 2017, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'')[2] and Rule 19b–4 thereunder,[3] a proposed rule change to amend Commentary .01 and Commentary .02 to NYSE Arca Equities Rule 5.2(j)(3) to provide for the inclusion of cash in an index underlying a series of Investment Company Units. The proposed rule change was published for comment in the **Federal Register** on April 14, 2017.[4] On May 10, 2017, the Exchange filed Amendment No. 1 to the proposed rule change.[5] The Commission received no comments on the proposed rule change. This order approves the proposed rule change, as modified by Amendment No. 1 thereto.

II. Description of the Proposal

Commentary .01(a)(A), Commentary .01 (a)(B), and Commentary .02 to NYSE Arca Equities Rule 5.2(j)(3) permit the Exchange to generically list Investment Company Units (''Units'') that overlie an index or portfolio of US Component Stocks,[6] Non-US Component Stocks,[7] US Component Stocks and Non-US Component Stocks, and Fixed Income Securities[8] that meets specified criteria. While ''Investment Companies,''[9] like mutual funds, may hold cash, currently, the generic listing criteria of NYSE Arca Equities Rule 5.2(j)(3) do not contemplate the generic listing Units overlying an index or portfolio with a cash component.

The Exchange proposes to amend Commentary .01 and Commentary .02 to NYSE Arca Equities Rule 5.2(j)(3) to permit the generic listing and trading of Units overlying an index or portfolio of cash and: (1) US Component Stocks; (2) Non-US Component Stocks; (3) US Component Stocks and Non-US Component Stocks; and (4) Fixed Income Securities. Additionally, the Exchange is not proposing to otherwise amend the applicable generic listing criteria, except to specify that the following generic listing criteria will not apply to the cash portion of the index or portfolio:

- Under proposed Commentary .01(a)(A)(1) through (4) to NYSE Arca Equities Rule 5.2(j)(3), the percentage weighting requirements would apply only to the US Component Stocks portion of the underlying index or portfolio.
- Under proposed Commentary .01 (a)(B)(1) through (4) to NYSE Arca Equities Rule 5.2(j)(3), the percentage weighting requirements would not apply to the cash component of the underlying index or portfolio.
- Under proposed Commentary .02(a)(2), (a)(4), and (a)(6) to NYSE Arca Equities Rule 5.2(j)(3) the percentage weighting requirements would apply only to the Fixed Income Securities portion of the underlying index or portfolio.

The Exchange does not propose any limit to the weighting of cash in an index or portfolio underlying a series of Units.[10] The Commission notes that, under a provision of its current rule, the Exchange may generically list Units overlying a combination of indexes so long as each index satisfies the generic listing criteria.[11]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[12] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[13] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Commission believes that permitting the Exchange to generically list Units that overlie an index or portfolio with a cash component may enhance competition among generically listed Units, to the benefit of investors and the marketplace. Additionally, the Commission believes that the generic listing criteria referenced above, applicable only to the non-cash portion(s) of the index or portfolio will neither dilute the generic listing criteria nor render the indexes or portfolios underlying generically listed Units more susceptible to manipulation.[14]

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment

[29] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 80415 (April 10, 2017), 82 FR 18067.

[5] In Amendment No. 1, which amended and replaced the proposed rule change in its entirety, the Exchange made a technical change to the proposed rule text. Amendment No. 1 to the proposed rule change is available at: *https://www.sec.gov/comments/sr-nysearca-2017-30/nysearca201730-1749397-151677.pdf.* Amendment No. 1 is not subject to notice and comment because it is a technical amendment that does not materially alter the described substance of the proposed rule change or raise any novel regulatory issues.

[6] ''US Component Stock'' is defined in NYSE Arca Equities Rule 5.2(j)(3) as an equity security that is registered under Sections 12(b) or 12(g) of the Securities Exchange Act of 1934 or an American Depositary Receipt, the underlying equity security of which is registered under Sections 12(b) or 12(g) of the Securities Exchange Act of 1934.

[7] ''Non-US Component Stock'' is defined in NYSE Arca Equities Rule 5.2(j)(3) as an equity security that is not registered under Sections 12(b) or 12(g) of the Securities Exchange Act of 1934 and that is issued by an entity that (a) is not organized, domiciled or incorporated in the United States, and (b) is an operating company (including Real Estate Investment Trusts and income trusts, but excluding investment trusts, unit trusts, mutual funds, and derivatives).

[8] Commentary .02 to NYSE Arca Equities Rule 5.2(j)(3) defines Fixed Income Securities as debt securities that are notes, bonds, debentures or evidence of indebtedness that include, but are not limited to, U.S. Department of Treasury securities, government-sponsored entity securities, municipal securities, trust preferred securities, supranational debt and debt of a foreign country or a subdivision thereof.

[9] The term ''Investment Company'' is defined in NYSE Arca Equities Rule 5.2(j)(3).

[10] *See* Amendment No. 1, *supra* note 5, at 6.

[11] *See* Commentary .03 to NYSE Arca Equities Rule 5.2(j)(3).

[12] 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).

[13] 15 U.S.C. 78f(b)(5).

[14] The Commission also notes that the Exchange represents that it has in place surveillance procedures that are adequate to properly monitor trading in Units in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. *See* Amendment No. 1, *supra* note 5, at 7.

No. 1 thereto, is consistent with Section 6(b)(5) of the Act [15] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[16] that the proposed rule change (SR–NYSEArca–2017–30), as modified by Amendment No. 1 thereto, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–11255 Filed 5–31–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80782; File No. SR–NYSEMKT–2017–31]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing of Proposed Rule Change To Adopt Rule 6900 To Establish the Procedures for Resolving Potential Disputes Related to CAT Fees Charged to Industry Members

May 26, 2017.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'' or the ''Exchange Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on May 16, 2017, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (''SEC'' or 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

The Exchange proposes to adopt Rule 6900 (Consolidated Audit Trail—Fee Dispute Resolutions) to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members.[4] The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC,[5] NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. and NYSE National, Inc.[6] (collectively, the ''Participants'') filed with the Commission, pursuant to Section 11A of the Exchange Act [7] and Rule 608 of Regulation NMS thereunder,[8] the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'').[9] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,[10] and approved by the Commission, as modified, on November 15, 2016.[11] The Plan is designed to create, implement and maintain a consolidated audit trail (''CAT'') that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. The Plan accomplishes this by creating CAT NMS, LLC (the ''Company''), of which each Participant is a member, to operate the CAT.[12] Under the CAT NMS Plan, the Operating Committee of the Company (''Operating Committee'') has discretion to establish funding for the Company to operate the CAT, including establishing fees that the Participants will pay, and establishing fees for Industry Members that will be implemented by the Participants (''CAT Fees'').[13] The Participants are required

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[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78s(b)(2).

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C.78s (b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth herein or in the Consolidated Audit Trail Funding Fees sections of the Exchange's Equities Price List and Options Fee Schedule, the Exchange's CAT Compliance Rule Series or in the CAT NMS Plan.

[5] ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. *See* Securities Exchange Act Release Nos. 80248 (March 15, 2017), 82 FR 14547 (March 21, 2017); 80326 (March 29, 2017), 82 FR 16460 (April 4, 2017); and 80325 (March 29, 2017), 82 FR 16445 (April 4, 2017).

[6] National Stock Exchange, Inc. has been renamed NYSE National, Inc. *See* Securities Exchange Act Release No. 79902 (January 30, 2017), 82 FR 9258 (February 3, 2017).

[7] 15 U.S.C. 78k–1.

[8] 17 CFR 242.608.

[9] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

[10] Securities Exchange Act Release No. 77724 (April 27, 2016), 81 FR 30614 (May 17, 2016).

[11] Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016) (''Approval Order'').

[12] The Plan also serves as the limited liability company agreement for the Company.

[13] Section 11.1(b) of the CAT NMS Plan. Proposed Rule 6900 would be applicable to member organizations. The term ''member organization'' is defined in Rule 24 (Office Rules) as ''a partnership, corporation or such other entity as the Exchange may, by Rule, permit to become a member organization, and which meets the qualifications specified in the Rules.'' The term ''member organization'' is defined in Rule 2(b)(i) (Equities Rules) as [sic] a registered broker or dealer (unless exempt pursuant to the Securities Exchange Act of 1934) (the ''Act'') that is a member of the Financial Industry Regulatory Authority, Inc. (''FINRA'') or another registered securities exchange. Member organizations that transact business with public customers or conduct business on the Floor of the Exchange shall at all times be members of FINRA. A registered broker or dealer must also be approved by the Exchange and authorized to designate an associated natural person to effect transactions on the floor of the Exchange or any facility thereof. This term shall include a natural person so registered, approved and licensed who directly effects transactions on the floor of the Exchange or any facility thereof.'' The term ''member organization'' also [sic] includes any registered broker or dealer that is a member of FINRA or a registered securities exchange, consistent with the requirements of section 2(b)(i) of this Rule, which does not own a trading license and agrees to be

Continued

to file with the SEC under Section 19(b) of the Exchange Act any such CAT Fees applicable to Industry Members that the Operating Committee approves.[14] Accordingly, the Exchange filed a proposed rule change with the SEC to adopt the Consolidated Audit Trail Funding Fees, which will require Industry Members that are Exchange members to pay the CAT Fees determined by the Operating Committee.[15] The Exchange submits this rule filing to adopt Rule 6900 (Consolidated Audit Trail—Fee Dispute Resolution) to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members. Proposed Rule 6900 would apply to Industry Members of the Exchange's equities and options markets.[16] Proposed Rule 6900 is described below.

(1) Definitions

Paragraph (a) of proposed Rule 6900 sets forth the definitions for proposed Rule 6900. Paragraph (a)(1) of proposed Rule 6900 states that, for purposes of Rule 6900, the terms ''CAT NMS Plan'', ''Industry Member'', ''Operating Committee'', and ''Participant'' are defined as set forth in the Rule 6810 (Consolidated Audit Trail—Definitions), and the term ''CAT Fee'' is defined in the Consolidated Audit Trail Funding Fees section of the Exchange's Equities Price List and Options Fee Schedule. In addition, the Exchange proposes to add paragraph (a)(2) to proposed Rule 6900. New paragraph (a)(2) would define the term ''Subcommittee'' to mean a subcommittee designated by the Operating Committee pursuant to the CAT NMS Plan. This definition is the same substantive definition as set forth in Section 1.1 of the CAT NMS Plan.

(2) Fee Dispute Resolution

Section 11.5 of the CAT NMS Plan requires Participants to adopt rules requiring that disputes with respect to fees charged to Industry Members pursuant to the CAT NMS Plan be determined by the Operating Committee or Subcommittee. Section 11.5 of the CAT NMS Plan also states that decisions by the Operating Committee or Subcommittee on such matters will be binding on Industry Members, without prejudice to the right of any Industry Member to seek redress from the SEC pursuant to SEC Rule 608 or in any other appropriate forum. The Exchange proposes to adopt paragraph (b) of proposed Rule 6900. Paragraph (b) of proposed Rule 6900 states that disputes initiated by an Industry Member with respect to CAT Fees charged to such Industry Member pursuant to the Consolidated Audit Trail Funding Fees, including disputes related to the designated tier and the fee calculated pursuant to such tier, will be resolved by the Operating Committee, or a Subcommittee designated by the Operating Committee, of the CAT NMS Plan, pursuant to the Fee Dispute Resolution Procedures adopted pursuant to the CAT NMS Plan and set forth in paragraph (c) of proposed Rule 6900. Decisions on such matters will be binding on Industry Members, without prejudice to the rights of any such Industry Member to seek redress from the SEC or in any other appropriate forum.

The Operating Committee has adopted ''Fee Dispute Resolution Procedures'' governing the manner in which disputes regarding CAT Fees charged pursuant to the Consolidated Audit Trail Funding Fees will be addressed. These Fee Dispute Resolution Procedures, as they relate to Industry Members, are set forth in paragraph (c) of proposed Rule 6900. Specifically, the Fee Dispute Resolution Procedures provide the procedure for Industry Members that dispute CAT Fees charged to such Industry Member pursuant to one or more of the Participants' Consolidated Audit Trail Funding Fees Rules, including disputes related to the designated tier and the fee calculated pursuant to such tier, to apply for an opportunity to be heard and to have the CAT Fees charged to such Industry Member reviewed.

Under these Procedures, an Industry Member that disputes CAT Fees charged to such Industry Member and that desires to have an opportunity to be heard with respect to such disputed CAT Fees must file a written application with the Company within 15 business days after being notified of such disputed CAT Fees. The application must identify the disputed CAT Fees, state the specific reasons why the applicant takes exception to such CAT Fees, and set forth the relief sought. In addition, if the applicant intends to submit any additional documents, statements, arguments or other material in support of the application, the same should be so stated and identified.

The Company will refer applications for hearing and review promptly to the Subcommittee designated by the Operating Committee pursuant to Section 4.12 of the CAT NMS Plan with responsibility for conducting the reviews of CAT Fee disputes pursuant to these Procedures. This Subcommittee will be referred to as the Fee Review Subcommittee. The members of the Fee Review Subcommittee will be subject to the provisions of Section 4.3(d) of the CAT NMS Plan regarding recusal and Conflicts of Interest. The Fee Review Subcommittee will keep a record of the proceedings.

The Fee Review Subcommittee will hold hearings promptly. The Fee Review Subcommittee will set a hearing date. The parties to the hearing will furnish the Fee Review Subcommittee with all materials relevant to the proceedings at least 72 hours prior to the date of the hearing. Each party will have the right to inspect and copy the other party's materials prior to the hearing.

The parties to the hearing will consist of the applicant and a representative of the Company who will present the reasons for the action taken by the Company that allegedly aggrieved the applicant. The applicant is entitled to be accompanied, represented and advised by counsel at all stages of the proceedings.

The Fee Review Subcommittee will determine all questions concerning the admissibility of evidence and will otherwise regulate the conduct of the hearing. Each of the parties will be permitted to make an opening statement, present witnesses and documentary evidence, cross examine opposing witnesses and present closing arguments orally or in writing as determined by the Fee Review Subcommittee. The Fee Review Subcommittee also will have the right to question all parties and witnesses to the proceeding. The Fee Review Subcommittee must keep a record of the hearing. The formal rules of evidence will not apply.

The Fee Review Subcommittee must set forth its decision in writing and send the written decision to the parties to the proceeding. Such decisions will contain the reasons supporting the conclusions of the Fee Review Subcommittee.

The decision of the Fee Review Subcommittee will be subject to review by the Operating Committee either on its own motion within 20 business days after issuance of the decision or upon written request submitted by the applicant within 15 business days after issuance of the decision. The applicant's petition must be in writing and must specify the findings and conclusions to which the applicant objects, together

regulated by the Exchange as a member organization and which the Exchange has agreed to regulate.'' *See* Rule 2(a)(ii) [sic] (Equities Rules).

[14] Section 11.1(b) of the CAT NMS Plan.

[15] *See* SR–NYSEMKT–2017–26, filed on May 10, 2017.

[16] A rule reference has been added to Rule 0—Equities to make clear that the proposed rule applies to transactions conducted on the Equities Trading Systems.

with the reasons for such objections. Any objection to a decision not specified in writing will be considered to have been abandoned and may be disregarded. Parties may petition to submit a written argument to the Operating Committee and may request an opportunity to make an oral argument before the Operating Committee. The Operating Committee will have sole discretion to grant or deny either request.

The Operating Committee will conduct the review. The review will be made upon the record and will be made after such further proceedings, if any, as the Operating Committee may order. Based upon such record, the Operating Committee may affirm, reverse or modify, in whole or in part, the decision of the Fee Review Subcommittee. The decision of the Operating Committee will be in writing, will be sent to the parties to the proceeding and will be final.

The Procedures state that a final decision regarding the disputed CAT Fees by the Operating Committee, or the Fee Review Subcommittee (if there is no review by the Operating Committee), must be provided within 90 days of the date on which the Industry Member filed a written application regarding disputed CAT Fees with the Company. The Operating Committee may extend the 90-day time limit at its discretion.

In addition, the Procedures state that any notices or other documents may be served upon the applicant either personally or by leaving the same at its, his or her place of business or by deposit in the United States post office, postage prepaid, by registered or certified mail, addressed to the applicant at its, his or her last known business or residence address. The Procedures also state that any time limits imposed under the Procedures for the submission of answers, petitions or other materials may be extended by permission of the Operating Committee. All papers and documents relating to review by the Fee Review Subcommittee or the Operating Committee must be submitted to the Fee Review Subcommittee or Operating Committee, as applicable.

The Procedures also note that decisions on such CAT Fee disputes made pursuant to these Procedures will be binding on Industry Members, without prejudice to the rights of any such Industry Member to seek redress from the SEC or in any other appropriate forum.

Finally, an Industry Member that files a written application with the Company regarding disputed CAT Fees in accordance with these Procedures is not required to pay such disputed CAT Fees until the dispute is resolved in accordance with these Procedures, including any review by the SEC or in any other appropriate forum. For these purposes, the disputed CAT Fees means the amount of the invoiced CAT Fees that the Industry Member has asserted pursuant to these Procedures that such Industry Member does not owe to the Company. The Industry Member must pay any invoiced CAT Fees that are not disputed CAT Fees when due as set forth in the original invoice.

Once the dispute regarding CAT Fees is resolved pursuant to these Procedures, if it is determined that the Industry Member owes any of the disputed CAT Fees, then the Industry Member must pay such disputed CAT Fees that are owed as well as interest on such disputed CAT Fees from the original due date (that is, 30 days after receipt of the original invoice of such CAT Fees) until such disputed CAT Fees are paid at a per annum rate equal to the lesser of (i) the Prime Rate plus 300 basis points, or (ii) the maximum rate permitted by applicable law.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,[17] which require, among other things, that the Exchange's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealers, and Section 6(b)(8) of the Act,[18] which requires that the Exchange's rules not impose any burden on competition that is not necessary or appropriate.

The Exchange believes that this proposal is consistent with the Act because it implements, interprets or clarifies Section 11.5 of the Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [19] To the extent that this proposal implements, interprets or clarifies the Plan and applies specific requirements to Industry Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change implements Section 11.5 of the CAT NMS Plan approved by the Commission, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. Similarly, all national securities exchanges and FINRA are proposing this proposed rule to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive rule filing, and, therefore, it does not raise competition issues between and among the exchanges and FINRA.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

[17] 15 U.S.C. 78f(b)(5).

[18] 15 U.S.C. 78f(b)(8).

[19] Approval Order at 84697.

• Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2017–31 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–NYSEMKT–2017–31. 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–NYSEMKT–2017–31, and should be submitted on or before June 22, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–11358 Filed 5–31–17; 8:45 am]

BILLING CODE 8011–01–P

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80780; File No. SR–NYSE–2017–24]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change To Adopt Rule 6900 To Establish the Procedures for Resolving Potential Disputes Related to CAT Fees Charged to Industry Members

May 26, 2017.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on May 16, 2017, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or 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

The Exchange proposes to adopt Rule 6900 (Consolidated Audit Trail—Fee Dispute Resolutions) to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members.[4] The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC,[5] NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. and NYSE National, Inc.[6] (collectively, the ''Participants'') filed with the Commission, pursuant to Section 11A of the Exchange Act [7] and Rule 608 of Regulation NMS thereunder,[8] the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'').[9] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,[10] and approved by the Commission, as modified, on November 15, 2016.[11] The Plan is designed to create, implement and maintain a consolidated audit trail (''CAT'') that would capture customer and order event information for orders in NMS Securities and OTC Equity

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth herein or in the Consolidated Audit Trail Funding Fees section of the Exchange's Price List, the Exchange's CAT Compliance Rule Series or in the CAT NMS Plan.

[5] ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. *See* Securities Exchange Act Release. Nos. 80248 (March 15, 2017), 82 FR 14547 (March 21, 2017); 80326 (March 29, 2017), 82 FR 16460 (April 4, 2017); and 80325 (March 29, 2017), 82 FR 16445 (April 4, 2017).

[6] National Stock Exchange, Inc. has been renamed NYSE National, Inc. *See* Securities Exchange Act Release No. 79902 (January 30, 2017), 82 FR 9258 (February 3, 2017).

[7] 15 U.S.C. 78k–1.

[8] 17 CFR 242.608.

[9] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

[10] Securities Exchange Act Release No. 77724 (April 27, 2016), 81 FR 30614 (May 17, 2016).

[11] Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016) (''Approval Order'').

Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. The Plan accomplishes this by creating CAT NMS, LLC (the ''Company''), of which each Participant is a member, to operate the CAT.[12] Under the CAT NMS Plan, the Operating Committee of the Company (''Operating Committee'') has discretion to establish funding for the Company to operate the CAT, including establishing fees that the Participants will pay, and establishing fees for Industry Members that will be implemented by the Participants (''CAT Fees'').[13] The Participants are required to file with the SEC under Section 19(b) of the Exchange Act any such CAT Fees applicable to Industry Members that the Operating Committee approves.[14] Accordingly, the Exchange filed a proposed rule change with the SEC to adopt the Consolidated Audit Trail Funding Fees, which will require Industry Members that are Exchange members to pay the CAT Fees determined by the Operating Committee.[15] The Exchange submits this rule filing to adopt Rule 6900 (Consolidated Audit Trail—Fee Dispute Resolution) to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members. Proposed Rule 6900 is described below.

(1) Definitions

Paragraph (a) of proposed Rule 6900 sets forth the definitions for proposed Rule 6900. Paragraph (a)(1) of proposed Rule 6900 states that, for purposes of Rule 6900, the terms ''CAT NMS Plan'', ''Industry Member'', ''Operating Committee'', and ''Participant'' are defined as set forth in the Rule 6810 (Consolidated Audit Trail—Definitions), and the term ''CAT Fee'' is defined in the Consolidated Audit Trail Funding Fees section of the Exchange's Price List. In addition, the Exchange proposes to add paragraph (a)(2) to proposed Rule 6900. New paragraph (a)(2) would define the term ''Subcommittee'' to mean a subcommittee designated by the Operating Committee pursuant to the CAT NMS Plan. This definition is the same substantive definition as set forth in Section 1.1 of the CAT NMS Plan.

(2) Fee Dispute Resolution

Section 11.5 of the CAT NMS Plan requires Participants to adopt rules requiring that disputes with respect to fees charged to Industry Members pursuant to the CAT NMS Plan be determined by the Operating Committee or Subcommittee. Section 11.5 of the CAT NMS Plan also states that decisions by the Operating Committee or Subcommittee on such matters will be binding on Industry Members, without prejudice to the right of any Industry Member to seek redress from the SEC pursuant to SEC Rule 608 or in any other appropriate forum. The Exchange proposes to adopt paragraph (b) of proposed Rule 6900. Paragraph (b) of proposed Rule 6900 states that disputes initiated by an Industry Member with respect to CAT Fees charged to such Industry Member pursuant to the Consolidated Audit Trail Funding Fees, including disputes related to the designated tier and the fee calculated pursuant to such tier, will be resolved by the Operating Committee, or a Subcommittee designated by the Operating Committee, of the CAT NMS Plan, pursuant to the Fee Dispute Resolution Procedures adopted pursuant to the CAT NMS Plan and set forth in paragraph (c) of proposed Rule 6900. Decisions on such matters will be binding on Industry Members, without prejudice to the rights of any such Industry Member to seek redress from the SEC or in any other appropriate forum.

The Operating Committee has adopted ''Fee Dispute Resolution Procedures'' governing the manner in which disputes regarding CAT Fees charged pursuant to the Consolidated Audit Trail Funding Fees will be addressed. These Fee Dispute Resolution Procedures, as they relate to Industry Members, are set forth in paragraph (c) of proposed Rule 6900. Specifically, the Fee Dispute Resolution Procedures provide the procedure for Industry Members that dispute CAT Fees charged to such Industry Member pursuant to one or more of the Participants' Consolidated Audit Trail Funding Fees Rules, including disputes related to the designated tier and the fee calculated pursuant to such tier, to apply for an opportunity to be heard and to have the CAT Fees charged to such Industry Member reviewed.

Under these Procedures, an Industry Member that disputes CAT Fees charged to such Industry Member and that desires to have an opportunity to be heard with respect to such disputed CAT Fees must file a written application with the Company within 15 business days after being notified of such disputed CAT Fees. The application must identify the disputed CAT Fees, state the specific reasons why the applicant takes exception to such CAT Fees, and set forth the relief sought. In addition, if the applicant intends to submit any additional documents, statements, arguments or other material in support of the application, the same should be so stated and identified.

The Company will refer applications for hearing and review promptly to the Subcommittee designated by the Operating Committee pursuant to Section 4.12 of the CAT NMS Plan with responsibility for conducting the reviews of CAT Fee disputes pursuant to these Procedures. This Subcommittee will be referred to as the Fee Review Subcommittee. The members of the Fee Review Subcommittee will be subject to the provisions of Section 4.3(d) of the CAT NMS Plan regarding recusal and Conflicts of Interest. The Fee Review Subcommittee will keep a record of the proceedings.

The Fee Review Subcommittee will hold hearings promptly. The Fee Review Subcommittee will set a hearing date. The parties to the hearing will furnish the Fee Review Subcommittee with all materials relevant to the proceedings at least 72 hours prior to the date of the hearing. Each party will have the right to inspect and copy the other party's materials prior to the hearing.

The parties to the hearing will consist of the applicant and a representative of the Company who will present the reasons for the action taken by the Company that allegedly aggrieved the applicant. The applicant is entitled to be accompanied, represented and advised by counsel at all stages of the proceedings.

The Fee Review Subcommittee will determine all questions concerning the admissibility of evidence and will otherwise regulate the conduct of the hearing. Each of the parties will be permitted to make an opening statement, present witnesses and documentary evidence, cross examine opposing witnesses and present closing arguments orally or in writing as determined by the Fee Review Subcommittee. The Fee Review Subcommittee also will have the right to question all parties and witnesses to the proceeding. The Fee Review Subcommittee must keep a record of the hearing. The formal rules of evidence will not apply.

The Fee Review Subcommittee must set forth its decision in writing and send the written decision to the parties to the proceeding. Such decisions will contain the reasons supporting the conclusions of the Fee Review Subcommittee.

The decision of the Fee Review Subcommittee will be subject to review

[12] The Plan also serves as the limited liability company agreement for the Company.

[13] Section 11.1(b) of the CAT NMS Plan.

[14] *Id.*

[15] *See* SR–NYSE–2017–22, filed on May 10, 2017.

by the Operating Committee either on its own motion within 20 business days after issuance of the decision or upon written request submitted by the applicant within 15 business days after issuance of the decision. The applicant's petition must be in writing and must specify the findings and conclusions to which the applicant objects, together with the reasons for such objections. Any objection to a decision not specified in writing will be considered to have been abandoned and may be disregarded. Parties may petition to submit a written argument to the Operating Committee and may request an opportunity to make an oral argument before the Operating Committee. The Operating Committee will have sole discretion to grant or deny either request.

The Operating Committee will conduct the review. The review will be made upon the record and will be made after such further proceedings, if any, as the Operating Committee may order. Based upon such record, the Operating Committee may affirm, reverse or modify, in whole or in part, the decision of the Fee Review Subcommittee. The decision of the Operating Committee will be in writing, will be sent to the parties to the proceeding and will be final.

The Procedures state that a final decision regarding the disputed CAT Fees by the Operating Committee, or the Fee Review Subcommittee (if there is no review by the Operating Committee), must be provided within 90 days of the date on which the Industry Member filed a written application regarding disputed CAT Fees with the Company. The Operating Committee may extend the 90-day time limit at its discretion.

In addition, the Procedures state that any notices or other documents may be served upon the applicant either personally or by leaving the same at its, his or her place of business or by deposit in the United States post office, postage prepaid, by registered or certified mail, addressed to the applicant at its, his or her last known business or residence address. The Procedures also state that any time limits imposed under the Procedures for the submission of answers, petitions or other materials may be extended by permission of the Operating Committee. All papers and documents relating to review by the Fee Review Subcommittee or the Operating Committee must be submitted to the Fee Review Subcommittee or Operating Committee, as applicable.

The Procedures also note that decisions on such CAT Fee disputes made pursuant to these Procedures will be binding on Industry Members, without prejudice to the rights of any such Industry Member to seek redress from the SEC or in any other appropriate forum.

Finally, an Industry Member that files a written application with the Company regarding disputed CAT Fees in accordance with these Procedures is not required to pay such disputed CAT Fees until the dispute is resolved in accordance with these Procedures, including any review by the SEC or in any other appropriate forum. For these purposes, the disputed CAT Fees means the amount of the invoiced CAT Fees that the Industry Member has asserted pursuant to these Procedures that such Industry Member does not owe to the Company. The Industry Member must pay any invoiced CAT Fees that are not disputed CAT Fees when due as set forth in the original invoice.

Once the dispute regarding CAT Fees is resolved pursuant to these Procedures, if it is determined that the Industry Member owes any of the disputed CAT Fees, then the Industry Member must pay such disputed CAT Fees that are owed as well as interest on such disputed CAT Fees from the original due date (that is, 30 days after receipt of the original invoice of such CAT Fees) until such disputed CAT Fees are paid at a per annum rate equal to the lesser of (i) the Prime Rate plus 300 basis points, or (ii) the maximum rate permitted by applicable law.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,[16] which require, among other things, that the Exchange's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealers, and Section 6(b)(8) of the Act,[17] which requires that the Exchange's rules not impose any burden on competition that is not necessary or appropriate.

The Exchange believes that this proposal is consistent with the Act because it implements, interprets or clarifies Section 11.5 of the Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [18] To the extent that this proposal implements, interprets or clarifies the Plan and applies specific requirements to Industry Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change implements Section 11.5 of the CAT NMS Plan approved by the Commission, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. Similarly, all national securities exchanges and FINRA are proposing this proposed rule to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive rule filing, and, therefore, it does not raise competition issues between and among the exchanges and FINRA.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period *up to 90 days* (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and

[16] 15 U.S.C. 78f(b)(5).

[17] 15 U.S.C. 78f(b)(8).

[18] Approval Order at 84697.

arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2017–24 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–2017–24. 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–2017–24, and should be submitted on or before June 22, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–11356 Filed 5–31–17; 8:45 am]

BILLING CODE 8011–01–P

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80798; File No. SR–C2–2017–018]

Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Notice of Filing of Proposed Rule Change To Eliminate Requirements That Will Be Duplicative of CAT

May 26, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 15, 2017, C2 Options Exchange, Incorporated (the ''Exchange'' or ''C2'') 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 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 modify requirements for the collection of information that is duplicative of information intended to be collected for the consolidated audit trail (''CAT'') adopted pursuant to the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'').[3] The Exchange will announce the implementation date of the proposed rule change and effective date of the retirement of any related systems by Regulatory Circular that will be published once the options exchanges determine the thresholds for accuracy and reliability described below have been met and that the Plan Processor for CAT is sufficiently meeting all of its obligations under the CAT NMS Plan.

The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth herein, or in the CAT Compliance Rule Series or in the CAT NMS Plan.

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

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC,[4] NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. and NYSE National, Inc.[5] (collectively, the ''Participants'') filed with the Commission, pursuant to Section 11A of the Exchange Act [6] and Rule 608 of Regulation NMS thereunder,[7] the CAT NMS Plan.[8] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal**

[4] ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. *See* Securities Exchange Act Rel. No. 80248 (Mar. 15, 2017), 82 FR 14547 (Mar. 21, 2017); Securities Exchange Act Rel. No. 80326 (Mar. 29, 2017), 82 FR 16460 (Apr. 4, 2017); and Securities Exchange Act Rel. No. 80325 (Mar. 29, 2017), 82 FR 16445 (Apr. 4, 2017).

[5] National Stock Exchange, Inc. has been renamed NYSE National, Inc. *See* Securities Exchange Act Rel. No. 79902 (Jan. 30, 2017), 82 FR 9258 (Feb. 3, 2017).

[6] 15 U.S.C. 78k–1.

[7] 17 CFR 242.608.

[8] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

Register on May 17, 2016,[9] and approved by the Commission, as modified, on November 15, 2016.[10] The Plan is designed to create, implement and maintain a CAT that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. Pursuant to Appendix C of the CAT NMS Plan, each Participant is required to conduct analyses of which of its existing trade and order data rules and systems require the collection of information that is duplicative of information collected for the CAT.[11] In addition, among other things, Section C.9 of Appendix C to the Plan, as modified by the Commission, requires each Participant to ''file with the SEC the relevant rule change filing to eliminate or modify its duplicative rules within six (6) months of the SEC's approval of the CAT NMS Plan.'' [12] The Plan notes that ''the elimination of such rules and the retirement of such systems [will] be effective at such time as CAT Data meets minimum standards of accuracy and reliability.'' [13]

After conducting its analysis of its rules in accordance with the CAT NMS Plan, the Exchange determined C2 Rule 8.7(b) and Chicago Board Options Exchange, Incorporated (''CBOE'') Rule 15.7 [14] require the reporting of information intended to be collected by the CAT. Therefore, the Exchange believes those provisions will no longer be necessary once the CAT is operational and proposes to modify those Rules as described below. Additionally, the Exchange describes below additional reporting requirements that it may reduce for which no rule changes are necessary. These changes will be implemented in accordance with the timeline described below.

Initially, the Exchange notes that options exchanges, including the Exchange, utilize consolidated options audit trail system (''COATS'') to collect and review data regarding options orders, quotes and transactions. The Participants have provided COATS technical specifications to the Plan Processor for the CAT for use in developing the Technical Specifications for the CAT, and the Participants are working with the Plan Processor to include the necessary COATS data elements in the CAT Technical Specifications. Accordingly, although the Technical Specifications for the CAT have not yet been finalized, the Exchange and the other options exchanges propose to eliminate COATS in accordance with the proposed timeline discussed below. The Exchange notes that it does not have any specific rules or requirements related to COATS but refers to its retirement below in an effort to provide transparency.

(1) Market Maker Equity Order Reports

Rule 8.7(b) [15] requires Market-Makers, upon request of the Exchange and in the prescribed form, report to the Exchange every order entered by the Market-Maker for the purchase or sale of (i) a security underlying options traded on the Exchange, or (ii) a security convertible into or exchangeable for such underlying security, as well as opening and closing positions in all such securities held in each account reported pursuant to Rule 8.7(a). The report pertaining to orders must include the terms of each order, identification of the brokerage firms through which the orders were entered, the times of entry or cancellation, the times report of execution were received and, if all or part of the order was executed, the quantity and execution price. CAT will require Market-Makers to report order information for such securities. Therefore, this rule provision as it relates to order reports is duplicative of CAT requirements, and the Exchange proposes to delete it. CAT does not require reporting of positions, so the Exchange will maintain the position reporting requirement in Rule 8.7(b). The proposed rule change also makes a conforming change to the rule name.

(2) EBS

CBOE Rule 15.7 (incorporated by reference) is the Exchange's rule regarding the automated submission of specific trading data to the Exchange upon request using the Electronic Blue Sheet (''EBS'') system. Rule 15.7 requires a Trading Permit Holder to submit the trade data elements specified in the Rule in such automated format as may be prescribed by the Exchange from time to time, in regard to such transaction or transactions that are the subject of a particular request for information made by the Exchange. The Rule sets forth in paragraphs (a) and (b) the data elements required if the transaction was a proprietary transaction or if it was effected for a customer account, respectively. Paragraph (c) provides a Trading Permit Holder must submit such other information as may from time to time be required. Paragraph (d) permits the Exchange to grant exceptions from these requirements in such cases and for such time periods as it deems appropriate.

CBOE proposes (in a separate rule filing, as described above) to amend CBOE Rule 15.7 to state it will request information under the Rule only if the information is not available in the CAT because, for example, the transactions in question occurred before the firm was reporting information to the CAT or involved securities that are not reportable to the CAT. In essence, under the proposed rule change, the Exchange will make requests under Rule 15.7 if and only if the information is not otherwise available through the CAT.[16]

Once broker-dealer reporting to the CAT has begun, the CAT will contain the data the Participants would otherwise have requested via the EBS system for purposes of NMS Securities and OTC Equity Securities. Consequently, the Exchange will not need to use the EBS system or request information pursuant to Rule 15.7 for NMS Securities or OTC Equity Securities for time periods after CAT reporting has begun if the appropriate accuracy and reliability thresholds are achieved, including an acceptable accuracy rate for customer and account information. However, Rule 15.7 cannot be completely eliminated immediately upon the CAT achieving the appropriate thresholds because Exchange staff may still need to request information pursuant to Rule 15.7 for trading activity occurring before a member was reporting to the CAT.[17] In addition, Rule 15.7 applies to information regarding transactions involving securities that will not be reportable to the CAT, such as fixed-income securities; thus, the rule must remain in effect with respect to those transactions indefinitely or until

[9] Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 FR 30614 (May 17, 2016).

[10] Securities Exchange Act Rel. No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016) (''Approval Order'').

[11] Appendix C of CAT NMS Plan, Approval Order at 85010.

[12] *Id.*

[13] *Id.*

[14] Rule 15.7 is incorporated by reference to CBOE Rule 15.7. *See* C2 Chapter 15. CBOE, an exchange affiliate of C2, submitted rule filing SR–CBOE–2017–041 on the same date as this rule filing, which updates CBOE Rule 15.7 in accordance with the CAT NMS Plan. This rule filing describes the proposed rule change in the CBOE rule filing.

[15] The Exchange recently submitted a rule filing to amend Rule 8.7(b), which was filed for immediate effectiveness. *See* SR–C2–2017–019. This proposed rule change reflects the amended rule text in that filing.

[16] The CBOE proposed rule change also capitalizes the first word of paragraph (a).

[17] Firms are required to maintain the trade information for pre-CAT transactions in equities and options pursuant to applicable rules, such as books and records retention requirements, for the relevant time period, which is generally three or six years depending upon the record. *See* 17 CFR 240.17a–3(a), 240.17a–4.

those transactions are captured in the CAT.

(3) Other Reports

Various other C2 Rules require Trading Permit Holders to report information to the Exchange upon request.[18] While the Exchange believes it is necessary to retain these Rules to ensure it has access to the necessary data to perform its regulatory duties and meet its surveillance obligations, it expects it will need to make fewer information requests pursuant to these Rule once Trading Permit Holders begin reporting to the CAT and accuracy and reliability standards are met.

(4) Timeline for Elimination of Duplicative Rules

The CAT NMS Plan states that the elimination of rules that are duplicative of the requirements of the CAT and the retirement of the related systems should be effective at such time as CAT Data meets minimum standards of accuracy and reliability.[19] As discussed in more detail below, the Exchange believes the Rule provisions and related systems described above may be retired at a date after all Industry Members are reporting to the CAT when the proposed error rate thresholds have been met, and the Exchange has determined that its usage of the CAT Data has not revealed material issues that have not been corrected, confirmed that the CAT includes all data necessary to allow the Exchange to continue to meet its surveillance obligations, and confirmed that the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan.

The Exchange believes the proposed rule changes should not be effective until all Participants and Industry Members that report data pursuant to the Rules described above are reporting comparable data to the CAT. In this way, the Exchange will continue to have access to the necessary data to perform its regulatory duties.

The CAT NMS Plan requires that a rule filing to eliminate a duplicative rule address whether ''the availability of certain data from Small Industry Members two years after the Effective Date would facilitate a more expeditious retirement of duplicative systems.'' [20] The Exchange believes COATS should not be retired until all Participants and Industry Members that report data to COATS are reporting comparable data to the CAT. While the early submission of options data to the CAT by Small Industry Members could expedite the retirement of COATS, the Exchange believes that it premature [sic] to consider such a change and that additional analysis would be necessary to determine whether such early reporting by Small Industry Members would be feasible.

The CAT NMS Plan requires that this rule filing address ''whether individual Industry Members can be exempted from reporting to duplicative systems once their CAT reporting meets specified accuracy and reliability standards, including, but not limited to, ways in which establishing cross-system regulatory functionality or integrating data from existing systems and the CAT would facilitate such Individual Industry Member exemptions.'' [21] The Exchange believes that a single cut-over from the reporting requirements described above to CAT is highly preferable to a firm-by-firm approach and is not proposing to exempt members from such reporting requirements on a firm-by-firm basis. The Exchange believes that providing such individual exemptions to Industry Members would be inefficient, more costly, and less reliable than the single cut-over. Providing individual exemptions would require the options exchanges to create, for a brief temporary period, a cross-system regulatory function and to integrate data from reports received pursuant to the above requirements and the CAT to avoid creating any regulatory gaps as a result of such exemptions. Such a function would be costly to create and would give rise to a greater likelihood of data errors or other issues. Given the limited time in which such exemptions would be necessary, the Exchange does not believe that such exemptions would be an appropriate use of limited resources.

The CAT NMS Plan also requires that a rule filing to eliminate a duplicative rule to provide ''specific accuracy and reliability standards that will determine when duplicative systems will be retired, including, but not limited to, whether the attainment of a certain Error Rate should determine when a system duplicative of the CAT can be retired.'' [22] The Exchange believes that it is critical that the CAT Data be sufficiently accurate and reliable for the Exchange to perform the regulatory functions that it now performs using the information it receives pursuant to the reporting requirements described above. Accordingly, the Exchange believes that the CAT Data should meet specific quantitative error rates, as well as certain qualitative requirements.

The Exchange believes (and the other options exchanges with respect to COATS and EBS) believe that, before reporting requirements may be modified or eliminated, as applicable, and related systems may be retired, the CAT would need to achieve a sustained error rate for a period of at least 180 days of 5% or lower measured on a pre-correction or as-submitted basis, and 2% or lower on a post-correction basis (measured at T+5).[23] The Exchange proposes to measure the 5% pre-correction and 2% post-correction thresholds by averaging the error rate across the period, not require a 5% pre-correction and 2% post-correction maximum each day for 180 consecutive days. The Exchange believes that measuring each of the thresholds over the course of 180 days will ensure that the CAT consistently meets minimum accuracy and reliability thresholds while also ensuring that single-day measurements do not unduly affect the overall measurements. The Exchange proposes to measure the appropriate error rates in the aggregate, rather than firm-by-firm. In addition, with respect to COATS, the Exchange proposes to measure the error rates for options only, not equity securities, as only options are subject to COATS. The 2% and 5% error rates are in line with the proposed retirement threshold for FINRA's Order Audit Trail System (''OATS'').

In addition to these minimum error rates before reporting requirements may be modified or eliminated, as applicable, and related systems may be retired, the Exchange believes that during the minimum 180-day period during which the thresholds are calculated, the Exchange's use of the data in the CAT must confirm that (i) usage over that time period has not revealed material issues that have not been corrected, (ii) the CAT includes all data necessary to allow the Exchange to continue to meet its surveillance obligations, and (iii) the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan. The Exchange believes this time period to use the CAT Data is necessary to reveal any errors that may manifest themselves only after surveillance patterns and other queries have been run and to confirm that the Plan Processor is meeting its obligations and performing its functions adequately.

[18] *See, e.g.,* CBOE Rule 17.2, Interpretation and Policy .04 (incorporated by reference).

[19] *Id.* [sic]

[20] *Id.*

[21] *Id.*

[22] *Id.*

[23] The Plan requires that the Plan Processor must ensure that regulators have access to corrected and linked order and Customer data by 8:00 a.m. Eastern Time on T+5. *See* CAT NMS Plan, at C–15.

If the Commission approves the proposed rule change, the Exchange will announce the date for modification or elimination, as applicable, of reporting requirements and retirement of related systems and the implementation date of the proposed rule change via Regulatory Circular that will be published once the Exchange (and other options exchanges with respect to COATS and EBS) determines that the thresholds for accuracy and reliability described above have been met and that the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Exchange Act,[24] which requires, among other things, that Exchange Rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealer. The Exchange believes that this proposal is consistent with the Exchange Act because it fulfills the obligation in the CAT NMS Plan for the Exchange to submit a proposed rule change to eliminate or modify duplicative rules. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [25] As this proposal implements the Plan, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Exchange Act.

Moreover, the purpose of the proposed rule change is to amend rules that require the submission of duplicative data to the Exchange. The elimination of such duplicative requirements will reduce unnecessary costs and other compliance burdens for the Exchange and its Trading Permit Holders, and therefore, will enhance the efficiency of the securities markets. Furthermore, the Exchange believes that the approach set forth in the proposed rule change strikes the appropriate balance between ensuring that the Exchange is able to continue to fulfill its statutory obligation to protect investors and the public interest by ensuring its surveillance of market activity remains accurate and effective while also establishing a reasonable timeframe for elimination or modification of its rules that will be rendered duplicative after implementation of the CAT.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 6(b)(8) of the Exchange Act [26] requires that Exchange Rules not impose any burden on competition that is not necessary or appropriate. 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 Exchange Act. The Exchange notes that the proposed rule change implements the requirements of the CAT NMS Plan approved by the Commission regarding the elimination of rules and systems that are duplicative the CAT, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. Similarly, all exchanges and FINRA are proposing the elimination of reporting requirements related to COATS and EBS, as well as other duplicative rules, to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive rule filing and, therefore, it does not raise competition issues between and among the self-regulatory organizations and/or their members.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Although written comments on the proposed rule change were not solicited, the Exchange received comments from two commenters, the Financial Information Forum (''FIF'') and the Securities Industry and Financial Markets Association (''SIFMA''), regarding the retirement of systems related to the CAT.[27] In its comment letters, with regard to the retirement of duplicative systems more generally, FIF recommended that the Participants continue the effort to incorporate current reporting obligations into the CAT in order to replace existing reportable systems with the CAT. In addition, FIF further recommended that, once a CAT Reporter achieved satisfactory reporting data quality, the CAT Reporter should be exempt from reporting to any duplicative reporting systems. FIF believed that these recommendations ''would serve both an underlying regulatory objective of more immediate and accurate access to data as well as an industry objective of reduced costs and burdens of regulatory oversight.'' [28] In its comments about EBS specifically, FIF stated that the retirement of the EBS requirements should be a high priority, and that the CAT should be designed to include the requisite data elements to permit the rapid retirement of EBS.[29] Similarly, SIFMA stated that ''the establishment of the CAT must be accompanied by the prompt elimination of duplicative systems,'' and ''recommend[ed] that the initial technical specifications be designed to facilitate the immediate retirement of . . . duplicative reporting systems.'' [30]

As discussed above, the Exchange agrees with the commenters that the reporting requirements proposed to be modified or eliminated should be replaced by the CAT reporting requirements as soon as accurate and reliable CAT Data is available. To this end, the Exchange anticipates that the CAT will be designed to collect the data necessary to permit the modification or elimination, as applicable, of these reporting requirements and the retirement of related systems. However, as discussed above, the Exchange disagrees with the recommendation to provide individual exemptions to those CAT Reporters who obtain satisfactory data reporting quality.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. By order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

[24] 15 U.S.C. 78f(b)(5).

[25] Approval Order at 84697.

[26] 15 U.S.C. 78f(b)(8).

[27] Letter from William H. Hebert, FIF, to Participants re: Milestone for Participants' rule change filings to eliminate/modify duplicative rules (Apr. 12, 2017) (''FIF Letter''); Letter from William H. Hebert, FIF, to Brent J. Fields, SEC re: Milestone for Participants' rule change filings to eliminate/modify duplicative rules (Apr. 12, 2017); and Letter from Kenneth E. Bentsen, Jr., SIFMA, to Participants re: Selection of Thesys as CAT Processor (Apr. 4, 2017) (''SIFMA Letter'') at 2.

[28] FIF Letter at 2.

[29] FIF Letter at 2.

[30] SIFMA Letter at 2.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–C2–2017–018 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–C2–2017–018. 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–C2–2017–018 and should be submitted on or before June 22, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[31]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–11374 Filed 5–31–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80772; File No. SR–BatsBZX–2017–36]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Market Data Section of Its Fee Schedule To Adopt Fees for a New Market Data Product Called the ETF Implied Liquidity Feed

May 25, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 17, 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[3] and Rule 19b–4(f)(2) thereunder,[4] 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 Market Data section of its fee schedule to adopt fees for a new market data product called the ETF Implied Liquidity Feed.

The text of the proposed rule change is available at the Exchange's Web site at *www.bats.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[31] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

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 the Market Data section of its fee schedule to adopt fees for a new market data product called the ETF Implied Liquidity Feed. The ETF Implied Liquidity feed is an optional data feed that would provide the Exchange's proprietary calculation of the implied liquidity and the aggregate best bid and offer (''BBO'') of all displayed orders on the Exchange and its affiliated exchanges[5] for all standard, non-leveraged U.S. equity Exchange Traded Funds (''ETFs'')[6] traded on the System.[7] An ETF's implied liquidity disseminated via the proposed feed would consist of the ETF's implied BBO (including the implied size) calculated via a proprietary methodology based on the national best bid and offer (''NBBO''), the number of shares of securities underlying one creation unit of the ETF, and the estimated cash included in one creation unit of the ETF. The Exchange intends to begin to offer the ETF Implied Liquidity Feed on June 1, 2017.[8]

[5] The Exchange's affiliates are Bats EDGA Exchange, Inc., (''EDGA''), Bats EDGX Exchange, Inc. (''EDGX''), and Bats BYX Exchange, Inc. (''BYX'') (''collectively, the ''Bats Exchanges'').

[6] The securities underlying each of the U.S. equity ETFs included in the proposed feed must be considered NMS Securities as defined under Rule 600(b)(46) of Regulation NMS. 17 CFR 242.600(b)(46).

[7] *See* Exchange Rule 11.22(n). *See also* Securities Exchange Act Release No. 80580 (May 3, 2017) (SR–BatsBZX–2017–25) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Rule 11.22, Data Products, to Adopt a New Market Data Product Known as the ETF Implied Liquidity Feed) (filed April 28, 2017).

[8] *See Bats to Introduce ETF Implied Liquidity Feed Effective June 1, 2017, http://cdn.batstrading.com/resources/market_data/2017/Bats-to-Introduce-ETF-Implied-Liquidity-Feed-Effective-June-1-2017.pdf.*

The Exchange now proposes to amend its fee schedule to adopt fees for the ETF Implied Liquidity Feed. The proposed fees include the following, each of which are described in detail below: (i) Distribution Fees for both Internal and External Distributors; [9] (ii) Usage Fees for both Professional [10] and Non-Professional [11] Users; and (iii) a Data Consolidation fee.

Distribution Fees. As proposed, each Internal and External Distributor that receives the ETF Implied Liquidity Feed shall pay a fee of $5,000 per month.[12] The Exchange proposes to waive certain fees for Distributors that also receive the Bats One Feed.[13] The ETF Implied Liquidity Feed and the Bats One Feed are similar in that both include the aggregate BBO for all displayed orders on the Bats Exchanges. The key difference here is that the ETF Implied Liquidity Feed also contains the Exchange's proprietary calculation of the ETF's implied liquidity. As such, the Exchange believes it is reasonable to waive certain charges for those Distributors that receive both products. First, the Exchange proposes to waive the Distributor fee for External Distributors of the ETF Implied Liquidity Feed where that External Distributor also receives and is charged the External Distributor fee for the Bats One Feed. The Exchange notes that the proposed External Distribution fee for the ETF Implied Liquidity Feed of $5,000 per month equals that charged for Bats One Summary. The External Distribution fee for Bats One Premium is higher at $12,500 per month. Second, the Exchange proposes to waive the related Logical Port fee of $550 per port per month for both Internal and External Distributors of the ETF Implied Liquidity Feed where they also receive and are charged a Logical Port fee for the Bats One Feed. Distributors would continue to pay the Logical Port fee to receive the Bats One Feed. Lastly, as described below, the Exchange proposes to waive the Data Consolidation fee for External Distributors of the ETF Implied Liquidity Feed where that External Distributor also receives and is charged the Data Consolidation fee for the Bats One Feed. The Exchange believes waiving the above fees would avoid overlapping charges for Distributors that also receive the Bats One Feed, as both feeds include the aggregated BBO of the Bats Exchanges as a core part of their offering. These Distributors would continue to pay these fees for receipt of the Bats One Feed and are liable for the User fees to be charged for the ETF Implied Liquidity Feed described below.

User Fees. The Exchange proposes to charge External Distributors that redistribute the ETF Implied Liquidity Feed different fees for their Professional Users and Non-Professional Users. The Exchange will assess a monthly fee for Professional Users of $25.00 per User. Non-Professional Users will be assessed a monthly fee of $1.00 per User. The Exchange does not propose to charge per User fees to Internal Distributors that receive the ETF Implied Liquidity Feed.

External Distributors that receive the ETF Implied Liquidity Feed will be required to count every Professional User and Non-Professional User to which they provide the ETF Implied Liquidity Feed, the requirements for which are identical to that currently in place for other market data products offered by the Exchange.[14] Thus, the External Distributor's count will include every person and device that accesses the data regardless of the purpose for which the individual or device uses the data. External Distributors must report all Professional and Non-Professional Users in accordance with the following:

- In connection with an External Distributor's distribution of the ETF Implied Liquidity Feed, the External Distributor must count as one User each unique User that the External Distributor has entitled to have access to the ETF Implied Liquidity Feed. However, where a device is dedicated specifically to a single individual, the External Distributor must count only the individual and need not count the device.
- The External Distributor must identify and report each unique User. If a User uses the same unique method to gain access to the ETF Implied Liquidity Feed, the External Distributor must count that as one User. However, if a unique User uses multiple methods to gain access to the ETF Implied Liquidity Feed (*e.g.,* a single User has multiple passwords and user identifications), the External Distributor must report each of those methods as an individual User.
- External Distributors must report each unique individual person who receives access through multiple devices as one User so long as each device is dedicated specifically to that individual.
- If an External Distributor entitles one or more individuals to use the same device, the Distributor must include only the individuals, and not the device, in the count.

Data Consolidation Fee. The Exchange also proposes to charge External Distributors of the ETF Implied Liquidity Feed a separate Data Consolidation Fee of $500 per month, which reflects the value of the aggregation and consolidation function the Exchange performs in creating the portion of the feed that includes the aggregated BBO of all displayed orders on the Exchange and its affiliated exchanges. The Exchange would provide the aggregate BBO disseminated via the Bats One Feed as part of the ETF

[9] A ''Distributor'' is defined as ''any entity that receives the Exchange Market Data product directly from the Exchange or indirectly through another entity and then distributes it internally or externally to a third party.'' *See* the Exchange's fee schedule *available at http://www.bats.com/us/equities/membership/fee_schedule/bzx/.* An ''Internal Distributor'' is defined as ''a Distributor that receives the Exchange Market Data product and then distributes that data to one or more Users within the Distributor's own entity.'' *Id.* An ''External Distributor'' is defined as ''a Distributor that receives the Exchange Market Data product and then distributes that data to a third party or one or more Users outside the Distributor's own entity.'' *Id.*''

[10] A ''Professional User'' is defined as ''any User other than a Non-Professional User.'' *See* the Exchange's fee schedule *available at http://www.bats.com/us/equities/membership/fee_schedule/bzx/.*

[11] A ''Non-Professional User'' is defined as ''a natural person who is not: (i) Registered or qualified in any capacity with the Commission, the Commodity Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association; (ii) engaged as an ''investment adviser'' as that term is defined in Section 202(a)(11) of the Investment Advisers Act of 1940 (whether or not registered or qualified under that Act); or (iii) employed by a bank or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt.'' *Id.*

[12] A Distributor that acts as both an Internal Distributor and an External Distributor of the ETF Implied Liquidity Feed will be subject to both the Internal Distribution Fee and the External Distribution Fee.

[13] The Bats One Feed is a data feed that disseminates, on a real-time basis, the aggregate BBO for securities traded on each of the Bats Exchanges. The Bats One Feed also contains the individual last sale information for the Bats Exchanges (collectively with the aggregate BBO, the ''Bats One Summary Feed''). *See* Exchange Rule 11.22(j). *See also* Securities Exchange Act Release No. 73918 (December 23, 2014), 79 FR 78920 (December 31, 2014) (File Nos. SR–EDGX–2014–25; SR–EDGA–2014–25; SR–BATS–2014–055; SR–BYX–2014–030) (Notice of Amendment No. 2 and Order Granting Accelerated Approval to Proposed Rule Changes, as Modified by Amendments Nos. 1 and 2, to Establish a New Market Data Product called the Bats One Feed) (''Bats One Approval Order'').

[14] *See* Securities Exchange Act Release Nos. 74285 (February 18, 2015); 80 FR 9828 (February 24, 2015) (SR–BATS–2015–11) (proposing fees for the Bats One Feed); 75406 (July 9, 2015), 80 FR 41522 (July 15, 2015) (SR–BATS–2015–48) (proposing user fees for the BZX Top and Last Sale data feeds); 75785 (August 28, 2015), 80 FR 53360 (September 3, 2015) (SR–BATS–2015–64) (proposing fees for BZX Book Viewer); *and* 79636 (December 21, 2016), 81 FR 95693 (December 28, 2016) (SR–BatsBZX–2016–87) (proposing fees for BZX Summary Depth).

Implied Liquidity feed.[15] The Exchange creates the Bats One Feed, including the aggregated BBO of the Bats Exchanges, by aggregating data derived from the EDGX Depth, EDGA Depth, BYX Depth, and BZX Depth.[16] The Exchange proposes to waive the Data Consolidation fee for External Distributors of the ETF Implied Liquidity Feed where that External Distributor also receives and is charged the Data Consolidation fee for the Bats One Feed. As stated above, the Exchange believes waiving this fee would avoid overlapping charges for Distributors that also receive the Bats One Feed, as both feeds include the aggregated BBO of the Bats Exchanges. In such case, the External Distributor is being charged a $1,000 Data Consolidation fee for the Bats One Feed, which covers the consolidation function already being performed by the Exchange in constructing the aggregated BBO for the Bats Exchanges. The Exchange, therefore, believes it is reasonable to not charge External Distributors an additional Data Consolidation fee for the same aggregation function performed for the Bats One Feed.

Implementation Date

The Exchange intends to implement the proposed fees on June 1, 2017.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[17] in general, and furthers the objectives of Section 6(b)(4),[18] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other recipients of Exchange data. The Exchange believes that the proposed rates are equitable and non-discriminatory in that they apply uniformly to all recipients of Exchange data. The Exchange believes the proposed fees are competitive with those charged by other venues and, therefore, reasonable and equitably allocated to recipients.

The Exchange believes that the proposed rule change is consistent with Section 11(A) of the Act[19] in that it supports (i) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets and (ii) the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Furthermore, the proposed rule change is consistent with Rule 603 of Regulation NMS,[20] which provides that any national securities exchange that distributes information with respect to quotations for or transactions in an NMS stock do so on terms that are not unreasonably discriminatory. In adopting Regulation NMS, the Commission granted self-regulatory organizations and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data.

In addition, the proposed fees would not permit unfair discrimination because all of the Exchange's customers and market data vendors who subscribe to the ETF Implied Liquidity Feed will be subject to the proposed fees. The ETF Implied Liquidity Feed would be distributed and purchased on a voluntary basis, in that neither the Exchange nor market data distributors are required by any rule or regulation to make this data available. Accordingly, Distributors and Users can discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. Firms have a wide variety of alternative market data products from which to choose, such as similar proprietary data products offered by other exchanges and consolidated data. Moreover, the Exchange is not required to make any proprietary data products available or to offer any specific pricing alternatives to any customers.

In addition, the fees that are the subject of this rule filing are constrained by competition. As explained below in the Exchange's Statement on Burden on Competition, the existence of alternatives to the ETF Implied Liquidity Feed further ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can elect such alternatives. That is, the Exchange competes with other exchanges (and their affiliates) that provide similar market data products. For example, the ETF Implied Liquidity Feed provides investors with alternative market data and competes with similar market data product currently offered by other exchanges.[21] If another exchange (or its affiliate) were to charge less to distribute its similar product than the Exchange charges to create the ETF Implied Liquidity Feed, prospective Users likely would not subscribe to, or would cease subscribing to the ETF Implied Liquidity Feed.

The Exchange notes that the Commission is not required to undertake a cost-of-service or rate-making approach. The Exchange believes that, even if it were possible as a matter of economic theory, cost-based pricing for non-core market data would be so complicated that it could not be done practically.[22]

[15] *See* Bats One Approval Order, *supra* note 13.

[16] *See* EDGA Rule 13.8, EDGX Rule 13.8, BZX Rule 11.22(a) and (c), and BYX Rule 11.22 (a) and (c) for a description of the depth of book feeds offered by each of the Bats Exchanges. Rather than these depth-of-book feeds, the Exchange notes that a vendor seeking to build a competing product to the proposed ETF Implied Liquidity feed could simply utilize the top-of-book data feeds from each of the Bats Exchange's to create an aggregated BBO.

[17] 15 U.S.C. 78f.

[18] 15 U.S.C. 78f(b)(4).

[19] 15 U.S.C. 78k–1.

[20] 17 CFR 242.603.

[21] *See* Nasdaq Stock Market LLC's (''Nasdaq'') Global Index Data Service (''GIDS'') *available at http://business.nasdaq.com/intel/indexes/index-data/index.html#!/tcm:5044-12151* (providing on a real-time basis intraday portfolio values, daily valuation information, such as NAV per Share, estimated cash per Share, estimated cash per creation unit, total cash per creation unit and total shares outstanding of the fund and ETF directory messages designed to provide the symbols of the ETF valuations). *See* footnote 28 of Securities Exchange Act Release No. 77714 (April 26, 2016), 81 FR 26281 (May 2, 2016) (describing Nasdaq's GIDS within the order approving SR–Nasdaq–2016–028). *See also* footnote 29 of Securities Exchange Act Release No. 78592 (August 16, 2016), 81 FR 56729 (August 22, 2016) (describing Nasdaq's GIDS within the order approving SR–Nasdaq–2016–061). *See, e.g.,* the NYSE Arca, Inc.'s (''NYSE Arca'') EOD ETF Report *available at http://www.nyxdata.com/Data-Products/NYSE-Arca-EOD-ETF-Report* (providing information such as the ETF's closing trades and quotes at different key points during the trading day, as well referential information such as shares outstanding, the primary market, and NAV).

[22] The Exchange believes that cost-based pricing would be impractical because it would create enormous administrative burdens for all parties, including the Commission, to cost-regulate a large number of participants and standardize and analyze extraordinary amounts of information, accounts, and reports. In addition, it is impossible to regulate market data prices in isolation from prices charged by markets for other services that are joint products. Cost-based rate regulation would also lead to litigation and may distort incentives, including those to minimize costs and to innovate, leading to further waste. Under cost-based pricing, the Commission would be burdened with determining a fair rate of return, and the industry could experience frequent rate increases based on escalating expense levels. Even in industries historically subject to utility regulation, cost-based ratemaking has been discredited. As such, the Exchange believes that cost-based ratemaking would be inappropriate for proprietary market data and inconsistent with Congress's direction that the Commission use its authority to foster the development of the national market system, and that market forces will continue to provide appropriate pricing discipline. *See* Appendix C to NYSE's comments to the Commission's 2000 Concept Release on the Regulation of Market Information Fees and Revenues, which can be found on the Commission's Web site at *http://www.sec.gov/rules/concept/s72899/buck1.htm. See also* Securities Exchange Act Release No. 73816

Continued

Distribution Fee. The Exchange believes that the proposed Distribution Fee is reasonable and equitably allocated in light of alternatives offered by other market centers. The Exchange believes it is reasonable to waive certain charges for those Distributors that receive both the ETF Implied Liquidity Feed and the Bats One Feed as both include the aggregate BBO for all displayed orders on the Bats Exchanges. The key difference here is that the ETF Implied Liquidity Feed also contains the Exchange's proprietary calculation of the ETF's implied liquidity. Waiver of the Distributor fee for External Distributors that also receive and pay the External Distributor for the Bats One Feed is equitable and reasonable because those External Distributors are being charged the External Distributor fees for Bats One, which are currently $5,000 per month for Bats One Summary and $12,500 per month for Bats One Premium. The fee waiver here is equitable due to both products providing the same key data element—the aggregated BBO of the Bats Exchanges. While the ETF Implied Liquidity Feed also includes the Exchange's proprietary calculation of an ETF's implied liquidity, the Exchange notes that External Distributors of the ETF Implied Liquidity Feed would continue to be subject to the per User fees. Therefore, the Exchange believes it is equitable and reasonable to waive the External Distributor fees in such case. The Exchange further believes that not extending this waiver to Internal Distributors is not unfairly discriminatory as Internal Distributors of the Bats One Feed are not charged User fees like External Distributors.

The Exchange also believes it is equitable and reasonable to waive the related Logical Port fee for both Internal and External Distributors of the ETF Implied Liquidity Feed that also receive and are charged a Logical Port fee for the Bats One Feed. As stated above, both the Bats One Feed and the ETF Implied Liquidity Feed contain the same key data element—the aggregated BBO of the Bats Exchange. The Exchange believes not charging a Logical Port Fee in order to obtain the Exchange's proprietary calculation of the ETF's implied liquidity where that Member is currently paying a Logical Port fee to obtain the aggregated BBO of the Bats Exchanges via the Bats One Feed is reasonable. Such Distributors would continue to pay the Logical Port of $550 per port to receive the Bats One Feed as set forth in the Exchange's fee schedule.

User Fees. The Exchange believes that implementing the Professional and Non-Professional User fees for the ETF Implied Liquidity Feed are equitable and reasonable because they will result in greater availability to Professional and Non-Professional Users. Moreover, introducing a modest Non-Professional User fee for the ETF Implied Liquidity Feed is reasonable because it provides an additional method for retail investors to access the ETF Implied Liquidity Feed data by providing the same data that is available to Professional Users. The Exchange believes that the proposed fees are equitable and not unfairly discriminatory because they will be charged uniformly to recipient firms and Users. The Exchange also believes it is not unfairly discriminatory to only charge User fees to External Distributor of the ETF Implied Liquidity Feed as it is those Distributors that redistribute the data to their subscribers for a fee.

The fee structure of differentiated Professional and Non-Professional fees is utilized by the Exchange for the Bats One Feed and has long been used by other exchanges for their proprietary data products, and by the Nasdaq UTP and the CTA and CQ Plans in order to reduce the price of data to retail investors and make it more broadly available.[23] Offering the ETF Implied Liquidity Feed to Non-Professional Users with the same data available to Professional Users results in greater equity among data recipients.

Data Consolidation Fee. The Exchange believes that the proposed $500 per month Data Consolidation Fee charged to External Distributors who receive the ETF Implied Liquidity Feed is reasonable because it represents the value of the data aggregation and consolidation function that the Exchange performs. The Exchange also believes it is equitable and reasonable to waive the Data Consolidation fee for External Distributors of the ETF Implied Liquidity Feed where that External Distributor also receives and is charged the Data Consolidation fee for the Bats One Feed. In such case, the External Distributor is being charged a $1,000 Data Consolidation fee for the Bats One Feed, which covers the consolidation function already being performed by the Exchange in constructing the aggregated BBO for the Bats Exchanges. Therefore, the Exchange believes it is equitable and reasonable to not charge an External Distributor two separate fees for the same function.

The Exchange further believes the proposed Data Consolidation Fee is not designed to permit unfair discrimination because all External Distributor who subscribe to the ETF Implied Liquidity Feed will be charged the same fee. The Exchange believes it is reasonable and not unfairly discriminatory to not charge Internal Distributor a separate Data Consolidation Fee as instituting such a fee is designed to ensure that a vendor to create a competing product to the Exchange's ETF Implied Liquidity Feed on the same price basis as the Exchange. The proposed fee structure ensures the prices charged for the external distribution of the ETF Implied Liquidity Feed are not lower than the cost a vendor would incur to create a competing product. Therefore, the Exchange believes the proposed application of the Data Consolidation Fee is reasonable would not permit unfair discrimination.

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 Exchange's ability to price the ETF Implied Liquidity Feed is constrained by: (i) Competition among exchanges, other trading platforms, and Trade Reporting Facilities (''TRF'') that compete with each other in a variety of dimensions; (ii) the existence of inexpensive real-time consolidated data and market-specific data and free delayed data; and (iii) the inherent contestability of the market for proprietary data.

The Exchange and its market data products are subject to significant competitive forces and the proposed fees represent responses to that competition. To start, the Exchange competes intensely for order flow. It competes with the other national securities exchanges that currently trade equities, with electronic communication networks, with quotes posted in FINRA's Alternative Display Facility, with alternative trading systems, and with securities firms that primarily

(December 11, 2014), 79 FR 75200 (December 17, 2014) (SR–NYSE–2014–64) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Establish an Access Fee for the NYSE Best Quote and Trades Data Feed, Operative December 1, 2014).

[23] *See* Securities Exchange Act Release Nos. 74285 (February 18, 2015), 80 FR 9828 (February 24, 2015) (SR–BATS–2015–11); 74283 (February 18, 2015), 80 FR 9809 (February 24, 2015) (SR–EDGA–2015–09); 74282 (February 17, 2015), 80 FR 9487 (February 23, 2015) (SR–EDGX–2015–09); *and* 74284 (February 18, 2015), 80 FR 9792 (February 24, 2015) (SR–BYX–2015–09) (''Initial BATS One Feed Fee Filings''). *See also, e.g.,* Securities Exchange Act Release No. 20002, File No. S7–433 (July 22, 1983) (establishing nonprofessional fees for CTA data); *and* Nasdaq Rules 7023(b) and 7047.

trade as principal with their customer order flow.

In addition, when establishing the proposed fees, the Exchange considered the competitiveness of the market for proprietary data and all of the implications of that competition. The Exchange believes that it has considered all relevant factors and has not considered irrelevant factors in order to establish fair, reasonable, and not unreasonably discriminatory fees and an equitable allocation of fees among all Users. The existence of alternatives to the ETF Implied Liquidity Feed ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can elect these alternatives or choose not to purchase a specific proprietary data product if its cost to purchase is not justified by the returns any particular vendor or subscriber would achieve through the purchase.

Lastly, the Exchange represents that the proposed pricing of the ETF Implied Liquidity Feed provides investors with alternative market data and competes with similar market data product currently offered by other exchanges.[24] In addition, the pricing is designed to ensure that a vendor to create a competing product to the ETF Implied Liquidity Feed on the same price basis as the Exchange. As stated above, the Exchange notes that a vendor seeking to build a competing product to the proposed ETF Implied Liquidity feed could simply utilize the top-of-book data feeds from each of the Bats Exchange's to create an aggregated BBO.[25] These top-of-book feeds are EDGA Top, EDGX Top, BYX Top and BZX Top. The Exchange represents that a competing vendor could obtain these top-of-book data feeds from each of the Bats Exchanges on the same latency basis as the system that performs the aggregation and consolidation of the Bats One Summary Feed. While the proposed ETF Implied Liquidity feed does not separately provide the ETF's NBBO, the number of shares of securities underlying one creation unit of the ETF, or the estimated cash included in one creation unit of the ETF, a vendor could obtain this information from the securities information processors and other publicly available sources to perform its own calculation of an ETF's implied liquidity to include as part of a competing product. Therefore, a vendor could create a product to compete with the proposed ETF Implied Liquidity feed on the same terms as the Exchange. The Exchange designed the pricing of this product to enable a vendor to create a competing product to the ETF Implied Liquidity Feed on the same cost basis as the Exchange. The offering of certain fee waivers described herein continues to enable vendors to compete on price as the waivers are only granted where the Distributor is receiving the Bats One Feed and paying the required fees for External Distribution, Logical Ports, and Data Consolidation.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [26] and paragraph (f) of Rule 19b–4 thereunder.[27] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BatsBZX–2017–36 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–BatsBZX–2017–36. 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–2017–36 and should be submitted on or before June 22, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–11254 Filed 5–31–17; 8:45 am]

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[24] *See supra* note 21.

[25] *See supra* note 16.

[26] 15 U.S.C. 78s(b)(3)(A).

[27] 17 CFR 240.19b–4(f).

[28] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80779; File No. SR–MIAX–2017–22]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend MIAX Options Rule 515A, MIAX Price Improvement Mechanism ("PRIME") and PRIME Solicitation Mechanism

May 26, 2017.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 17, 2017, Miami International Securities Exchange, LLC (''MIAX Options'' or ''Exchange'') filed with the Securities and Exchange Commission

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

(''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Exchange Rule 515A to reflect changes to the MIAX Options Price Improvement Mechanism (''PRIME'').

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/rule-filings,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Exchange Rule 515A, MIAX Price Improvement Mechanism (''PRIME'') and PRIME Solicitation Mechanism, to reflect new functionality to be included in the PRIME process, as described below. The Exchange is also proposing certain clarifying technical amendments to the Rule.

Background

MIAX PRIME is a price-improvement mechanism on the Exchange under which a Member [3] (''Initiating Member'') electronically submits an order that it represents as agent (an ''Agency Order'') into a PRIME Auction (''Auction''). The Initiating Member, in submitting an Agency Order, must be willing to either (i) cross the Agency Order at a single price (a ''single-price submission'') as principal, or (ii) automatically match (''auto-match''), as principal, the price and size of responses to a Request for Response (''RFR'') that is broadcast to MIAX Options participants up to an optional designated limit price. Such a response is known as an ''RFR response.'' [4] Members wishing to participate in the PRIME Auction may do so by submitting RFR responses during the RFR period (see below), which is currently 500 milliseconds.

Multiple Auctions

The Exchange is proposing to amend Rule 515A(a)(2) to state that, as today, only one Auction may be ongoing at any given time in an option. The Exchange is proposing to modify the rule to account for the trading of complex orders on the Exchange.[5] Specifically, Rule 515A(a)(2) will continue to state clearly that only one Auction may be ongoing at any given time in an option and Auctions in the same option may not queue or overlap in any manner. In addition, the Exchange proposes to amend the Rule by stating that the System [6] will reject an Agency Order if, at the time of receipt of the Agency Order, the option is in an Auction or is a component of a complex strategy [7] that is the subject of a Complex Auction pursuant to Rule 518(d). The Exchange believes that the rejection of Agency Orders that are received in an option in which an Auction or Complex Auction is ongoing ensures that there will not be any interference with the potential for price improvement for the Agency Order from one ongoing auction type to another.

The Exchange notes that the limitation against simultaneous ongoing Auctions and Complex Auctions applies to the specific option being auctioned. The term ''option'' in the Exchange's rules refers to an individual put or call with a specific underlying security, strike price and expiration date. The Exchange defines a ''series of options'' as all option contracts of the same class having the same exercise price and expiration date.[8] Thus, a ''series of options'' on MIAX Options includes both calls and puts overlying a security with the same strike price and the same expiration. The individual call or put in the series of options is the ''option.''

For example, if an Auction or a Complex Auction involving XYZ July 20 calls is underway and ongoing at the time of receipt of an Agency Order in XYZ July 20 calls, the System will reject such Agency Order. The System will not, however, reject an Agency Order in XYZ October 20 calls, or in XYZ July 25 calls, for example, because the series being auctioned has a different strike price or expiration.[9]

The Exchange believes that, without such a limitation, investors could be faced with an unusually large number of simultaneous PRIME and/or Complex Auctions in the same option in the simple market, and in the same strategy in the complex market, which in turn could impact the orderly function of the markets. The Exchange believes that this limitation should ensure orderliness in the PRIME and Complex Auction process.

Rounding

The Exchange is proposing to adopt new Interpretations and Policies .10 to Rule 515A to establish in the rule text that, when determining the 40% or 50% Initiating Member allocation under paragraphs (a)(2)(iii)(H) or (I), the

[3] The term ''Member'' means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed ''members'' under the Act. *See* Exchange Rule 100.

[4] *See* Exchange Rule 515A(a)(2)(i). When the Exchange receives a properly designated Agency Order for auction processing, an RFR detailing the option, side, size, and initiating price will be sent to all subscribers of the Exchange's data feeds. The RFR currently lasts for 500 milliseconds. Members may submit responses to the RFR (specifying prices and sizes). RFR responses shall be an Auction or Cancel (''AOC'') order or an AOC eQuote. Such responses cannot cross the disseminated MIAX Best Bid or Offer (''MBBO'') on the opposite side of the market from the response.

[5] *See* Exchange Rule 518. *See also,* Securities Exchange Act Release No. 79072 (October 7, 2016), 81 FR 71131 (October 14, 2016) (SR–MIAX–2016–26).

[6] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

[7] The term ''complex strategy'' means a particular combination of components and their ratios to one another. New complex strategies can be created as the result of the receipt of a complex order or by the Exchange for a complex strategy that is not currently in the System. The Exchange may limit the number of new complex strategies that may be in the System at a particular time and will communicate this limitation to Members via Regulatory Circular. *See* Exchange Rule 518(a)(6).

[8] *See* Exchange Rule 100.

[9] The Exchange notes that other exchanges also limit simultaneous auctions by ''series,'' which on other exchanges has the same meaning as ''option'' on MIAX Options. For example, Nasdaq ISE, LLC (''ISE'') Rule 723.04 states that only one Price Improvement Mechanism (''PIM'') may be ongoing at any given time in a ''series.'' PIMs will not queue or overlap in any manner. *See* ISE Rule 723.04. In another example, Chicago Board Options Exchange, Inc. (''CBOE'') Automated Improvement Mechanism (''AIM'') rules state that only one Auction may be ongoing at any given time in a ''series'' and Auctions in the same ''series'' may not queue or overlap in any manner. *See* CBOE Rule 6.74A(b). *See also,* NASDAQ PHLX LLC (''Phlx'') Rule 1080(n)(ii), which states that only one Auction may be conducted at a time in the same ''series'' or same strategy, otherwise the orders will be rejected. The use of the term ''series'' in these various exchanges' rules is synonymous with the Exchange's use of the term ''option.''

System will round the number of contracts to which the Initiating Member is entitled to the nearest whole number (up or down). If the 40% or 50% Initiating Member allocation results in a remainder of exactly one-half contract (.50000), then the System will round the number of contracts to which the Initiating Member is entitled up to the next higher whole number. Other exchanges that allocate based on percentage amounts employ some form of ''rounding.'' [10]

The Exchange believes that the proposed rule change regarding rounding results in the fair and equitable allocation of contracts among PRIME participants, and provides clarity and transparency in the Exchange's rules so that all MIAX PRIME Auction participants will be informed of their participation entitlements when submitting orders and responses into MIAX PRIME.

Allocation of Contracts at the Conclusion of the PRIME Auction

Currently, Exchange Rule 515A(a)(2)(iii) provides that at the conclusion of the Auction, the Agency Order will be allocated at the best price(s), subject to the following: (A) Such best prices include non-Auction quotes and orders; (B) Priority Customer [11] orders resting on the Book [12] before, or that are received during, the Response Time Interval and Priority Customer RFR responses shall, collectively have first priority to trade against the Agency Order. The allocation of an Agency Order against the Priority Customer orders resting in the Book, Priority Customer orders received during the Response Time Interval, and Priority Customer RFR responses shall be in the sequence in which they are received by the System; (C) Market Maker priority quotes [13] and RFR responses from Market Makers [14] with priority quotes will collectively have second priority. The allocation of Agency Orders against these contra sided quotes and RFR responses shall be on a size pro rata basis as defined in Rule 514(c)(2); (D) Professional Interest orders resting in the Book, Professional Interest orders placed in the Book during the Response Time Interval, Professional Interest quotes, and Professional Interest RFR responses will collectively have third priority. The allocation of Agency Orders against these contra sided orders and RFR Responses shall be on a size pro rata basis as defined in Rule 514(c)(2); (E) No participation entitlement shall apply to orders executed pursuant to this Rule; (F) If an unrelated market or marketable limit order on the opposite side of the market as the Agency Order was received during the Auction and ended the Auction, such unrelated order shall trade against the Agency Order at the midpoint of the best RFR response (or in the absence of a RFR response, the initiating price) and the NBBO on the other side of the market from the RFR responses (rounded towards the disseminated quote when necessary). (G) If an unrelated non-marketable limit order on the opposite side of the market as the Agency Order was received during the Auction and ended the Auction, such unrelated order shall trade against the Agency Order at the midpoint of the best RFR response and the unrelated order's limit price (rounded towards the unrelated order's limit price when necessary).

Rules 515A(a)(2)(iii)(H) and (I) describe the allocation of contracts executed when the Initiating Member selects the single-price submission or the auto-match option, respectively, when submitting their Agency Order and there are either two or more participants at the execution price or when there is only one other participant on parity with the Initiating Member at either the single price execution price or at the final auto-match price point.

The Exchange is proposing to modify the PRIME trade allocation rules with respect to determining the Initiating Member's entitlement percentage (either 40% or 50%) at the single price submission price and at the final auto-match price point, as applicable.

Exchange Rules 515A(a)(2)(iii)(H) and (I) currently state that, upon conclusion of an Auction, an Initiating Member will retain certain priority and trade allocation privileges for a single-price submission and for an auto-match submission. Under current Rule 515A(a)(2)(iii)(H), if the best price equals the Initiating Member's single-price submission, the Initiating Member's single-price submission shall be allocated the greater of one contract or a certain percentage of the order, which percentage will be determined by the Exchange and may not be larger than 40% of the Agency Order, subject to the rounding provisions of proposed Rule 515A, Interpretations and Policies .10 (described above). However, if only one Member's response, subject to the System's calculation of the number of Member's responses described in proposed Rule 515A, Interpretations and Policies .11 (described below) matches the Initiating Member's single

[10] For example, Phlx Rules provide that where the allocation of contracts results in remaining amounts, the number of contracts to be allocated shall be rounded down to the nearest integer. If rounding would result in an allocation of less than one contract, then one contract will be allocated to the Initiating Member only if the Initiating Member did not otherwise receive an allocation. *See* Phlx Rule 1080(n)(ii)(E)(2)(f). This differs slightly from the instant proposal by the Exchange in that the System will round the number of contracts to which the Initiating Member is entitled to the nearest whole number (up or down). The Exchange also notes that NASDAQ BX, Inc. (''BX''), in a filing relating to its directed orders program, described a process for rounding that has the potential to result in an allocation that is slightly greater than their 40% or 50% entitlement for directed orders. *See* Securities Exchange Act Release No. 73784 (December 8, 2014), 79 FR 73930 (SR–BX–2014–049) (Notice of Filing of Proposed Rule Change Relating to Directed Market Makers). *See also,* Securities Exchange Act Release No. 74129 (January 23, 2015), 80 FR 4954 (January 29, 2015) (SR–BX–2014–049) (Order Approving Proposed Rule Change Relating to Directed Market Makers).

[11] The term ''Priority Customer'' means 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* Exchange Rule 100.

[12] The term ''Book'' means the electronic book of buy and sell orders and quotes maintained by the System. *See* Exchange Rule 100.

[13] To be considered a priority quote, at the time of execution, each of the following standards must be met: (A) The bid/ask differential of a Market Maker's two-sided quote pair must be valid width (no wider than the bid/ask differentials outlined in Rule 603(b)(4)); (B) the initial size of both of the Market Maker's bid and the offer must be in compliance with the requirements of Rule 604(b)(2); (C) the bid/ask differential of a Market Maker's two-sided quote pair must meet the priority quote width requirements defined below in subparagraph (ii) [sic] for each option; and (D) either of the following are true: 1. At the time a locking or crossing quote or order enters the System, the Market Maker's two-sided quote pair must be valid width for that option and must have been resting on the Book; or 2. Immediately prior to the time the Market Maker enters a new quote that locks or crosses the MBBO, the Market Maker must have had a valid width quote already existing (*i.e.,* exclusive of the Market Maker's new marketable quote or update) among his two-sided quotes for that option. *See* Exchange Rule 517(b)(1)(i).

[14] The term ''Market Makers'' refers to ''Lead Market Makers'', ''Primary Lead Market Makers'' and ''Registered Market Makers'' collectively. The term ''Lead Market Maker'' means a Member registered with the Exchange for the purpose of making markets in securities traded on the Exchange and that is vested with the rights and responsibilities specified in Chapter VI of the Exchange's Rules with respect to Lead Market Makers. When a Lead Market Maker is appointed to act in the capacity of a Primary Lead Market Maker, the additional rights and responsibilities of a Primary Lead Market Maker specified in Chapter VI of the Exchange's Rules will apply. The term ''Primary Lead Market Maker'' means a Lead Market Maker appointed by the Exchange to act as the Primary Lead Market Maker for the purpose of making markets in securities traded on the Exchange. The Primary Lead Market Maker is vested with the rights and responsibilities specified in Chapter VI of the Exchange's Rules with respect to Primary Lead Market Makers. The term ''Registered Market Maker'' means a Member registered with the Exchange for the purpose of making markets in securities traded on the Exchange, who is not a Lead Market Maker and is vested with the rights and responsibilities specified in Chapter VI of the Exchange's Rules with respect to Registered Market Makers. *See* Exchange Rule 100.

price submission, then the Initiating Member may be allocated up to 50% of the Agency Order.

Similarly, current Exchange Rule 515A(a)(2)(iii)(I) provides that if the Initiating Member selected the auto-match option of the Auction, the Initiating Member shall be allocated its full size of RFR responses at each price point until the final auto-match price point is reached. At the final auto-match price point, the Initiating Member shall be allocated the greater of one contract or a certain percentage of the remainder of the Agency Order, which percentage will be determined by the Exchange and may not be larger than 40%, subject to the rounding provisions of proposed Rule 515A, Interpretations and Policies .10 (described above). However, if only one Member's response, subject to the System's calculation of the number of Member's responses described in proposed Rule 515A, Interpretations and Policies .11 (described below) matches the Initiating Member's submission at the final auto-match price point, then the Initiating Member may be allocated up to 50% of the remainder of the Agency Order at the final auto-match price point.

At the conclusion of the Auction, the Agency Order is allocated at the best price(s) pursuant to the matching algorithm in effect for the class.[15] The System first must determine the number of participants that are entitled to receive contracts to be allocated, and whether any participant(s) such as Priority Customers are entitled to receive contracts first. Thereafter, contracts are allocated among participants at the execution price.

The Exchange is proposing to adopt Interpretations and Policies .11 to Rule 515A to state the basis on which the System will determine a Member's response to be a participant at the single price submission price and at the final auto-match price point in calculating the Initiating Member's entitlement at that price.[16] Specifically, when calculating the number of Members' responses that match the Initiating Member's single price submission under sub-paragraph (a)(2)(iii)(H) and the final auto-match price point under sub-paragraph (a)(2)(iii)(I) of Rule 515A, the System will not include in such calculation: (i) Any Priority Customer Auction response and/or unrelated Priority Customer interest that has been executed, or (ii) any Member's response (including unrelated orders and quotes) executed at a better price.

Exchange Rule 515A(2)(iii)(B) explicitly states that Priority Customer orders resting on the Book before, or that are received during, the Response Time Interval and Priority Customer RFR responses shall, collectively, have first priority to trade against the Agency Order. Therefore, all Priority Customer Interest at the single price submission and at the final auto-match price point is executed first, after which other interest is allocated in accordance with Rule 515A(a)(2)(iii).

The Exchange is proposing to adopt Interpretations and Policies .11 to exclude from the number of responding participants remaining at those prices (i) Priority Customer RFR responses and/or unrelated Priority Customer interest that has already been executed, and (ii) any Member's response (including unrelated orders and quotes) executed at a better price. The purpose of this proposal is to calculate and establish the actual number of Auction participants that may be allocated contracts at a given price point. To include Priority Customer and other interest that have already received full executions and therefore cannot participate further in the allocation of contracts as part of the remaining participants at the execution price could artificially skew the entitlements of remaining participants at the next level(s) of priority established in Rule 515A(2)(iii). This is particularly true when there is only one remaining participant with the Initiating Member that could or would be entitled to receive contracts at the single price submission or at the final auto-match price point. The following examples illustrate this.

Example 1—Priority Customer Interest Already Executed, One Participant With Initiating Member

ABBO: 1.00–1.06
MBBO: 1.00–1.06
PRIME Order, Agency buy 20 contracts, Auction Start Price 1.05
Begin RFR Auction
During Auction, MM1 responds with an RFR response to sell 20 at 1.05
Customer order to sell 5 at 1.05
At the end of the RFR period
Agency Order buys 5 from the Customer order at 1.05
There is one remaining joining interest at 1.05 (MM1), so the contra receives 50% of the original size of the order, or 10 contracts, and MM1 receives the balance of 5 contracts [17]

Example 2—Responses Executed at Better Prices, One Participant With Initiating Member

ABBO: 1.00–1.06
MBBO: 1.00–1.06
PRIME Order, Agency buy 20 contracts, Auction Start Price 1.05
Begin RFR Auction
During Auction, MM1 responds with an RFR response to sell 20 at 1.05
MM2 responds with an RFR response to sell to sell 5 at 1.04
At the end of the RFR period
Agency Order buys 5 from MM2 at 1.04
There is one joining interest at 1.05 (MM1), so the contra receives 50% of the original size of the order, or 10 contracts, and MM1 receives the balance of 5 contracts [18]

When more than one participant matches the Initiating Member at the single price submission and/or at the final auto-match price point, the Initiating Member is entitled to receive and is allocated the greater of one contract or a certain percentage of the remainder of the Agency Order, which percentage will be determined by the Exchange and may not be larger than 40%. Currently, in auto-match, in the situation where there is one remaining participant matching the Initiating Member at the final auto-match price point, the Initiating Member and the lone remaining participant are each entitled to 50% of the remaining contracts at that price (subject of course to their stated size). The proposal to include only the remaining participant after other participants have already received full executions at better prices ensures that the Initiating Participant, who has guaranteed the full execution at the single price submission or at the final auto-match price point, will receive its rightful 50% allocation. The Exchange believes that the proposed rule change rewards the Initiating

[15] *See* Exchange Rule 515A(a)(2)(iii).

[16] The Exchange notes that under the NYSE MKT CUBE price improvement mechanism, if only the accompanying contra order and one other RFR response are eligible to trade at the CUBE execution price, each will receive a 50% allocation; otherwise, the accompanying contra order will receive a 40% guaranteed allocation unless more than 60% of the order is price improved by other participants (the accompanying contra will yield priority at a given price once the 40% entitlement is satisfied). *See* NYSE MKT CUBE Factsheet, *https://www.nyse.com/markets/amex-options,* Related Information, dated February 9, 2016 at p.2.

[17] Under the current Rule, the result would be slightly different. The Agency Order would still buy 5 contracts from the Customer at $1.05. However, although the Customer has sold all 5 contracts it offered at $1.05, the current rule counts two remaining joining offers at 1.05 (MM1 and Customer) for the remaining 15 contracts, so the contra receives 40% of the original size of the order, or 8 contracts, and MM1 receives the balance of 7 contracts.

[18] Under the current Rule, just as in Example 1, the result would be slightly different. The Agency Order would buy 5 contracts from MM2 at $1.04. However, although MM2 has sold all 5 contracts it offered at $1.04, the current rule counts two remaining joining offers at 1.05 (MM1 and MM2) for the remaining 15 contracts, so the contra receives 40% of the original size of the order, or 8 contracts, and MM1 receives the balance of 7 contracts.

Participant, who has absorbed the maximum risk in the PRIME Auction, by ensuring the 50% allocation entitlement when there is only one other participant matching the Initiating Member at the single price submission price or at the final auto-match price point. The Exchange believes that this provides an additional incentive for Initiating Members to submit Agency Orders for price improvement in MIAX PRIME.

Technical Amendments

The Exchange is proposing to capitalize the term ''Agency Order'' in Rule 515A(a)(2)(iii)(H) because the term is defined in Rule 515A(a) above. Additionally, the Exchange is proposing to add the word ''or'' to the first sentence of Rules 515A(a)(2)(iii)(H) and (I), respectfully, for grammatical correctness. These proposed technical amendments are intended for clarity and ease of reference.

The Exchange will announce the implementation date of the proposed rule change by Regulatory Circular to be published no later than 60 days following the operative date of the proposed rule. The implementation date will be no later than 60 days following the issuance of the Regulatory Circular.

2. Statutory Basis

MIAX believes that its proposed rule change is consistent with Section 6(b) of the Act [19] in general, and furthers the objectives of Section 6(b)(5) of the Act [20] 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 mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange further believes the proposed rule change is consistent with the Section 6(b)(5) [21] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed amendment to Rule 515A(a)(2) stating that only one Auction or Complex Auction may be ongoing at any given time in an option and/or in a complex strategy in which that option is a component, and Auctions and Complex Auctions involving the same option may not queue or overlap in any manner, is consistent with the Act. The Exchange believes that, without such a limitation, investors could be faced with an unusually large number of simultaneous PRIME and/or Complex Auctions in the same option in the simple market, and in the same strategy in the complex market, which in turn could impact the orderly function of the markets. The Exchange believes that this limitation is consistent with the Act because it is designed to remove impediments to and perfect the mechanisms of a free and open market and a national market system by ensuring orderliness in the PRIME and Complex Auction process on the Exchange.

The Exchange believes that the proposed rule change relating to rounding removes impediments to and perfects the mechanisms of a free and open market and a national market system by adopting rules that are consistent with industry practices. As stated above, BX, in a filing relating to its directed orders program, described a process for rounding that has the potential to result in an allocation that is slightly greater than their 40% or 50% entitlement for directed orders.[22] The Exchange believes that this supports its proposal to adopt Proposed Interpretations and Policies .10 with respect to rounding a remainder of exactly one-half contract (.50000) up to the next higher whole number.

The Exchange further believes the proposed rule change protects investors and is in the public interest because it fairly allocates the PRIME Agency Order in a manner that rewards Initiating Members who submit PRIME Agency Orders and guarantee price improvement for the entire Agency Order. The allocation of 50% of the contracts to the Initiating Member when there is only one remaining participant that matches the initiating Member's single price submission price or final auto-match price point should provide greater incentive to Initiating Members to submit Agency Orders for price improvement in the PRIME auction. The result of a greater number of Agency Orders submitted to PRIME is a benefit to the MIAX Options markets and the marketplace as a whole because it enriches liquidity on the Exchange at the NBBO, providing investors with greater opportunities for executions at the NBBO and beyond at improved prices through MIAX PRIME.

The Exchange also believes that the proposed rule change removes impediments to and perfects the mechanisms of a free and open market and a national market system by attracting more order flow and by increasing the frequency with which Initiating Members initiate Auctions through PRIME. Moreover, the proposed rule change is consistent with the rules and proposals of other exchanges.[23]

Additionally, the Exchange believes that the proposed technical clarifying and definitional amendments to Rule 515A will benefit market participants by enhancing transparency, clarity and ease of reference to the rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The proposed changes and their effect on trade allocations in MIAX PRIME are meant to more fairly allocate an Agency Order submitted for price improvement at the single price submission price or at the final auto-match price point. The Exchange believes that the allocation of 50% of the remainder of the Agency Order to the Initiating Member when there is only one non-Priority Customer response that will trade at the execution price should in fact enhance competition by encouraging more Initiating Members to submit Agency Orders to MIAX Options for price improvement via MIAX PRIME, which should benefit investors by attracting more order flow as well as increasing the frequency with which Initiating Members submit Agency Orders into the PRIME Auction. This should result in enhanced liquidity and more competition on the Exchange.

For all the reasons stated, 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, and believes the proposed change will in fact enhance competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

[19] 15 U.S.C. 78f(b).

[20] 15 U.S.C. 78f(b)(5).

[21] *Id.*

[22] *See supra* note 10.

[23] *See supra* notes 9, 10, 16 and *infra* notes 26 and 27.

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 after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act [24] and Rule 19b–4(f)(6) [25] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MIAX–2017–22 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–MIAX–2017–22. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's 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–MIAX–2017–22 and should be submitted on or before June 22, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–11355 Filed 5–31–17; 8:45 am]

BILLING CODE 8011–01–P

[24] 15 U.S.C. 78s(b)(3)(A).

[25] 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.

[26] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32663]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

May 26, 2017.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of May 2017. A copy of each 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. An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 20, 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: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

FOR FURTHER INFORMATION CONTACT: Jessica Shin, Attorney-Adviser, at (202) 551–5921 or Chief Counsel's Office at (202) 551–6821; SEC, Division of Investment Management, Chief Counsel's Office, 100 F Street NE., Washington, DC 20549–8010.

Madison Harbor Balanced Strategies, Inc.

[File No. 811–21479]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On January 31, 2017 and April 28, 2017, applicant made liquidating distributions to its shareholders, based on net asset value. Expenses of $268,984 incurred in connection with the liquidation were paid by the applicant. Applicant has retained $251,910 for the purpose of paying outstanding accrued and anticipated expenses.

Filing Date: The application was filed on May 1, 2017.

Applicant's Address: Madison Harbor Balanced Strategies, Inc., 1177 Avenue of the Americas, 44th Floor, New York, New York 10036.

CBRE Clarion MLP Select Income Opportunities Fund

[File No. 811–22950]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Dates: The application was filed on February 28, 2017 and amended on May 2, 2017.

Applicant's Address: 201 King of Prussia Road, Suite 600, Radnor, Pennsylvania 19087.

Profit Funds Investment Trust

[File No. 811–07677]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On September 29, 2016, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of $55,364.23 incurred in connection with the liquidation were paid by the applicant's investment adviser.

Filing Dates: The application was filed on May 4, 2017 and amended on May 17, 2017.

Applicant's Address: 6701 Democracy Boulevard, #300, Bethesda, Maryland 20817.

Nuveen Municipal Advantage Fund, Inc.

[File No. 811–05957]

Nuveen Premium Income Municipal Fund 4, Inc.

[File No. 811–07432]

Nuveen Dividend Advantage Municipal Fund 2

[File No. 811–10255]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicants transferred their assets to Nuveen Municipal Credit Income Fund and, on May 2, 2016, made distributions to their shareholders based on net asset value. Expenses of $1,878,553 incurred in connection with the reorganizations were paid by applicants and the acquiring fund.

Filing Date: The applications were filed on April 20, 2017.

Applicants' Address: 333 West Wacker Drive, Chicago, Illinois 60606.

Nuveen Quality Municipal Fund, Inc.

[File No. 811–06206]

Nuveen Quality Income Municipal Fund, Inc.

[File No. 811–06303]

Nuveen Municipal Opportunity Fund, Inc.

[File No. 811–06379]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicants transferred their assets to Nuveen AMT-Free Municipal Credit Income Fund and, on May 2, 2016, made distributions to their shareholders based on net asset value. Expenses of $2,411,739 incurred in connection with the reorganizations were paid by applicants and the acquiring fund.

Filing Date: The applications were filed on April 20, 2017.

Applicants' Address: 333 West Wacker Drive, Chicago, Illinois 60606.

Nuveen Quality Preferred Income Fund

[File No. 811–21082]

Nuveen Quality Preferred Income Fund 3

[File No. 811–21242]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicants transferred their assets to Nuveen Preferred Securities Income Fund and, on June 1, 2016, made distributions to their shareholders based on net asset value. Expenses of $1,805,811 incurred in connection with the reorganizations were paid by applicants and the acquiring fund.

Filing Date: The applications were filed on April 20, 2017.

Applicants' Address: 333 West Wacker Drive, Chicago, Illinois 60606.

Nuveen Municipal Market Opportunity Fund, Inc.

[File No. 811–06040]

Nuveen Premium Income Municipal Fund 2, Inc.

[File No. 811–06621]

Nuveen Performance Plus Municipal Fund, Inc.

[File No. 811–05809]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicants transferred their assets to Nuveen Enhanced AMT-Free Quality Municipal Income Fund and, on October 3, 2016, made distributions to their shareholders based on net asset value. Expenses of $2,330,122 incurred in connection with the reorganizations were paid by applicants and the acquiring fund.

Filing Date: The applications were filed on April 20, 2017.

Applicants' Address: 333 West Wacker Drive, Chicago, Illinois 60606.

Nuveen Premier Municipal Income Fund, Inc.

[File No. 811–06456]

Nuveen Premium Income Municipal Fund, Inc.

[File No. 811–05570]

Nuveen Select Quality Municipal Fund, Inc.

[File No. 811–06240]

Nuveen Investment Quality Municipal Fund, Inc.

[File No. 811–06091]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicants transferred their assets to Nuveen Enhanced Quality Municipal Income Fund and, on October 3, 2016, made distributions to their shareholders based on net asset value. Expenses of $2,452,635 incurred in connection with the reorganizations were paid by applicants and the acquiring fund.

Filing Date: The applications were filed on April 20, 2017.

Applicants' Address: 333 West Wacker Drive, Chicago, Illinois 60606.

Nuveen California Dividend Advantage Municipal Fund 2

[File No. 811–10197]

Nuveen California Dividend Advantage Municipal Fund 3

[File No. 811–10347]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicants transferred their assets to Nuveen California Quality Municipal Income Fund and, on December 1, 2016, made distributions to their shareholders based on net asset value. Expenses of $1,084,348 incurred in connection with the reorganizations were paid by applicants and the acquiring fund.

Filing Date: The applications were filed on April 20, 2017.

Applicants' Address: 333 West Wacker Dr., Chicago, Illinois 60606.

Nuveen Global Equity Income Fund

[File No. 811–21903]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant has transferred its assets to Nuveen NWQ Global Equity Income Fund, a series of Nuveen Investment Trust and, on [DATE], made distributions to its shareholders based on net asset value. Expenses of $587,349 incurred in

connection with the reorganization were paid by the applicant.

Filing Dates: The application was filed on April 20, 2017 and amended on [DATE].

Applicants' Address: 333 West Wacker Drive, Chicago, Illinois 60606.

AB Blended Style Series, Inc.

[File No. 811–21081]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On November 20, 2015, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of $19,049 incurred in connection with the liquidation were paid by the applicant's investment adviser.

Filing Date: The application was filed on May 16, 2017.

Applicant's Address: 1345 Avenue of the Americas, New York, New York 10105.

Alliance New York Municipal Income Fund

[File No. 811–10577]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On September 22, 2015, applicant made a liquidating distribution to its shareholders, based on net asset value. Payment was made on applicant's senior securities at the liquidation preference per share in accordance with their terms. All remaining amounts were distributed to common shareholders on the basis of net assets. Expenses of $114,788 incurred in connection with the liquidation were paid by the applicant.

Filing Dates: The application was filed on May 16, 2017 and amended on May 24, 2017.

Applicant's Address: 1345 Avenue of the Americas, New York, NY 10105.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–11346 Filed 5–31–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80788; File No. SR–IEX–2017–18]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing of Proposed Rule Change To Eliminate Requirements That Will Be Duplicative of CAT

May 26, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 15, 2017, Investors Exchange LLC (''IEX'' or the ''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 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) of the Securities Exchange Act of 1934 (''Exchange Act''), and Rule 19b–4 thereunder, Investors Exchange LLC (''IEX'' or ''Exchange'') is filing with the Securities and Exchange Commission (''SEC'' or ''Commission'') a proposed rule change to eliminate Rule 11.420 (Order Audit Trail System Requirements) and amend Rule 8.220 to reflect a change to this rule once Members are effectively reporting to the consolidated audit trail (''CAT'') adopted pursuant to the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'') and the CAT's accuracy and reliability meets certain standards as described below.

The text of the proposed rule change is available at the Exchange's Web site at *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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

(1) Background

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc., International Securities Exchange, LLC, Investors Exchange LLC, ISE Gemini, LLC, ISE Mercury, LLC, Miami International Securities Exchange LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange LLC, NYSE MKT LLC, and NYSE Arca, Inc. (collectively, the ''Participants'') filed with the Commission, pursuant to Section 11A of the Exchange Act[3] and Rule 608 of Regulation NMS thereunder,[4] the CAT NMS Plan.[5] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,[6] and approved by the Commission, as modified, on November 15, 2016.[7] On March 15, 2017, the Commission approved the new IEX Rule Series 11.600 to implement provisions of the CAT NMS Plan that are applicable to IEX Members.[8]

The CAT NMS Plan is designed to create, implement, and maintain a consolidated audit trail that will capture in a single consolidated data source customer and order event information for orders in NMS Securities and OTC

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78k–1.

[4] 17 CFR 242.608.

[5] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

[6] Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 FR 30614 (May 17, 2016).

[7] Securities Exchange Act Rel. No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016) (''Approval Order'').

[8] Securities Exchange Act Rel. No. 80255 (March 15, 2017), 82 FR 14563 (March 21, 2017).

Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution. Among other things, Section C.9 of Appendix C to the Plan, as modified by the Commission, requires each Participant to ''file with the SEC the relevant rule change filing to eliminate or modify its duplicative rules within six (6) months of the SEC's approval of the CAT NMS Plan.'' The Plan notes that ''the elimination of such rules and the retirement of such systems [will] be effective at such time as CAT Data meets minimum standards of accuracy and reliability.'' Finally, the Plan requires the rule filing to discuss the following:

(i) Specific accuracy and reliability standards that will determine when duplicative systems will be retired, including, but not limited to, whether the attainment of a certain Error Rate should determine when a system duplicative of the CAT can be retired;

(ii) whether the availability of certain data from Small Industry Members two years after the Effective Date would facilitate a more expeditious retirement of duplicative systems; and

(iii) whether individual Industry Members can be exempted from reporting to duplicative systems once their CAT reporting meets specified accuracy and reliability standards, including, but not limited to, ways in which establishing cross-system regulatory functionality or integrating data from existing systems and the CAT would facilitate such Individual Industry Member exemptions.

In response to these requirements, the proposed rule change deletes Rule 11.420 (the ''OATS Rule'') [9] and adds new Supplementary Material to Rule 8.220 once the CAT achieves the specific accuracy and reliability standards described below and IEX has determined that its usage of the CAT Data has not revealed material issues that have not been corrected, confirmed that the CAT includes all data necessary to allow IEX to continue to meet its surveillance obligations,[10] and confirmed that the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan.

(2) Specific Accuracy and Reliability Standards

The first issue the Plan requires the proposed rule change to discuss is ''specific accuracy and reliability standards that will determine when duplicative systems will be retired, including, but not limited to, whether the attainment of a certain Error Rate should determine when a system duplicative of the CAT can be retired.'' IEX believes that relevant error rates are the primary, but not the sole, metric by which to determine the CAT's accuracy and reliability and will serve as the baseline requirement needed before the OATS Rule can be retired and requests for trading information pursuant to Rule 8.220 can be adjusted.

As discussed in Section A.3.(b) of Appendix C to the CAT NMS Plan, the Participants established an initial Error Rate, as defined in the Plan, of 5% on initially submitted data (*i.e.,* data as submitted by a CAT Reporter before any required corrections are performed). The Participants noted in the Plan that their expectation was that ''error rates after reprocessing of error corrections will be de minimis.'' [11] The Participants based this Error Rate on their consideration of ''current and historical OATS Error Rates, the magnitude of new reporting requirements on the CAT Reporters and the fact that many CAT Reporters may have never been obligated to report data to an audit trail.'' [12]

IEX agrees with the Participants' conclusion that a 5% pre-correction threshold ''strikes the balance of adapting to a new reporting regime, while ensuring that the data provided to regulators will be capable of being used to conduct surveillance and market reconstruction, as well as having a sufficient level of accuracy to facilitate the retirement of existing regulatory reports and systems where possible.'' [13] However, IEX believes that, when assessing the accuracy and reliability of the data for the purposes of retiring OATS, the error thresholds should be measured in more granular ways and should also include minimum error rates of post-correction data, which represents the data most likely to be used by IEX (or FINRA on its behalf) to conduct surveillance.[14] Although IEX is proposing to measure the appropriate error rates in the aggregate, rather than firm-by-firm, IEX believes that the error rates for equity securities should be measured separately from options since options orders are not currently reported regularly or included in OATS.

To ensure the CAT's accuracy and reliability, IEX is proposing that, before OATS could be retired, the CAT would need to achieve a sustained error rate in each of the categories below for a period of at least 180 days of 5% or lower, measured on a pre-correction or as-submitted basis and 2% or lower on a post-correction basis (measured at T+5).[15] IEX proposes to measure the 5% pre-correction and 2% post-correction thresholds by averaging the error rate across the period, not require a 5% pre-correction and 2% post-correction maximum each day for 180 consecutive days. IEX believes that measuring each of the thresholds over the course of 180 days will ensure that the CAT consistently meets minimum accuracy and reliability thresholds while also ensuring that single-day measurements do not unduly affect the overall measurements. IEX also proposes to measure the appropriate error rates in the aggregate, rather than firm-by-firm.

IEX is proposing to use error rates in each the following categories, measured separately for equities, to assess whether the threshold error rates are being met:

• *Rejection Rates and Data Validations.* Data validations for the CAT, while not expected to be designed the same as OATS, must be functionally equivalent to OATS in accordance with the CAT NMS Plan (*i.e.,* the same types of basic data validations must be performed by the Plan Processor to comply with the CAT NMS Plan requirements). Appendix D of the Plan, for example, requires that certain file validations and syntax and context checks be performed.[16] The specific validations can be determined only after the Plan Processor has finalized the Industry Member Technical Specifications; however, the Plan also requires the Plan Processor to provide daily statistics on rejection rates after the data has been processed, including the number of files rejected and accepted, the number of order events accepted and rejected, and the number of each type of report rejected. FINRA [sic] is proposing that, over the 180-day period, aggregate rejection rates (measured separately for equities and options) must be no more than 5% pre-correction or 2% post-correction across all CAT Reporters.

[9] Rule 11.420 incorporates in relevant part the requirements of FINRA Rule 7420 through 7460.

[10] IEX and the Financial Industry Regulatory Authority (''FINRA'') are parties to a regulatory contract pursuant to which FINRA performs certain regulatory functions, including applicable surveillance, on behalf of IEX, subject to IEX's oversight. IEX and FINRA are also parties to several allocation agreements pursuant to Section 17d–1 of the Act pursuant to which certain other IEX regulatory functions are allocated to FINRA, including applicable surveillance. *See, e.g.,* Securities Exchange Act Release No. 34–78434 (July 28, 2016), 81 FR 51256 (August 3, 2016) (File No. 4–700).

[11] *See* CAT NMS Plan, at C–23 n.102.

[12] CAT NMS Plan at C–23.

[13] CAT NMS Plan at C–24.

[14] *See* note 10 *supra.*

[15] The Plan requires that the Plan Processor must ensure that regulators have access to corrected and linked order and Customer data by 8:00 a.m. Eastern Time on T+5. *See* CAT NMS Plan, at C–15.

[16] *See* CAT NMS Plan, at D–21.

• *Intra-Firm Linkages.* The Plan requires that ''the Plan Processor must be able to link all related order events from all CAT Reporters involved in the lifecycle of an order.'' [17] At a minimum, this requirement includes the creation of an order lifecycle between ''[a]ll order events handled within an individual CAT Reporter, including orders routed to internal desks or departments with different functions (*e.g.,* an internal ATS).'' [18] IEX is proposing that aggregate intra-firm linkage rates across all Industry Member Reporters must be at least 95% pre-correction and 98% post-correction.

• *Inter-Firm Linkages.* The order linkage requirements in the Plan also require that the Plan Processor be able to create the lifecycle between orders routed between broker-dealers.[19] IEX is proposing that at least a 95% pre-correction and 98% post-correction aggregate match rate be achieved for orders routed between two Industry Member Reporters.[20]

• *Order Linkage Rates.* In addition to creating linkages within and between broker-dealers, the Plan also includes requirements that the Plan Processor be able to create lifecycles to link various pieces of related orders. For example, the Plan requires linkages between customer orders and ''representative'' orders created in firm accounts for the purpose of facilitating a customer order, various legs of option/equity complex orders, riskless principal orders, and orders worked through average price accounts.[21] IEX is proposing that there be at least a 95% pre-correction and 98% post-correction linkage rate for multi-legged orders (*e.g.,* related equity/options orders, VWAP orders, riskless principal transactions).

• *Exchange and TRF/ORF Match Rates.* The Plan requires that an order lifecycle be created to link ''[o]rders routed from broker-dealers to exchanges'' and ''[e]xecuted orders and trade reports.'' [22] IEX is proposing at least a 95% pre-correction and 98% post-correction aggregate match rate to each equity exchange for orders routed from Industry Members to an exchange and, for over-the-counter executions, the same match rate for orders linked to trade reports.

In addition to these minimum error rates and matching thresholds that must be met before OATS can be retired, IEX believes that during the minimum 180-day period during which the thresholds are calculated, FINRA's use of the data in the CAT on behalf of IEX must confirm that (i) usage over that time period has not revealed material issues that have not been corrected, (ii) the CAT includes all data necessary to allow IEX to continue to meet its surveillance obligations, and (iii) the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan. IEX believes this time period to use the CAT Data is necessary to reveal any errors that may manifest themselves only after surveillance patterns and other queries have been run and to confirm that the Plan Processor is meeting its obligations and performing its functions adequately.

(3) Small Industry Member Data Availability

The second issue the Plan requires the proposed rule change to address is ''whether the availability of certain data from Small Industry Members two years after the Effective Date would facilitate a more expeditious retirement of duplicative systems.'' IEX believes that there is no effective way to retire OATS until all current OATS reporters are reporting to the CAT. Although Technical Specifications for Industry Members are not yet available, IEX believes it would be inefficient, less reliable, and more costly to attempt to marry the OATS and CAT databases for a temporary period to allow some IEX members to report to CAT while others continue to report to OATS. Consequently, IEX believes that if the Plan is amended and FINRA makes a rule change [23] such that all Small Industry Members [24] that are OATS reporters must report to OATS beginning in November 2018 rather than November 2019, it would substantially facilitate a more expeditious retirement of OATS. For this reason, IEX supports an amendment to the Plan that would require current OATS Reporters that are ''Small Industry Members'' to report two years after the Effective Date (instead of three). IEX intends to work with the other Participants to submit a proposed amendment to the Plan to require Small Industry Members that are OATS Reporters to report two years after the Effective Date. Based on FINRA's assessment of the impact to Small Industry Members, as described above,[25] IEX believes that the burden on current OATS Reporters that are ''Small Industry Members'' would not be significant if those firms are required to report to CAT beginning in November 2018 rather than November 2019. The burdens, however, are significantly greater for those firms that are not reporting to OATS currently; therefore, IEX does not believe it would be necessary or appropriate to accelerate CAT reporting for ''Small Industry Members'' that are not currently reporting to OATS, and IEX would not support an amendment to the Plan to accelerate CAT reporting for ''Small Industry Members'' that are not currently OATS Reporters.

(4) Individual Industry Member Exemptions

The final issue the Plan requires the proposed rule change to address is ''whether individual Industry Members can be exempted from reporting to duplicative systems once their CAT reporting meets specified accuracy and reliability standards, including, but not limited to, ways in which establishing cross-system regulatory functionality or integrating data from existing systems and the CAT would facilitate such Individual Industry Member exemptions.''

IEX believes that a single cut-over from OATS to CAT is highly preferable to a firm-by-firm approach and is not proposing to exempt members from the OATS requirements on a firm-by-firm basis. The primary benefit to a firm-by-firm exemptive approach would be to reduce the amount of time an individual firm is required to report to a legacy system (*e.g.,* OATS) if it is also accurately and reliably reporting to the CAT. IEX believes that the overall accuracy and reliability thresholds for the CAT described above would need to be met under any conditions before firms could stop reporting to OATS, and there is no need to exempt members from OATS requirements on a firm-by-firm basis.

[17] CAT NMS Plan, at D–8.

[18] *Id.*

[19] *Id.*

[20] This assumes linkage statistics will include both unlinked route reports and new orders where no related route report could be found.

[21] *See* CAT NMS Plan, at D–8, D–9.

[22] *Id.* at D–9.

[23] IEX Rule 11.420 (in relevant part) incorporates FINRA Rules 7430, 7440 and 7450 related to OATS reporting, providing that IEX Members must comply with such rules as if such rules were part of IEX's rules.

[24] FINRA has identified approximately 300 member firms that currently report to OATS and meet the definition of ''Small Industry Member;'' however, only ten of these firms submit information to OATS on their own behalf, and eight of the ten firms report very few orders to OATS (*e.g.,* in one recent month, eight of the ten firms submitted fewer than 100 reports during the month, with four firms submitting fewer than 50). The vast majority of these 300 firms use third parties to fulfill their reporting obligations, and many of these third parties will begin reporting to CAT in November 2018. IEX is assessing how many of its Members are Small Industry Members.

[25] *See supra* note 24.

(5) Automated Submission of Trading Data

In addition to the OATS rules, Rule 8. [sic] 8.220 (the ''EBS Rule'') will also be affected by the implementation of the CAT. The EBS Rule is IEX's rule regarding the automated submission of specific trading data to IEX (or FINRA on behalf of IEX) upon request using the FINRA Electronic Blue Sheet (''EBS'') system.

Once broker-dealer reporting to the CAT has begun, the CAT will contain the data the Participants would otherwise have requested via the EBS system for purposes of NMS Securities. Consequently, IEX will not need to use the EBS system or request information pursuant to the EBS Rule for NMS Securities for time periods after CAT reporting has begun if the appropriate accuracy and reliability thresholds are achieved, including an acceptable accuracy rate for customer and account information. However, the EBS Rule cannot be completely removed from the IEX Rulebook immediately upon the CAT achieving the appropriate thresholds because IEX staff (or FINRA staff on behalf of IEX) may still need to request information pursuant to these rules for trading activity occurring before a member was reporting to the CAT.[26]

The proposed rule change includes new Supplementary Material .01 to clarify how IEX (or FINRA on behalf of IEX) will request data under these rules after members are reporting to the CAT. Specifically, the proposed Supplementary Material to the rule will note that IEX (or FINRA on behalf of IEX) will request information under the rule only if the information is not available in the CAT because, for example, the transactions in question occurred before the firm was reporting information to the CAT. In essence, under the new Supplementary Material, IEX (or FINRA on behalf of IEX) will make requests under these rules if and only if the information is not otherwise available through the CAT.

However, as noted above, IEX believes that the CAT must meet certain minimum accuracy and reliability standards before IEX could rely on the CAT Data to replace existing regulatory tools, including EBS. Consequently, the proposed Supplementary Material will be implemented only after the thresholds set forth above with respect to OATS and an acceptable accuracy rate for customer and account information are achieved and at least a 180-day time period has passed to allow IEX staff (or FINRA staff on behalf of IEX) to use the CAT to ensure that it is functioning at a level sufficient to ensure that IEX can rely solely on the CAT for the data and that the CAT Plan Processor is fulfilling its obligations under the CAT NMS Plan.

If the Commission approves the proposed rule change, IEX will announce the implementation date of the proposed rule change in a Regulatory Notice that will be published once IEX concludes the thresholds for accuracy and reliability described above have been met and that the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan.

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,[27] which require, among other things, that the IEX rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. IEX believes that the proposed rule change fulfills the obligation in the CAT NMS Plan for IEX to submit a proposed rule change to eliminate or modify duplicative rules. IEX believes that the approach set forth in the proposed rule change strikes the appropriate balance between ensuring that IEX is able to continue to fulfill its statutory obligation to protect investors and the public interest by ensuring its surveillance of market activity remains accurate and effective while also establishing a reasonable timeframe for elimination or modification of its rules that will be rendered duplicative after implementation of the CAT.

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. IEX notes that the proposed rule change implements provisions of the CAT NMS Plan, and is designed to assist IEX in meeting its regulatory obligations pursuant to the Plan. IEX also notes that the Proposed Rule Series implementing provisions of the CAT NMS Plan will apply equally to all firms that trade NMS Securities. In addition, all national securities exchanges and FINRA are proposing substantially similar rule filings. Therefore, this is not a competitive rule filing, and, therefore, it does not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Although written comments on the proposed rule change were not solicited, the Participants received comments from two commenters, the Financial Information Forum (''FIF'') and the Securities Industry and Financial Markets Association (''SIFMA''), regarding the retirement of systems related to the CAT.[28] In its comment letters, with regard to the retirement of duplicative systems more generally, FIF recommended that the Participants continue the effort to incorporate current reporting obligations into the CAT in order to replace existing reportable systems with the CAT. In addition, FIF further recommended that, once a CAT Reporter achieved satisfactory reporting data quality, the CAT Reporter should be exempt from reporting to any duplicative reporting systems. FIF believed that these recommendations ''would serve both an underlying regulatory objective of more immediate and accurate access to data as well as an industry objective of reduced costs and burdens of regulatory oversight.'' [29] In its comments about EBS specifically, FIF stated that the retirement of the EBS requirements should be a high priority, and that the CAT should be designed to include the requisite data elements to permit the rapid retirement of EBS.[30] Similarly, SIFMA stated that ''the establishment of the CAT must be accompanied by the prompt elimination of duplicative systems,'' and ''recommend[ed] that the initial technical specifications be designed to facilitate the immediate retirement of . . . duplicative reporting systems.'' [31]

[26] Firms are required to maintain the trade information for pre-CAT transactions in equities and options pursuant to applicable rules, such as books and records retention requirements, for the relevant time period, which is generally three or six years, depending upon the record. *See* 17 CFR 240.17a–3(a), 240.17a–4.

[27] 15 U.S.C. 78f(b)(6).

[28] Letter from William H. Hebert, FIF, to Participants re: Milestone for Participants' rule change filings to eliminate/modify duplicative rules (Apr. 12, 2017) (''FIF Letter''); Letter from William H. Hebert, FIF, to Brent J. Fields, SEC re: Milestone for Participants' rule change filings to eliminate/modify duplicative rules (Apr. 12, 2017); and Letter from Kenneth E. Bentsen, Jr., SIFMA, to Participants re: Selection of Thesys as CAT Processor (Apr. 4, 2017) (''SIFMA Letter'') at 2.

[29] FIF Letter at 2.

[30] FIF Letter at 2.

[31] SIFMA Letter at 2.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–IEX–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–IEX–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–IEX–2017–18, and should be submitted on or before June 22, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–11364 Filed 5–31–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80785; File No. SR–CBOE–2017–040]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Establish the Fees for Industry Members Related to the National Market System Plan Governing the Consolidated Audit Trail

May 26, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 16, 2017, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') 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 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 its Fees Schedule to establish the fees for Industry Members related to the CAT NMS Plan. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, 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

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC,[3] NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. and NYSE National, Inc.[4] (collectively, the ''Participants'') filed with the Commission, pursuant to Section 11A of the Exchange Act[5] and Rule 608 of Regulation NMS thereunder,[6] the CAT NMS Plan.[7] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal**

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[32] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. *See* Securities Exchange Act Rel. No. 80248 (Mar. 15, 2017), 82 FR 14547 (Mar. 21, 2017); Securities Exchange Act Rel. No. 80326 (Mar. 29, 2017), 82 FR 16460 (Apr. 4, 2017); and Securities Exchange Act Rel. No. 80325 (Mar. 29, 2017), 82 FR 16445 (Apr. 4, 2017).

[4] National Stock Exchange, Inc. has been renamed NYSE National, Inc. *See* Securities Exchange Act Rel. No. 79902 (Jan. 30, 2017), 82 FR 9258 (Feb. 3, 2017).

[5] 15 U.S.C. 78k–1.

[6] 17 CFR 242.608.

[7] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

Register on May 17, 2016,[8] and approved by the Commission, as modified, on November 15, 2016.[9] The Plan is designed to create, implement and maintain a consolidated audit trail (''CAT'') that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. The Plan accomplishes this by creating CAT NMS, LLC (the ''Company''), of which each Participant is a member, to operate the CAT.[10] Under the CAT NMS Plan, the Operating Committee of the Company (''Operating Committee'') has discretion to establish funding for the Company to operate the CAT, including establishing fees that the Participants will pay, and establishing fees for Industry Members that will be implemented by the Participants (''CAT Fees'').[11] The Participants are required to file with the SEC under Section 19(b) of the Exchange Act any such CAT Fees applicable to Industry Members that the Operating Committee approves.[12] Accordingly, CBOE submits this fee filing to propose the Consolidated Audit Trail Funding Fees, which will require Industry Members that are CBOE Trading Permit Holders to pay the CAT Fees determined by the Operating Committee.

(1) Executive Summary

The following provides an executive summary of the CAT funding model approved by the Operating Committee, as well as Industry Members' rights and obligations related to the payment of CAT Fees calculated pursuant to the CAT funding model. A detailed description of the CAT funding model and the CAT Fees follows this executive summary.

(A) CAT Funding Model

• *CAT Costs.* The CAT funding model is designed to establish CAT-specific fees to collectively recover the costs of building and operating the CAT from all CAT Reporters, including Industry Members and Participants. The overall CAT costs for the calculation of the CAT Fees in this fee filing are comprised of Plan Processor CAT costs and non-Plan Processor CAT costs incurred, and estimated to be incurred, from November 21, 2016 through November 21, 2017. (*See* Section 3(a)(2)(E) [sic] below[13])

• *Bifurcated Funding Model.* The CAT NMS Plan requires a bifurcated funding model, where costs associated with building and operating the CAT would be borne by (1) Participants and Industry Members that are Execution Venues for Eligible Securities through fixed tier fees based on market share, and (2) Industry Members (other than alternative trading systems (''ATSs'') that execute transactions in Eligible Securities (''Execution Venue ATSs'')) through fixed tier fees based on message traffic for Eligible Securities. (*See* Section 3(a)(2) [sic] below)

• *Industry Member Fees.* Each Industry Member (other than Execution Venue ATSs) will be placed into one of nine tiers of fixed fees, based on ''message traffic'' in Eligible Securities for a defined period (as discussed below). Prior to the start of CAT reporting, ''message traffic'' will be comprised of historical equity and equity options orders, cancels and quotes provided by each exchange and FINRA over the previous three months. After an Industry Member begins reporting to the CAT, ''message traffic'' will be calculated based on the Industry Member's Reportable Events reported to the CAT. Industry Members with lower levels of message traffic will pay a lower fee and Industry Members with higher levels of message traffic will pay a higher fee. (*See* Section 3(a)(2)(B) [sic] below)

• *Execution Venue Fees.* Each Equity Execution Venue will be placed in one of two tiers of fixed fees based on market share, and each Options Execution Venue will be placed in one of two tiers of fixed fees based on market share. Equity Execution Venue market share will be determined by calculating each Equity Execution Venue's proportion of the total volume of NMS Stock and OTC Equity shares reported by all Equity Execution Venues during the relevant time period. Similarly, market share for Options Execution Venues will be determined by calculating each Options Execution Venue's proportion of the total volume of Listed Options contracts reported by all Options Execution Venues during the relevant time period. Equity Execution Venues with a larger market share will pay a larger CAT Fee than Equity Execution Venues with a smaller market share. Similarly, Options Execution Venues with a larger market share will pay a larger CAT Fee than Options Execution Venues with a smaller market share. (*See* Section 3(a)(2)(C) [sic] below)

• *Cost Allocation.* For the reasons discussed below, in designing the model, the Operating Committee determined that 75 percent of total costs recovered would be allocated to Industry Members (other than Execution Venue ATSs) and 25 percent would be allocated to Execution Venues. In addition, the Operating Committee determined to allocate 75 percent of Execution Venue costs recovered to Equity Execution Venues and 25 percent to Options Execution Venues. (*See* Section 3(a)(2)(D) [sic] below)

• *Comparability of Fees.* The CAT funding model requires that the CAT Fees charged to the CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable (where, for these comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters, whether Execution Venues and/or Industry Members). (*See* Section 3(a)(2)(F) [sic] below)

(B) CAT Fees for Industry Members

• *Fee Schedule.* The quarterly CAT Fees for each tier for Industry Members are set forth in the two fee schedules in the Consolidated Audit Trail Funding Fees, one for Equity ATSs and one for Industry Members other than Equity ATSs. (*See* Section 3(a)(3)(B) [sic] below)

• *Quarterly Invoices.* Industry Members will be billed quarterly for CAT Fees, with the invoices payable within 30 days. The quarterly invoices will identify within which tier the Industry Member falls. (*See* Section 3(a)(3)(C) [sic] below)

• *Centralized Payment.* Each Industry Member will receive from the Company one invoice for its applicable CAT Fees, not separate invoices from each Participant of which it is a member. The Industry Members will pay its CAT Fees to the Company via the centralized system for the collection of CAT Fees established by the Operating Committee. (*See* Section 3(a)(3)(C) [sic] below)

• *Billing Commencement.* Industry Members will begin to receive invoices for CAT Fees as promptly as possible following the establishment of a billing mechanism. CBOE will issue a Regulatory Circular to Trading Permit Holders when the billing mechanism is established, specifying the date when such invoicing of Industry Members

[8] Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 FR 30614 (May 17, 2016).

[9] Securities Exchange Act Rel. No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016) (''Approval Order'').

[10] The Plan also serves as the limited liability company agreement for the Company.

[11] Section 11.1(b) of the CAT NMS Plan.

[12] *Id.*

[13] The Commission notes that references to Sections 3(a)(2) and 3(a)(3) in this Executive Summary should be instead to Sections II.A.1.(2) and II.A.1.(3), respectively.

will commence. (*See* Section 3(a)(2)(G) [sic] below)

(2) Description of the CAT Funding Model

Article XI of the CAT NMS Plan requires the Operating Committee to approve the operating budget, including projected costs of developing and operating the CAT for the upcoming year. As set forth in Article XI of the CAT NMS Plan, the CAT NMS Plan requires a bifurcated funding model, where costs associated with building and operating the Central Repository would be borne by (1) Participants and Industry Members that are Execution Venues through fixed tier fees based on market share, and (2) Industry Members (other than Execution Venue ATSs) through fixed tier fees based on message traffic. In its order approving the CAT NMS Plan, the Commission determined that the proposed funding model was ''reasonable'' [14] and ''reflects a reasonable exercise of the Participants' funding authority to recover the Participants' costs related to the CAT.'' [15]

More specifically, the Commission stated in approving the CAT NMS Plan that ''[t]he Commission believes that the proposed funding model is reasonably designed to allocate the costs of the CAT between the Participants and Industry Members.'' [16] The Commission further noted the following:

> The Commission believes that the proposed funding model reflects a reasonable exercise of the Participants' funding authority to recover the Participants' costs related to the CAT. The CAT is a regulatory facility jointly owned by the Participants and . . . the Exchange Act specifically permits the Participants to charge their members fees to fund their self-regulatory obligations. The Commission further believes that the proposed funding model is designed to impose fees reasonably related to the Participants' self-regulatory obligations because the fees would be directly associated with the costs of establishing and maintaining the CAT, and not unrelated SRO services.[17]
>
> Accordingly, the funding model imposes fees on both Participants and Industry Members.

In addition, as discussed in Appendix C of the CAT NMS Plan, the Operating Committee considered the advantages and disadvantages of a variety of alternative funding and cost allocation models before selecting the proposed model.[18] After analyzing the various alternatives, the Operating Committee determined that the proposed tiered, fixed fee funding model provides a variety of advantages in comparison to the alternatives. First, the fixed fee model, as opposed to a variable fee model, provides transparency, ease of calculation, ease of billing and other administrative functions, and predictability of a fixed fee. Such factors are crucial to estimating a reliable revenue stream for the Company and for permitting CAT Reporters to reasonably predict their payment obligations for budgeting purposes.[19] Additionally, a strictly variable or metered funding model based on message volume would be far more likely to affect market behavior and place an inappropriate burden on competition. Moreover, as the SEC noted in approving the CAT NMS Plan, ''[t]he Participants also have offered a reasonable basis for establishing a funding model based on broad tiers, in that it be may be easier to implement.'' [20]

In addition, multiple reviews of current broker-dealer order and trading data submitted under existing reporting requirements showed a wide range in activity among broker-dealers, with a number of broker-dealers submitting fewer than 1,000 orders per month and other broker-dealers submitting millions and even billions of orders in the same period. Accordingly, the CAT NMS Plan includes a tiered approach to fees. The tiered approach helps ensure that fees are equitably allocated among similarly situated CAT Reporters and furthers the goal of lessening the impact on smaller firms.[21] The self-regulatory organizations considered several approaches to developing a tiered model, including defining fee tiers based on such factors as size of firm, message traffic or trading dollar volume. After analyzing the alternatives, it was concluded that the tiering should be based on the relative impact of CAT Reporters on the CAT System.

Accordingly, the CAT NMS Plan contemplates that costs will be allocated across the CAT Reporters on a tiered basis to allocate costs to those CAT Reporters that contribute more to the costs of creating, implementing and maintaining the CAT.[22] The fees to be assessed at each tier are calculated so as to recoup a proportion of costs appropriate to the message traffic or market share (as applicable) from CAT Reporters in each tier. Therefore, Industry Members generating the most message traffic will be in the higher tiers, and therefore be charged a higher fee. Industry Members with lower levels of message traffic will be in lower tiers and will be assessed a smaller fee for the CAT.[23] Correspondingly, Execution Venues with the highest market share will be in the top tier, and therefore will be charged a higher fee. Execution Venues with a lower market share will be in the lower tier and will be assessed a smaller fee for the CAT.[24]

The Commission also noted in approving the CAT NMS Plan that ''[t]he Participants have offered a credible justification for using different criteria to charge Execution Venues (market share) and Industry Members (message traffic)'' [25] in the CAT funding model. While there are multiple factors that contribute to the cost of building, maintaining and using the CAT, processing and storage of incoming message traffic is one of the most significant cost drivers for the CAT.[26] Thus, the CAT NMS Plan provides that the fees payable by Industry Members (other than Execution Venue ATSs) will be based on the message traffic generated by such Industry Member.[27]

The CAT NMS Plan provides that the Operating Committee will use different criteria to establish fees for Execution Venues and non-Execution Venues due to the fundamental differences between the two types of entities. In particular, the CAT NMS Plan provides that fees charged to CAT Reporters that are Execution Venues will be based on the level of market share and that costs charged to Industry Members (other than Execution Venue ATSs) will be based upon message traffic.[28] Because most Participant message traffic consists of quotations, and Participants usually disseminate quotations in all instruments they trade, regardless of execution volume, Execution Venues that are Participants generally disseminate similar amounts of message traffic. Accordingly, basing fees for Execution Venues on message traffic

[14] Approval Order at 84796.

[15] *Id.* at 84794.

[16] *Id.* at 84795.

[17] *Id.* at 84794.

[18] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85006.

[19] In choosing a tiered fee structure, the self-regulatory organizations (''SROs'') concluded that the variety of benefits offered by a tiered fee structure, discussed above, outweighed the fact that Industry Members in any particular tier would pay different rates per message traffic order event (*e.g.,* an Industry Member with the largest amount of message traffic in one tier would pay a smaller amount per order event than an Industry Member in the same tier with the least amount of message traffic). Such variation is the natural result of a tiered fee structure.

[20] Approval Order at 84796.

[21] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85006.

[22] Approval Order at 85005.

[23] *Id.*

[24] *Id.*

[25] *Id.* at 84796.

[26] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85005.

[27] Section 11.3(b) of the CAT NMS Plan.

[28] Section 11.2(c) of the CAT NMS Plan.

would not provide the same degree of differentiation among Execution Venues that it does among Industry Members (other than Execution Venue ATSs). In contrast, execution volume more accurately delineates the different levels of trading activity of Execution Venues.[29]

The CAT NMS Plan's funding model also is structured to avoid a ''reduction in market quality.'' [30] The tiered, fixed fee funding model is designed to limit the disincentives to providing liquidity to the market. For example, the Participants expect that a firm that had a large volume of quotes would likely be categorized in one of the upper tiers, and would not be assessed a fee for this traffic directly as they would under a more directly metered model. In contrast, strictly variable or metered funding models based on message volume were far more likely to affect market behavior. In approving the CAT NMS Plan, the SEC stated that ''[t]he Participants also offered a reasonable basis for establishing a funding model based on broad tiers, in that it may be . . . less likely to have an incremental deterrent effect on liquidity provision.'' [31]

The CAT NMS Plan is structured to avoid potential conflicts raised by the Operating Committee determining fees applicable to its own members—the Participants. First, the Company will be operated on a ''break-even'' basis, with fees imposed to cover costs and an appropriate reserve. Any surpluses will be treated as an operational reserve to offset future fees and will not be distributed to the Participants as profits.[32] To ensure that the Participants' operation of the CAT will not contribute to the funding of their other operations, Section 11.1(c) of the CAT NMS Plan specifically states that ''[a]ny surplus of the Company's revenues over its expenses shall be treated as an operational reserve to offset future fees.'' In addition, as set forth in Article VIII of the CAT NMS Plan, the Company ''intends to operate in a manner such that it qualifies as a 'business league' within the meaning of Section 501(c)(6) of the [Internal Revenue] Code.'' To qualify as a business league, an organization must ''not [be] organized for profit and no part of the net earnings of [the organization can] inure[ ] to the benefit of any private shareholder or individual.'' [33] As the SEC stated when approving the CAT NMS Plan, ''the Commission believes that the Company's application for Section 501(c)(6) business league status addresses issues raised by commenters about the Plan's proposed allocation of profit and loss by mitigating concerns that the Company's earnings could be used to benefit individual Participants.'' [34]

Finally, by adopting a CAT-specific fee, the Participants will be fully transparent regarding the costs of the CAT. Charging a general regulatory fee, which would be used to cover CAT costs as well as other regulatory costs, would be less transparent than the selected approach of charging a fee designated to cover CAT costs only.

A full description of the funding model is set forth below. This description includes the framework for the funding model as set forth in the CAT NMS Plan, as well as the details as to how the funding model will be applied in practice, including the number of fee tiers and the applicable fees for each tier. CBOE notes that the complete funding model is described below, including those fees that are to be paid by the Participants. The proposed Consolidated Audit Trail Funding Fees, however, do not apply to the Participants; the proposed Consolidated Audit Trail Funding Fees only apply to Industry Members. The CAT fees for Participants will be imposed separately by the Operating Committee pursuant to the CAT NMS Plan.

(A) Funding Principles

Section 11.2 of the CAT NMS Plan sets forth the principles that the Operating Committee applied in establishing the funding for the Company. The Operating Committee has considered these funding principles as well as the other funding requirements set forth in the CAT NMS Plan and in Rule 613 in developing the proposed funding model. The following are the funding principles in Section 11.2 of the CAT NMS Plan:

- To create transparent, predictable revenue streams for the Company that are aligned with the anticipated costs to build, operate and administer the CAT and other costs of the Company;
- To establish an allocation of the Company's related costs among Participants and Industry Members that is consistent with the Exchange Act, taking into account the timeline for implementation of the CAT and distinctions in the securities trading operations of Participants and Industry Members and their relative impact upon the Company's resources and operations;
- To establish a tiered fee structure in which the fees charged to: (i) CAT Reporters that are Execution Venues, including ATSs, are based upon the level of market share; (ii) Industry Members' non-ATS activities are based upon message traffic; (iii) the CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable (where, for these comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters, whether Execution Venue and/or Industry Members);
- To provide for ease of billing and other administrative functions;
- To avoid any disincentives such as placing an inappropriate burden on competition and a reduction in market quality; and
- To build financial stability to support the Company as a going concern.

(B) Industry Member Tiering

Under Section 11.3(b) of the CAT NMS Plan, the Operating Committee is required to establish fixed fees to be payable by Industry Members, based on message traffic generated by such Industry Member, with the Operating Committee establishing at least five and no more than nine tiers.

The CAT NMS Plan clarifies that the fixed fees payable by Industry Members pursuant to Section 11.3(b) shall, in addition to any other applicable message traffic, include message traffic generated by: (i) An ATS that does not execute orders that is sponsored by such Industry Member; and (ii) routing orders to and from any ATS sponsored by such Industry Member. In addition, the Industry Member fees will apply to Industry Members that act as routing broker-dealers for exchanges. The Industry Member fees will not be applicable, however, to an ATS that qualifies as an Execution Venue, as discussed in more detail in the section on Execution Venue tiering.

In accordance with Section 11.3(b), the Operating Committee approved a tiered fee structure for Industry Members (other than Execution Venue ATSs) as described in this section. In determining the tiers, the Operating Committee considered the funding principles set forth in Section 11.2 of the CAT NMS Plan, seeking to create funding tiers that take into account the relative impact on CAT System

[29] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85005.

[30] Section 11.2(e) of the CAT NMS Plan.

[31] Approval Order at 84796.

[32] *Id.* at 84792.

[33] 26 U.S.C. 501(c)(6).

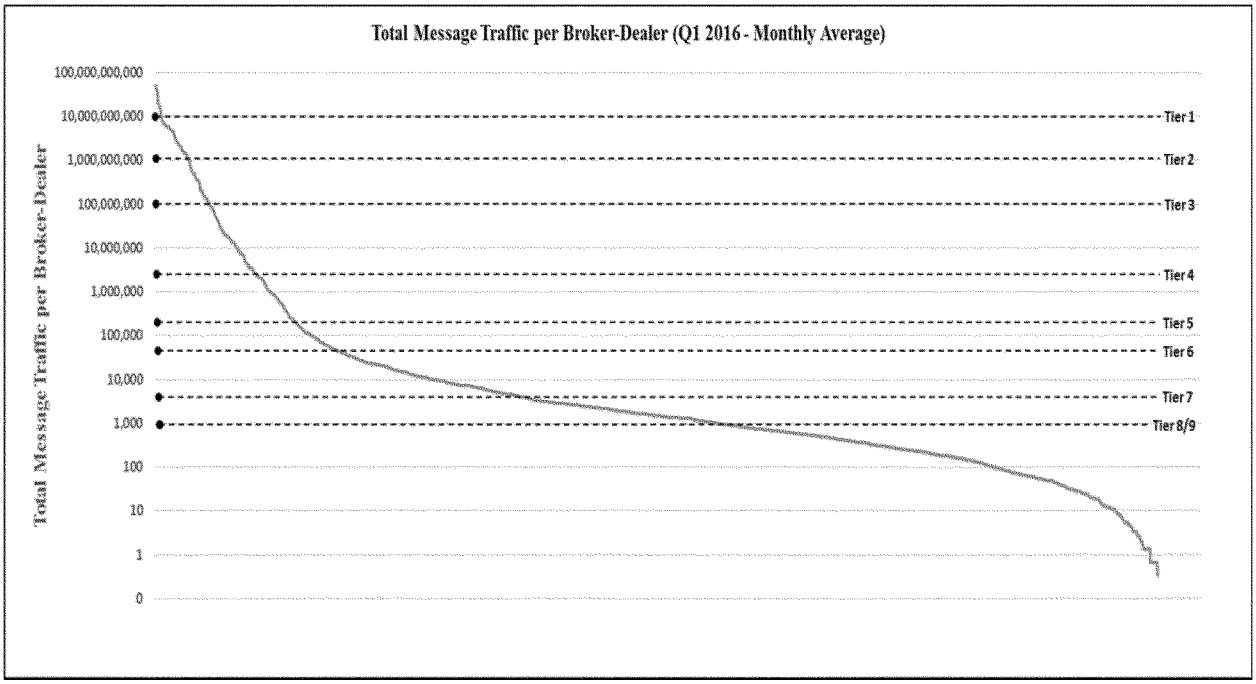
[34] Approval Order at 84793.

resources of different Industry Members, and that establish comparable fees among the CAT Reporters with the most Reportable Events. The Operating Committee has determined that establishing nine tiers results in the fairest allocation of fees, best distinguishing between Industry Members with differing levels of message traffic. Thus, each such Industry Member will be placed into one of nine tiers of fixed fees, based on ''message traffic'' for a defined period (as discussed below). A nine tier structure was selected to provide the widest range of levels for tiering Industry Members such that Industry Members submitting significantly less message traffic to the CAT would be adequately differentiated from Industry Members submitting substantially more message traffic. The Operating Committee considered historical message traffic generated by Industry Members across all exchanges and as submitted to FINRA's Order Audit Trail System (''OATS''), and considered the distribution of firms with similar levels of message traffic, grouping together firms with similar levels of message traffic. Based on this, the Operating Committee determined that nine tiers would best group firms with similar levels of message traffic, charging those firms with higher impact on the CAT more, while lowering the burden of Industry Members that have less CAT-related activity.

Each Industry Member (other than Execution Venue ATSs) will be ranked by message traffic and tiered by predefined Industry Member percentages (the ''Industry Member Percentages''). The Operating Committee determined to use predefined percentages rather than fixed volume thresholds to allow the funding model to ensure that the total CAT fees collected recover the intended CAT costs regardless of changes in the total level of message traffic. To determine the fixed percentage of Industry Members in each tier, the Operating Committee analyzed historical message traffic generated by Industry Members across all exchanges and as submitted to OATS, and considered the distribution of firms with similar levels of message traffic, grouping together firms with similar levels of message traffic. Based on this, the Operating Committee identified tiers that would group firms with similar levels of message traffic, charging those firms with higher impact on the CAT more, while lowering the burden on Industry Members that have less CAT-related activity.

The percentage of costs recovered by each Industry Member tier will be determined by predefined percentage allocations (the ''Industry Member Recovery Allocation''). In determining the fixed percentage allocation of costs recovered for each tier, the Operating Committee considered the impact of CAT Reporter message traffic on the CAT System as well as the distribution of total message volume across Industry Members while seeking to maintain comparable fees among the largest CAT Reporters. Accordingly, following the determination of the percentage of Industry Members in each tier, the Operating Committee identified the percentage of total market volume for each tier based on the historical message traffic upon which Industry Members had been initially ranked. Taking this into account along with the resulting percentage of total recovery, the percentage allocation of costs recovered for each tier were assigned, allocating higher percentages of recovery to tiers with higher levels of message traffic while avoiding any inappropriate burden on competition. Furthermore, by using percentages of Industry Members and costs recovered per tier, the Operating Committee sought to include stability and elasticity within the funding model, allowing the funding model to respond to changes in either the total number of Industry Members or the total level of message traffic.

The following chart illustrates the breakdown of nine Industry Member tiers across the monthly average of total equity and equity options orders, cancels and quotes in Q1 2016 and identifies relative gaps across varying levels of Industry Member message traffic as well as message traffic thresholds between the largest of Industry Member message traffic gaps. The Operating Committee referenced similar distribution illustrations to determine the appropriate division of Industry Member percentages in each tier by considering the grouping of firms with similar levels of message traffic and seeking to identify relative breakpoints in the message traffic between such groupings. In reviewing the chart and its corresponding table, note that while these distribution illustrations were referenced to help differentiate between Industry Member tiers, the proposed funding model is directly driven, not by fixed message traffic thresholds, but rather by fixed percentages of Industry Members across tiers to account for fluctuating levels of message traffic across time and to provide for the financial stability of the CAT by ensuring that the funding model will recover the required amounts regardless of changes in the number of Industry Members or the amount of message traffic. Actual messages in any tier will vary based on the actual traffic in a given measurement period, as well as the number of firms included in the measurement period. The Industry Member Percentages and Industry Member Recovery Allocation for each tier will remain fixed with each Industry Member's tier to be reassigned periodically, as described below in Section 3(a)(1)(H) [sic].



Industry Member tier	Monthly average message traffic per Industry Member (orders, quotes and cancels)
Tier 1	>10,000,000,000
Tier 2	>1,000,000,000
Tier 3	>100,000,000
Tier 4	>2,500,000
Tier 5	>200,000
Tier 6	>50,000
Tier 7	>5,000
Tier 8	>1,000
Tier 9	≤1,000

Based on the above analysis, the Operating Committee approved the following Industry Member Percentages and Recovery Allocations:

Industry Member tier	Percentage of Industry Members	Percentage of Industry Member recovery	Percentage of total recovery
Tier 1	0.500	8.50	6.38
Tier 2	2.500	35.00	26.25
Tier 3	2.125	21.25	15.94
Tier 4	4.625	15.75	11.81
Tier 5	3.625	7.75	5.81
Tier 6	4.000	5.25	3.94
Tier 7	17.500	4.50	3.38
Tier 8	20.125	1.50	1.13
Tier 9	45.000	0.50	0.38
Total	100	100	75

For the purposes of creating these tiers based on message traffic, the Operating Committee determined to define the term ''message traffic'' separately for the period before the commencement of CAT reporting and for the period after the start of CAT reporting. The different definition for message traffic is necessary as there will be no Reportable Events as defined in the Plan, prior to the commencement of CAT reporting. Accordingly, prior to the start of CAT reporting, ''message traffic'' will be comprised of historical equity and equity options orders, cancels and quotes provided by each exchange and FINRA over the previous three

months.[35] Prior to the start of CAT reporting, orders would be comprised of the total number of equity and equity options orders received and originated by a member of an exchange or FINRA over the previous three-month period, including principal orders, cancel/replace orders, market maker orders originated by a member of an exchange, and reserve (iceberg) orders as well as order routes and executions originated by a member of FINRA, and excluding order rejects and implied orders.[36] In addition, prior to the start of CAT reporting, cancels would be comprised of the total number of equity and equity option cancels received and originated by a member of an exchange or FINRA over a three-month period, excluding order modifications (*e.g.,* order updates, order splits, partial cancels). Furthermore, prior to the start of CAT reporting, quotes would be comprised of information readily available to the exchanges and FINRA, such as the total number of historical equity and equity options quotes received and originated by a member of an exchange or FINRA over the prior three-month period.

After an Industry Member begins reporting to the CAT, ''message traffic'' will be calculated based on the Industry Member's Reportable Events reported to the CAT as will be defined in the Technical Specifications.[37]

The Operating Committee has determined to calculate fee tiers every three months, on a calendar quarter basis, based on message traffic from the prior three months. Based on its analysis of historical data, the Operating Committee believes that calculating tiers based on three months of data will provide the best balance between reflecting changes in activity by Industry Members while still providing predictability in the tiering for Industry Members. Because fee tiers will be calculated based on message traffic from the prior three months, the Operating Committee will begin calculating message traffic based on an Industry Member's Reportable Events reported to the CAT once the Industry Member has been reporting to the CAT for three months. Prior to that, fee tiers will be calculated as discussed above with regard to the period prior to CAT reporting.

(C) Execution Venue Tiering

Under Section 11.3(a) of the CAT NMS Plan, the Operating Committee is required to establish fixed fees payable by Execution Venues. Section 1.1 of the CAT NMS Plan defines an Execution Venue as ''a Participant or an alternative trading system (''ATS'') (as defined in Rule 300 of Regulation ATS) that operates pursuant to Rule 301 of Regulation ATS (excluding any such ATS that does not execute orders).'' [38]

The Participants determined that ATSs should be included within the definition of Execution Venue. Given the similarity between the activity of exchanges and ATSs, both of which meet the definition of an ''exchange'' as set forth in the Exchange Act and the fact that the similar trading models would have similar anticipated burdens on the CAT, the Participants determined that ATSs should be treated in the same manner as the exchanges for the purposes of determining the level of fees associated with the CAT.[39]

Given the differences between Execution Venues that trade NMS Stocks and/or OTC Equity Securities and Execution Venues that trade Listed Options, Section 11.3(a) addresses Execution Venues that trade NMS Stocks and/or OTC Equity Securities separately from Execution Venues that trade Listed Options. Equity and Options Execution Venues are treated separately for two reasons. First, the differing quoting behavior of Equity and Options Execution Venues makes comparison of activity between Execution Venues difficult. Second, Execution Venue tiers are calculated based on market share of share volume, and it is therefore difficult to compare market share between asset classes (*i.e.,* equity shares versus options contracts). Discussed below is how the funding model treats the two types of Execution Venues.

(I) NMS Stocks and OTC Equity Securities

Section 11.3(a)(i) of the CAT NMS Plan states that each Execution Venue that (i) executes transactions or, (ii) in the case of a national securities association, has trades reported by its members to its trade reporting facility or facilities for reporting transactions effected otherwise than on an exchange, in NMS Stocks or OTC Equity Securities will pay a fixed fee depending on the market share of that Execution Venue in NMS Stocks and OTC Equity Securities, with the Operating Committee establishing at least two and not more than five tiers of fixed fees, based on an Execution Venue's NMS Stocks and OTC Equity Securities market share. For these purposes, market share for Execution Venues that execute transactions will be calculated by share volume, and market share for a national securities association that has trades reported by its members to its trade reporting facility or facilities for reporting transactions effected otherwise than on an exchange in NMS Stocks or OTC Equity Securities will be calculated based on share volume of trades reported, provided, however, that the share volume reported to such national securities association by an Execution Venue shall not be included in the calculation of such national security association's market share.

In accordance with Section 11.3(a)(i) of the CAT NMS Plan, the Operating Committee approved a tiered fee structure for Equity Execution Venues and Option Execution Venues. In determining the Equity Execution Venue Tiers, the Operating Committee considered the funding principles set forth in Section 11.2 of the CAT NMS Plan, seeking to create funding tiers that take into account the relative impact on system resources of different Equity Execution Venues, and that establish comparable fees among the CAT Reporters with the most Reportable Events. Each Equity Execution Venue will be placed into one of two tiers of fixed fees, based on the Execution Venue's NMS Stocks and OTC Equity Securities market share. In choosing two tiers, the Operating Committee performed an analysis similar to that discussed above with regard to the non-Execution Venue Industry Members to determine the number of tiers for Equity Execution Venues. The Operating Committee determined to establish two tiers for Equity Execution Venues, rather than a larger number of tiers as established for non-Execution Venue

[35] The SEC approved exemptive relief permitting Options Market Maker quotes to be reported to the Central Repository by the relevant Options Exchange in lieu of requiring that such reporting be done by both the Options Exchange and the Options Market Maker, as required by Rule 613 of Regulation NMS. *See* Securities Exchange Act Release No. 77265 (Mar. 1, 2017 [sic], 81 FR 11856 (Mar. 7, 2016). This exemption applies to Options Market Maker quotes for CAT reporting purposes only. Therefore, notwithstanding the reporting exemption provided for Options Market Maker quotes, Options Market Maker quotes will be included in the calculation of total message traffic for Options Market Makers for purposes of tiering under the CAT funding model both prior to CAT reporting and once CAT reporting commences.

[36] Consequently, firms that do not have ''message traffic'' reported to an exchange or OATS before they are reporting to the CAT would not be subject to a fee until they begin to report information to CAT.

[37] If an Industry Member (other than an Execution Venue ATS) has no orders, cancels or quotes prior to the commencement of CAT Reporting, or no Reportable Events after CAT reporting commences, then the Industry Member would not have a CAT fee obligation.

[38] Although FINRA does not operate an execution venue, because it is a Participant, it is considered an ''Execution Venue'' under the Plan for purposes of determining fees.

[39] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85005.

Industry Members, because the two tiers were sufficient to distinguish between the smaller number of Equity Execution Venues based on market share. Furthermore, the incorporation of additional Equity Execution Venue tiers would result in significantly higher fees for Tier 1 Equity Execution Venues and diminish comparability between Execution Venues and Industry Members.

Each Equity Execution Venue will be ranked by market share and tiered by predefined Execution Venue percentages, (the ''Equity Execution Venue Percentages''). In determining the fixed percentage of Equity Execution Venues in each tier, the Operating Committee looked at historical market share of share volume for execution venues. Equities Execution Venue market share of share volume were sourced from market statistics made publicly-available by Bats Global Markets, Inc. (''Bats''). ATS market share of share volume was sourced from market statistics made publicly-available by FINRA. FINRA trading [sic] reporting facility (''TRF'') market share of share volume was sourced from market statistics made publicly available by Bats. As indicated by FINRA, ATSs accounted for 37.80% of the share volume across the TRFs during the recent tiering period. A 37.80/62.20 split was applied to the ATS and non-ATS breakdown of FINRA market share, with FINRA tiered based only on the non-ATS portion of its TRF market share of share volume.

Based on this, the Operating Committee considered the distribution of Execution Venues, and grouped together Execution Venues with similar levels of market share of share volume. In doing so, the Participants considered that, as previously noted, Execution Venues in many cases have similar levels of message traffic due to quoting activity, and determined that it was simpler and more appropriate to have fewer, rather than more, Execution Venue tiers to distinguish between Execution Venues.

The percentage of costs recovered by each Equity Execution Venue tier will be determined by predefined percentage allocations (the ''Equity Execution Venue Recovery Allocation''). In determining the fixed percentage allocation of costs recovered for each tier, the Operating Committee considered the impact of CAT Reporter market share activity on the CAT System as well as the distribution of total market volume across Equity Execution Venues while seeking to maintain comparable fees among the largest CAT Reporters. Accordingly, following the determination of the percentage of Execution Venues in each tier, the Operating Committee identified the percentage of total market volume for each tier based on the historical market share upon which Execution Venues had been initially ranked. Taking this into account along with the resulting percentage of total recovery, the percentage allocation of costs recovered for each tier were assigned, allocating higher percentages of recovery to the tier with a higher level of market share while avoiding any inappropriate burden on competition. Furthermore, due to the similar levels of impact on the CAT System across Execution Venues, there is less variation in CAT Fees between the highest and lowest of tiers for Execution Venues. Furthermore, by using percentages of Equity Execution Venues and costs recovered per tier, the Operating Committee sought to include stability and elasticity within the funding model, allowing the funding model to respond to changes in either the total number of Equity Execution Venues or changes in market share.

Based on this analysis, the Operating Committee approved the following Equity Execution Venue Percentages and Recovery Allocations:

Equity Execution Venue tier	Percentage of Equity Execution Venues	Percentage of Execution Venue recovery	Percentage of total recovery
Tier 1	25.00	26.00	6.50
Tier 2	75.00	49.00	12.25
Total	100	75	18.75

The following table exhibits the relative separation of market share of share volume between Tier 1 and Tier 2 Equity Execution Venues. In reviewing the table, note that while this division was referenced as a data point to help differentiate between Equity Execution Venue tiers, the proposed funding model is directly driven not by market share thresholds, but rather by fixed percentages of Equity Execution Venues across tiers to account for fluctuating levels of market share across time. Actual market share in any tier will vary based on the actual market activity in a given measurement period, as well as the number of Equity Execution Venues included in the measurement period. The Equity Execution Venue Percentages and Equity Execution Venue Recovery Allocation for each tier will remain fixed with each Equity Execution Venue tier to be reassigned periodically, as described below in Section 3(a)(1)(I) [sic].

Equity Execution Venue tier	Equity market share of share volume (%)
Tier 1	≥1
Tier 2	<1

(II) Listed Options

Section 11.3(a)(ii) of the CAT NMS Plan states that each Execution Venue that executes transactions in Listed Options will pay a fixed fee depending on the Listed Options market share of that Execution Venue, with the Operating Committee establishing at least two and no more than five tiers of fixed fees, based on an Execution Venue's Listed Options market share. For these purposes, market share will be calculated by contract volume.

In accordance with Section 11.3(a)(ii) of the CAT NMS Plan, the Operating Committee approved a tiered fee structure for Options Execution Venues. In determining the tiers, the Operating Committee considered the funding principles set forth in Section 11.2 of the CAT NMS Plan, seeking to create funding tiers that take into account the relative impact on system resources of different Options Execution Venues, and that establish comparable fees among the CAT Reporters with the most Reportable Events. Each Options Execution Venue will be placed into one of two tiers of fixed fees, based on the Execution Venue's Listed Options market share. In choosing two tiers, the Operating Committee performed an analysis similar to that discussed above with regard to Industry Members (other

than Execution Venue ATSs) to determine the number of tiers for Options Execution Venues. The Operating Committee determined to establish two tiers for Options Execution Venues, rather than a larger number of tiers as established for Industry Members (other than Execution Venue ATSs), because the two tiers were sufficient to distinguish between the smaller number of Options Execution Venues based on market share. Furthermore, due to the smaller number of Options Execution Venues, the incorporation of additional Options Execution Venue tiers would result in significantly higher fees for Tier 1 Options Execution Venues and reduce comparability between Execution Venues and Industry Members.

Each Options Execution Venue will be ranked by market share and tiered by predefined Execution Venue percentages, (the ''Options Execution Venue Percentages''). To determine the fixed percentage of Options Execution Venues in each tier, the Operating Committee analyzed the historical and publicly available market share of Options Execution Venues to group Options Execution Venues with similar market shares across the tiers. Options Execution Venue market share of share volume were sourced from market statistics made publicly-available by Bats. The process for developing the Options Execution Venue Percentages was the same as discussed above with regard to Equity Execution Venues.

The percentage of costs recovered by each Options Execution Venue tier will be determined by predefined percentage allocations (the ''Options Execution Venue Recovery Allocation''). In determining the fixed percentage allocation of costs recovered for each tier, the Operating Committee considered the impact of CAT Reporter market share activity on the CAT System as well as the distribution of total market volume across Options Execution Venues while seeking to maintain comparable fees among the largest CAT Reporters. Furthermore, by using percentages of Options Execution Venues and costs recovered per tier, the Operating Committee sought to include stability and elasticity within the funding model, allowing the funding model to respond to changes in either the total number of Options Execution Venues or changes in market share. The process for developing the Options Execution Venue Recovery Allocation was the same as discussed above with regard to Equity Execution Venues.

Based on this analysis, the Operating Committee approved the following Options Execution Venue Percentages and Recovery Allocations:

Options Execution Venue tier	Percentage of options Execution Venues	Percentage of Execution Venue recovery	Percentage of total recovery
Tier 1	75.00	20.00	5.00
Tier 2	25.00	5.00	1.25
Total	100	25	6.25

The following table exhibits the relative separation of market share of share volume between Tier 1 and Tier 2 Options Execution Venues. In reviewing the table, note that while this division was referenced as a data point to help differentiate between Options Execution Venue tiers, the proposed funding model is directly driven, not by market share thresholds, but rather by fixed percentages of Options Execution Venues across tiers to account for fluctuating levels of market share across time. Actual market share in any tier will vary based on the actual market activity in a given measurement period, as well as the number of Options Execution Venues included in the measurement period. The Options Execution Venue Percentages and Equity Execution Venue Recovery Allocation for each tier will remain fixed with each Options Execution Venue tier to be reassigned periodically, as described below in Section 3(a)(1)(I) [sic].

Options Execution Venue tier	Options market share of share volume (%)
Tier 1	≥1
Tier 2	<1

(III) Market Share/Tier Assignments

The Operating Committee determined that, prior to the start of CAT reporting, market share for Execution Venues would be sourced from publicly-available market data. Options and equity volumes for Participants will be sourced from market data made publicly available by Bats while Execution Venue ATS volumes will be sourced from market data made publicly available by FINRA. Set forth in the Appendix are two charts, one listing the current Equity Execution Venues, each with its rank and tier, and one listing the current Options Execution Venues, each with its rank and tier.

After the commencement of CAT reporting, market share for Execution Venues will be sourced from data reported to the CAT. Equity Execution Venue market share will be determined by calculating each Equity Execution Venue's proportion of the total volume of NMS Stock and OTC Equity shares reported by all Equity Execution Venues during the relevant time period. Similarly, market share for Options Execution Venues will be determined by calculating each Options Execution Venue's proportion of the total volume of Listed Options contracts reported by all Options Execution Venues during the relevant time period.

The Operating Committee has determined to calculate fee tiers for Execution Venues every three months based on market share from the prior three months. Based on its analysis of historical data, the Operating Committee believes calculating tiers based on three months of data will provide the best balance between reflecting changes in activity by Execution Venues while still providing predictability in the tiering for Execution Venues.

(D) Allocation of Costs

In addition to the funding principles discussed above, including comparability of fees, Section 11.1(c) of the CAT NMS Plan also requires expenses to be fairly and reasonably shared among the Participants and Industry Members. Accordingly, in developing the proposed fee schedules pursuant to the funding model, the Operating Committee calculated how the CAT costs would be allocated between Industry Members and

Execution Venues, and how the portion of CAT costs allocated to Execution Venues would be allocated between Equity Execution Venues and Options Execution Venues. These determinations are described below.

(I) Allocation Between Industry Members and Execution Venues

In determining the cost allocation between Industry Members (other than Execution Venue ATSs) and Execution Venues, the Operating Committee analyzed a range of possible splits for revenue recovered from such Industry Members and Execution Venues. Based on this analysis, the Operating Committee determined that 75 percent of total costs recovered would be allocated to Industry Members (other than Execution Venue ATSs) and 25 percent would be allocated to Execution Venues. The Operating Committee determined that this 75/25 division maintained the greatest level of comparability across the funding model, keeping in view that comparability should consider affiliations among or between CAT Reporters (*e.g.,* firms with multiple Industry Members and/or exchange licenses). For example, the cost allocation establishes fees for the largest Industry Members (*i.e.,* those Industry Members in Tiers 1, 2 and 3) that are comparable to the largest Equity Execution Venues and Options Execution Venues (*i.e.,* those Execution Venues in Tier 1). In addition, the cost allocation establishes fees for Execution Venue complexes that are comparable to those of Industry Member complexes. For example, when analyzing alternative allocations, other possible allocations led to much higher fees for larger Industry Members than for larger Execution Venues or vice versa, and/or led to much higher fees for Industry Member complexes than Execution Venue complexes or vice versa.

Furthermore, the allocation of total CAT costs recovered recognizes the difference in the number of CAT Reporters that are Industry Members versus CAT Reporters that are Execution Venues. Specifically, the cost allocation takes into consideration that there are approximately 25 times more Industry Members expected to report to the CAT than Execution Venues (*e.g.,* an estimated 1,630 Industry Members versus 70 Execution Venues as of January 2017).

(II) Allocation Between Equity Execution Venues and Options Execution Venues

The Operating Committee also analyzed how the portion of CAT costs allocated to Execution Venues would be allocated between Equity Execution Venues and Options Execution Venues. In considering this allocation of costs, the Operating Committee analyzed a range of alternative splits for revenue recovered between Equity and Options Execution Venues, including a 70/30, 67/33, 65/35, 50/50 and 25/75 split. Based on this analysis, the Operating Committee determined to allocate 75 percent of Execution Venue costs recovered to Equity Execution Venues and 25 percent to Options Execution Venues. The Operating Committee determined that a 75/25 division between Equity and Options Execution Venues maintained elasticity across the funding model as well the greatest level of fee equitability and comparability based on the current number of Equity and Options Execution Venues. For example, the allocation establishes fees for the larger Equity Execution Venues that are comparable to the larger Options Execution Venues, and fees for the smaller Equity Execution Venues that are comparable to the smaller Options Execution Venues. In addition to fee comparability between Equity Execution Venues and Options Execution Venues, the allocation also establishes equitability between larger (Tier 1) and smaller (Tier 2) Execution Venues based upon the level of market share. Furthermore, the allocation is intended to reflect the relative levels of current equity and options order events.

(E) Fee Levels

The Operating Committee determined to establish a CAT-specific fee to collectively recover the costs of building and operating the CAT. Accordingly, under the funding model, the sum of the CAT Fees is designed to recover the total cost of the CAT. The Operating Committee has determined overall CAT costs to be comprised of Plan Processor costs and non-Plan Processor costs, which are estimated to be $50,700,000 in total for the year beginning November 21, 2016.[40]

The Plan Processor costs relate to costs incurred by the Plan Processor and consist of the Plan Processor's current estimates of average yearly ongoing costs, including development cost, which total $37,500,000. This amount is based upon the fees due to the Plan Processor pursuant to the agreement with the Plan Processor.

The non-Plan Processor estimated costs incurred and to be incurred by the Company through November 21, 2017 consist of three categories of costs. The first category of such costs are third party support costs, which include historic legal fees, consulting fees and audit fees from November 21, 2016 until the date of filing as well as estimated third party support costs for the rest of the year. These amount to an estimated $5,200,000. The second category of non-Plan Processor costs are estimated insurance costs for the year. Based on discussions with potential insurance providers, assuming $2–5 million insurance premium on $100 million in coverage, the Company has received an estimate of $3,000,000 for the annual cost. The final cost figures will be determined following receipt of final underwriter quotes. The third category of non-Plan Processor costs is the operational reserve, which is comprised of three months of ongoing Plan Processor costs ($9,375,000), third party support costs ($1,300,000) and insurance costs ($750,000). The Operating Committee aims to accumulate the necessary funds for the establishment of the three-month operating reserve for the Company through the CAT Fees charged to CAT Reporters for the year. On an ongoing basis, the Operating Committee will account for any potential need for the replenishment of the operating reserve or other changes to total cost during its annual budgeting process. The following table summarizes the Plan Processor and non-Plan Processor cost components which comprise the total CAT costs of $50,700,000.

Cost category	Cost component	Amount
Plan Processor	Operational Costs	$37,500,000
Non-Plan Processor	Third Party Support Costs	5,200,000
	Operational Reserve	[41] 5,000,000
	Insurance Costs	3,000,000

[40] It is anticipated that CAT-related costs incurred prior to November 21, 2016 will be addressed via a separate fee filing.

Cost category	Cost component	Amount
Estimated Total		50,700,000

Based on the estimated costs and the calculations for the funding model described above, the Operating Committee determined to impose the following fees: [42]

For Industry Members (other than Execution VenueATSs):

Tier	Monthly CAT fee	Quarterly CAT fee	CAT fees paid annually [43]
1	$33,668	$101,004	$404,016
2	27,051	81,153	324,612
3	19,239	57,717	230,868
4	6,655	19,965	79,860
5	4,163	12,489	49,956
6	2,560	7,680	30,720
7	501	1,503	6,012
8	145	435	1,740
9	22	66	264

For Execution Venues for NMS Stocks and OTC Equity Securities:

Tier	Monthly CAT fee	Quarterly CAT fee	CAT fees paid annually [44]
1	$21,125	$63,375	$253,500
2	12,940	38,820	155,280

For Execution Venues for Listed Options:

Tier	Monthly CAT fee	Quarterly CAT fee	CAT fees paid annually [45]
1	$19,205	$57,615	$230,460
2	13,204	39,612	158,448

As noted above, the fees set forth in the tables reflect the Operating Committee's decision to ensure comparable fees between Execution Venues and Industry Members. The fees of the top tiers for Industry Members (other than Execution Venue ATSs) are not identical to the top tier for Execution Venues, however, because the Operating Committee also determined that the fees for Execution Venue complexes should be comparable to those of Industry Member complexes. The difference in the fees reflects this decision to recognize affiliations.

The Operating Committee has calculated the schedule of effective fees for Industry Members (other than Execution Venue ATSs) and Execution Venues in the following manner. Note that the calculation of CAT Reporter fees assumes 53 Equity Execution Venues, 15 Options Execution Venues and 1,631 Industry Members (other than Execution Venue ATSs) as of January 2017.

CALCULATION OF ANNUAL TIER FEES FOR INDUSTRY MEMBERS ("IM")

Industry Member tier	Percentage of Industry Members	Percentage of Industry Member recovery	Percentage of total recovery
Tier 1	0.500	8.50	6.38
Tier 2	2.500	35.00	26.25
Tier 3	2.125	21.25	15.94
Tier 4	4.625	15.75	11.81

[41] This $5,000,000 represents the gradual accumulation of the funds for a target operating reserve of $11,425,000.

[42] Note that all monthly, quarterly and annual CAT Fees have been rounded to the nearest dollar.

[43] This column represents the approximate total CAT Fees paid each year by each Industry Member (other than Execution Venue ATSs) (*i.e.,* "CAT Fees Paid Annually" = "Monthly CAT Fee" × 12 months).

[44] This column represents the approximate total CAT Fees paid each year by each Execution Venue for NMS Stocks and OTC Equity Securities (*i.e.,* "CAT Fees Paid Annually" = "Monthly CAT Fee" × 12 months).

[45] This column represents the approximate total CAT Fees paid each year by each Execution Venue for Listed Options (*i.e.,* "CAT Fees Paid Annually" = "Monthly CAT Fee" × 12 months).

CALCULATION OF ANNUAL TIER FEES FOR INDUSTRY MEMBERS ("IM")—Continued

Industry Member tier	Percentage of Industry Members	Percentage of Industry Member recovery	Percentage of total recovery
Tier 5	3.625	7.75	5.81
Tier 6	4.000	5.25	3.94
Tier 7	17.500	4.50	3.38
Tier 8	20.125	1.50	1.13
Tier 9	45.000	0.50	0.38
Total	100	100	75

Industry Member tier	Estimated number of Industry Members
Tier 1	8
Tier 2	41
Tier 3	35
Tier 4	75
Tier 5	59
Tier 6	65
Tier 7	285
Tier 8	328
Tier 9	735
Total	1,631

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Calculation 1.1 (Calculation of a Tier 1 Industry Member Monthly Fee)

1,631 [Estimated Tot. IMs] × 0.5% [% of Tier 1 IMs] = 8 [Estimated Tier 1 IMs]

$$\left(\frac{\$50,700,000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 8.50\%\ [\text{\% of Tier 1 IM Recovery}]}{8\ [\text{Estimated Tier 1 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{33,668}$$

Calculation 1.2 (Calculation of a Tier 2 Industry Member Monthly Fee)

1,631 [Estimated Tot. IMs] × 2.5% [% of Tier 2 IMs] = 41 [Estimated Tier 2 IMs]

$$\left(\frac{\$50,700,000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 35\%\ [\text{\% of Tier 2 IM Recovery}]}{41\ [\text{Estimated Tier 2 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{27,051}$$

Calculation 1.3 (Calculation of a Tier 3 Industry Member Monthly Fee)

1,631 [Estimated Tot. IMs] × 2.125% [% of Tier 3 IMs] = 35 [Estimated Tier 3 IMs]

$$\left(\frac{\$50,700,000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 21.25\%\ [\text{\% of Tier 3 IM Recovery}]}{35\ [\text{Estimated Tier 3 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{19,239}$$

Calculation 1.4 (Calculation of a Tier 4 Industry Member Monthly Fee)

1,631 [Estimated Tot. IMs] × 4.625% [% of Tier 4 IMs] = 75 [Estimated Tier 4 IMs]

$$\left(\frac{\$50,700,000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 15.75\%\ [\text{\% of Tier 4 IM Recovery}]}{75\ [\text{Estimated Tier 4 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{6,655}$$

Calculation 1.5 (Calculation of a Tier 5 Industry Member Annual Fee)

1,631 [Estimated Tot. IMs] × 3.625% [% of Tier 5 IMs] = 59 [Estimated Tier 5 IMs]

$$\left(\frac{\$50,700,000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 7.75\%\ [\text{\% of Tier 5 IM Recovery}]}{59\ [\text{Estimated Tier 5 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{4,163}$$

Calculation 1.6 (Calculation of a Tier 6 Industry Member Monthly Fee)

1,631 [Estimated Tot. IMs] × 4% [% of Tier 6 IMs] = 65 [Estimated Tier 6 IMs]

$$\left(\frac{\$50,700,000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 5.25\%\ [\text{\% of Tier 6 IM Recovery}]}{65\ [\text{Estimated Tier 6 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{2,560}$$

Calculation 1.7 (Calculation of a Tier 7 Industry Member Monthly Fee)

1,631 [Estimated Tot. IMs] × 17.5% [% of Tier 7 IMs] = 285 [Estimated Tier 7 IMs]

$$\left(\frac{\$50,700,000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 4.50\%\ [\text{\% of Tier 7 IM Recovery}]}{285\ [\text{Estimated Tier 7 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{501}$$

Calculation 1.8 (Calculation of a Tier 8 Industry Member Monthly Fee)

1,631 [Estimated Tot. IMs] × 20.125% [% of Tier 8 IMs] = 328 [Estimated Tier 8 IMs]

$$\left(\frac{\$50,700,000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 1.50\%\ [\text{\% of Tier 8 IM Recovery}]}{328\ [\text{Estimated Tier 8 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{145}$$

Calculation 1.9 (Calculation of a Tier 9 Industry Member Monthly Fee)

1,631 [Estimated Tot. IMs] × 45% [% of Tier 9 IMs] = 735 [Estimated Tier 9 IMs]

$$\left(\frac{\$50,700,000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 0.50\%\ [\text{\% of Tier 9 IM Recovery}]}{735\ [\text{Est.Tier 9 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{22}$$

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CALCULATION OF ANNUAL TIER FEES FOR EQUITY EXECUTION VENUES ("EV")

Equity Execution Venue tier	Percentage of Equity Execution Venues	Percentage of Execution Venue recovery	Percentage of total recovery
Tier 1	25.00	26.00	6.50
Tier 2	75.00	49.00	12.25
Total	100	75	18.75

Equity Execution Venue tier	Estimated number of Equity Execution Venues
Tier 1	13
Tier 2	40
Total	53

Calculation 2.1 (Calculation of a Tier 1 Equity Execution Venue Monthly Fee)

$$52\ [\text{Estimated Tot. Equity EVs}]\ \times 25\%\ [\%\ \text{of Tier 1 Equity EVs}] = 13\ [\text{Estimated Tier 1 Equity EVs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot. Ann.CAT Costs}] \times 25\%\ [\text{EV \% of Tot.Ann.CAT Costs}] \times 26\%\ [\%\ \text{of Tier 1 Equity EV Recovery}]}{13\ [\text{Estimated Tier 1 Equity EVs}]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$21{,}125}$$

Calculation 2.2 (Calculation of a Tier 2 Equity Execution Venue Monthly Fee)

$$52\ [\text{Estimated Tot. Equity EVs}]\ \times 75\%\ [\%\ \text{of Tier 2 Equity EVs}] = 40\ [\text{Estimated Tier 2 Equity EVs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot. Ann.CAT Costs}] \times 25\%\ [\text{EV \% of Tot.Ann.CAT Costs}] \times 49\%\ [\%\ \text{of Tier 2 Equity EV Recovery}]}{40\ [\text{Estimated Tier 2 Equity EVs}]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$12{,}940}$$

Options Execution Venue tier	Percentage of Options Execution Venues	Percentage of Execution Venue recovery	Percentage of total recovery
Tier 1	75.00	20.00	5.00
Tier 2	25.00	5.00	1.25
Total	100	25	6.25

Options Execution Venue tier	Estimated number of Options Execution Venues
Tier 1	11
Tier 2	4
Total	15

TRACEABILITY OF TOTAL CAT FEES

Type	Industry Member tier	Estimated number of members	CAT fees paid annually	Total recovery
Industry Members	Tier 1	8	$404,016	$3,232,128
	Tier 2	41	324,612	13,309,092
	Tier 3	35	230,868	8,080,380
	Tier 4	75	79,860	5,989,500
	Tier 5	59	49,956	2,947,404
	Tier 6	65	30,720	1,996,800
	Tier 7	285	6,012	1,713,420
	Tier 8	328	1,740	570,720

TRACEABILITY OF TOTAL CAT FEES—Continued

Type	Industry Member tier	Estimated number of members	CAT fees paid annually	Total recovery
	Tier 9	735	264	194,040
Total		1,631		38,033,484
Equity Execution Venues	Tier 1	13	253,500	3,295,500
	Tier 2	40	155,280	6,211,200
Total		53		9,506,700
Options Execution Venues	Tier 1	11	230,460	2,535,060
	Tier 2	4	158,448	633,792
Total		15		3,168,852
Total				50,709,036
Excess [46]				9,036

(F) Comparability of Fees

The funding principles require a funding model in which the fees charged to the CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable (where, for these comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters, whether Execution Venue and/or Industry Members). Accordingly, in creating the model, the Operating Committee sought to take account of the affiliations between or among CAT Reporters—that is, where affiliated entities may have multiple Industry Member and/or Execution Venue licenses, by maintaining relative comparability of fees among such affiliations with the most expected CAT-related activity. To do this, the Participants identified representative affiliations in the largest tier of both Execution Venues and Industry Members and compared the aggregate fees that would be paid by such firms.

While the proposed fees for Tier 1 and Tier 2 Industry Members are relatively higher than those of Tier 1 and Tier 2 Execution Venues, Execution Venue complex fees are relatively higher than those of Industry Member complexes largely due to affiliations between Execution Venues. The tables set forth below describe the largest Execution Venue and Industry Member complexes and their associated fees: [47]

EXECUTION VENUE COMPLEXES

Execution Venue complex	Listing of Equity Execution Venue tiers	Listing of Options Execution Venue tier	Total fees by EV complex
Execution Venue Complex 1	• Tier 1 (x2) • Tier 2 (x1)	• Tier 1 (x4) • Tier 2 (x2)	$1,900,962
Execution Venue Complex 2	• Tier 1 (x2)	• Tier 1 (x2) • Tier 2 (x1)	1,863,801
Execution Venue Complex 3	• Tier 1 (x2) • Tier 2 (x2)	• Tier 1 (x2)	1,278,447

INDUSTRY MEMBER COMPLEXES

Industry Member complex	Listing of Industry Member tiers	Listing of ATS tiers	Total fees by IM complex
Industry Member Complex 1	• Tier 1 (x2)	• Tier 2 (x1)	$963,300
Industry Member Complex 2	• Tier 1 (x1) • Tier 4 (x1)	• Tier 2 (x3)	949,674
Industry Member Complex 3	• Tier 1 (x1) • Tier 2 (x1)	• Tier 2 (x1)	883,888
Industry Member Complex 4	• Tier 1 (x1) • Tier 2 (x1) • Tier 4 (x1)	N/A	808,472
Industry Member Complex 5	• Tier 2 (x1) • Tier 3 (x1) • Tier 4 (x1) • Tier 7 (x1).	• Tier 2 (x1)	796,595

[46] The amount in excess of the total CAT costs will contribute to the gradual accumulation of the target operating reserve of $11.425 million.

[47] Note that the analysis of the complexes was performed on a best efforts basis, as all affiliations between the 1631 Industry Members may not be included.

(G) Billing Onset

Under Section 11.1(c) of the CAT NMS Plan, to fund the development and implementation of the CAT, the Company shall time the imposition and collection of all fees on Participants and Industry Members in a manner reasonably related to the timing when the Company expects to incur such development and implementation costs. The Company is currently incurring such development and implementation costs and will continue to do so prior to the commencement of CAT reporting and thereafter. For example, the Plan Processor has required up-front payments to begin building the CAT. In addition, the Company continues to incur consultant and legal expenses on an on-going basis to implement the CAT. Accordingly, the Operating Committee determined that all CAT Reporters, including both Industry Members and Execution Venues (including Participants), would begin to be invoiced as promptly as possible following the establishment of a billing mechanism. CBOE will issue a Regulatory Circular to Trading Permit Holders when the billing mechanism is established, specifying the date when such invoicing of Industry Members will commence.

(H) Changes to Fee Levels and Tiers

Section 11.3(d) of the CAT NMS Plan states that ''[t]he Operating Committee shall review such fee schedule on at least an annual basis and shall make any changes to such fee schedule that it deems appropriate. The Operating Committee is authorized to review such fee schedule on a more regular basis, but shall not make any changes on more than a semi-annual basis unless, pursuant to a Supermajority Vote, the Operating Committee concludes that such change is necessary for the adequate funding of the Company.'' With such reviews, the Operating Committee will review the distribution of Industry Members and Execution Venues across tiers, and make any updates to the percentage of CAT Reporters allocated to each tier as may be necessary. In addition, the reviews will evaluate the estimated ongoing CAT costs and the level of the operating reserve. To the extent that the total CAT costs decrease, the fees would be adjusted downward, and, to the extent that the total CAT costs increase, the fees would be adjusted upward.[48] Furthermore, any surplus of the Company's revenues over its expenses is to be included within the operational reserve to offset future fees. The limitations on more frequent changes to the fee, however, are intended to provide budgeting certainty for the CAT Reporters and the Company.[49] To the extent that the Operating Committee approves changes to the number of tiers in the funding model or the fees assigned to each tier, then CBOE will file such changes with the SEC pursuant to Section 19(b) of the Exchange Act, and any such changes will become effective in accordance with the requirements of Section 19(b).

(I) Initial and Periodic Tier Reassignments

The Operating Committee has determined to calculate fee tiers every three months based on market share or message traffic, as applicable, from the prior three months. For the initial tier assignments, the Company will calculate the relevant tier for each CAT Reporter using the three months of data prior to the commencement date. As with the initial tier assignment, for the tri-monthly reassignments, the Company will calculate the relevant tier using the three months of data prior to the relevant tri-monthly date. CBOE notes that any movement of CAT Reporters between tiers will not change the criteria for each tier or the fee amount corresponding to each tier.

In performing the tri-monthly reassignments, CBOE notes that the percentage of CAT Reporters in each assigned tier is relative. Therefore, a CAT Reporter's assigned tier will depend, not only on its own message traffic or market share, but it also will depend on the message traffic/market share across all CAT Reporters. For example, the percentage of Industry Members (other than Execution Venue ATSs) in each tier is relative such that such Industry Member's assigned tier will depend on message traffic generated across all CAT Reporters as well as the total number of CAT Reporters. The Operating Committee will inform CAT Reporters of their assigned tier every three months following the periodic tiering process, as the funding model will compare an individual CAT Reporter's activity to that of other CAT Reporters in the marketplace.

The following demonstrates a tier reassignment. In accordance with the funding model, the top 75% of Options Execution Venues in market share are categorized as Tier 1 while the bottom 25% of Options Execution Venues in market share are categorized as Tier 2. In the sample scenario below, Options Execution Venue L is initially categorized as a Tier 2 Options Execution Venue in Period A due to its market share. When market share is recalculated for Period B, the market share of Execution Venue L increases, and it is therefore subsequently reranked and reassigned to Tier 1 in Period B. Correspondingly, Options Execution Venue K, initially a Tier 1 Options Execution Venue in Period A, is reassigned to Tier 2 in Period B due to decreases in its market share of share volume.

Period A			Period B		
Options Execution Venue	Market share rank	Tier	Options Execution Venue	Market share rank	Tier
Options Execution Venue A	1	1	Options Execution Venue A	1	1
Options Execution Venue B	2	1	Options Execution Venue B	2	1
Options Execution Venue C	3	1	Options Execution Venue C	3	1
Options Execution Venue D	4	1	Options Execution Venue D	4	1
Options Execution Venue E	5	1	Options Execution Venue E	5	1
Options Execution Venue F	6	1	Options Execution Venue F	6	1
Options Execution Venue G	7	1	Options Execution Venue I	7	1
Options Execution Venue H	8	1	Options Execution Venue H	8	1
Options Execution Venue I	9	1	Options Execution Venue G	9	1
Options Execution Venue J	10	1	Options Execution Venue J	10	1
Options Execution Venue K	11	1	Options Execution Venue L	11	1

[48] The CAT Fees are designed to recover the costs associated with the CAT. Accordingly, CAT Fees would not be affected by increases or decreases in other non-CAT expenses incurred by the SROs, such as any changes in costs related to the retirement of existing regulatory systems, such as OATS.

[49] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85006.

Period A			Period B		
Options Execution Venue	Market share rank	Tier	Options Execution Venue	Market share rank	Tier
Options Execution Venue L	12	2	Options Execution Venue K	12	2
Options Execution Venue M	13	2	Options Execution Venue N	13	2
Options Execution Venue N	14	2	Options Execution Venue M	14	2
Options Execution Venue O	15	2	Options Execution Venue O	15	2

(3) Proposed CAT Fee Schedule

CBOE proposes the Consolidated Audit Trail Funding Fees to implement the CAT Fees determined by the Operating Committee on CBOE's Industry Members. The proposed fee schedule has three sections, covering definitions, the fee schedule for CAT Fees, and the timing and manner of payments. Each of these sections is discussed in detail below.

(A) Definitions

Paragraph (a) of the proposed fee schedule sets forth the definitions for the proposed fee schedule. Paragraph (a)(1) states that, for purposes of the Consolidated Audit Trail Funding Fees, the terms ''CAT NMS Plan,'' ''Industry Member,'' ''NMS Stock,'' ''OTC Equity Security'', and ''Participant'' are defined as set forth in Rule 6.85 (Consolidated Audit Trail (CAT) Compliance Rule—Definitions)

The proposed fee schedule imposes different fees on Equity ATSs and Industry Members that are not Equity ATSs. Accordingly, the proposed fee schedule defines the term ''Equity ATS.'' First, paragraph (a)(2) defines an ''ATS'' to mean an alternative trading system as defined in Rule 300(a) of Regulation ATS under the Securities Exchange Act of 1934, as amended, that operates pursuant to Rule 301 of Regulation ATS. This is the same definition of an ATS as set forth in Section 1.1 of the CAT NMS Plan in the definition of an ''Execution Venue.'' Then, paragraph (a)(4) defines an ''Equity ATS'' as an ATS that executes transactions in NMS Stocks and/or OTC Equity Securities.

Paragraph (a)(3) of the proposed fee schedule defines the term ''CAT Fee'' to mean the Consolidated Audit Trail Funding Fee(s) to be paid by Industry Members as set forth in paragraph (b) in the proposed fee schedule.

Finally, Paragraph (a)(6) defines an ''Execution Venue'' as a Participant or an ATS (excluding any such ATS that does not execute orders). This definition is the same substantive definition as set forth in Section 1.1 of the CAT NMS Plan. Paragraph (a)(5) defines an ''Equity Execution Venue'' as an Execution Venue that trades NMS Stocks and/or OTC Equity Securities.

(B) Fee Schedule

CBOE proposes to impose the CAT Fees applicable to its Industry Members through paragraph (b) of the proposed fee schedule. Paragraph (b)(1) of the proposed fee schedule sets forth the CAT Fees applicable to Industry Members other than Equity ATSs. Specifically, paragraph (b)(1) states that the Company will assign each Industry Member (other than an Equity ATS) to a fee tier once every quarter, where such tier assignment is calculated by ranking each Industry Member based on its total message traffic for the three months prior to the quarterly tier calculation day and assigning each Industry Member to a tier based on that ranking and predefined Industry Member percentages. The Industry Members with the highest total quarterly message traffic will be ranked in Tier 1, and the Industry Members with lowest quarterly message traffic will be ranked in Tier 9. Each quarter, each Industry Member (other than an Equity ATS) shall pay the following CAT Fee corresponding to the tier assigned by the Company for such Industry Member for that quarter:

Tier	Percentage of Industry Members	Quarterly CAT fee
1	0.500	$101,004
2	2.500	81,153
3	2.125	57,717
4	4.625	19,965
5	3.625	12,489
6	4.000	7,680
7	17.500	1,503
8	20.125	435
9	45.000	66

Paragraph (b)(2) of the proposed fee schedule sets forth the CAT Fees applicable to Equity ATSs.[50] These are the same fees that Participants that trade NMS Stocks and/or OTC Equity Securities will pay. Specifically, paragraph (b)(2) states that the Company will assign each Equity ATS to a fee tier once every quarter, where such tier assignment is calculated by ranking each Equity Execution Venue based on its total market share of NMS Stocks and OTC Equity Securities for the three months prior to the quarterly tier calculation day and assigning each Equity Execution Venue to a tier based on that ranking and predefined Equity Execution Venue percentages. The Equity Execution Venues with the higher total quarterly market share will be ranked in Tier 1, and the Equity Execution Venues with the lower quarterly market share will be ranked in Tier 2. Specifically, paragraph (b)(2) states that, each quarter, each Equity ATS shall pay the following CAT Fee corresponding to the tier assigned by the Company for such Equity ATS for that quarter:

[50] Note that no fee schedule is provided for Execution Venue ATSs that execute transactions in Listed Options, as no such Execution Venue ATSs currently exist due trading restrictions related to Listed Options.

Tier	Percentage of Equity Execution Venues	Quarterly CAT fee
1	25.00	$63,375
2	75.00	38,820

(C) Timing and Manner of Payment

Section 11.4 of the CAT NMS Plan states that the Operating Committee shall establish a system for the collection of fees authorized under the CAT NMS Plan. The Operating Committee may include such collection responsibility as a function of the Plan Processor or another administrator. To implement the payment process to be adopted by the Operating Committee, paragraph (c)(1) of the proposed fee schedule states that the Company will provide each Industry Member with one invoice each quarter for its CAT Fees as determined pursuant to paragraph (b) of the proposed fee schedule, regardless of whether the Industry Member is a member of multiple self-regulatory organizations. Paragraph (c)(1) further states that each Industry Member will pay its CAT Fees to the Company via the centralized system for the collection of CAT Fees established by the Company in the manner prescribed by the Company. CBOE will provide Industry Members with details regarding the manner of payment of CAT Fees by Regulatory Circular.

Although the exact fee collection system and processes for CAT fees has not yet been established, all CAT fees will be billed and collected centrally through the Company, via the Plan Processor or otherwise. Although each Participant will adopt its own fee schedule regarding CAT Fees, no CAT Fees or portion thereof will be collected by the individual Participants. Each Industry Member will receive from the Company one invoice for its applicable CAT fees, not separate invoices from each Participant of which it is a member. The Industry Members will pay the CAT Fees to the Company via the centralized system for the collection of CAT fees established by the Company.[51]

Section 11.4 of the CAT NMS Plan also states that Participants shall require each Industry Member to pay all applicable authorized CAT Fees within thirty days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). Section 11.4 further states that, if an Industry Member fails to pay any such fee when due, such Industry Member shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of: (i) The Prime Rate plus 300 basis points; or (ii) the maximum rate permitted by applicable law. Therefore, in accordance with Section 11.4 of the CAT NMS Plan, CBOE proposes to adopt paragraph (c)(2) of the proposed fee schedule. Paragraph (c)(2) of the proposed fee schedule states that each Industry Member shall pay CAT Fees within thirty days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). If an Industry Member fails to pay any such fee when due, such Industry Member shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of: (i) The Prime Rate plus 300 basis points; or (ii) the maximum rate permitted by applicable law.

2. Statutory Basis

CBOE believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,[52] which require, among other things, that CBOE rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealers, and Section 6(b)(4) of the Act,[53] which requires that CBOE rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using its facilities. As discussed above, the SEC approved the bifurcated, tiered, fixed fee funding model in the CAT NMS Plan, finding it was reasonable and that it equitably allocated fees among Participants and Industry Members. CBOE believes that the proposed tiered fees adopted pursuant to the funding model approved by the SEC in the CAT NMS Plan are reasonable, equitably allocated and not unfairly discriminatory.

CBOE believes that this proposal is consistent with the Act because it implements, interprets or clarifies the provisions of the Plan, and is designed to assist CBOE and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [54] To the extent that this proposal implements, interprets or clarifies the Plan and applies specific requirements to Industry Members, CBOE believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

CBOE believes that the proposed tiered fees are reasonable. First, the total CAT Fees to be collected would be directly associated with the costs of establishing and maintaining the CAT, where such costs include Plan Processor costs and costs related to insurance, third party services and the operational reserve. The CAT Fees would not cover Participant services unrelated to the CAT. In addition, any surplus CAT Fees cannot be distributed to the individual Participants; such surpluses must be used as a reserve to offset future fees. Given the direct relationship between the fees and the CAT costs, CBOE believes that the total level of the CAT Fees is reasonable.

In addition, CBOE believes that the proposed CAT Fees are reasonably designed to allocate the total costs of the CAT equitably between and among the Participants and Industry Members, and are therefore not unfairly discriminatory. As discussed in detail above, the proposed tiered fees impose comparable fees on similarly situated CAT Reporters. For example, those with a larger impact on the CAT (measured via message traffic or market share) pay higher fees, whereas CAT Reporters with a smaller impact pay lower fees. Correspondingly, the tiered structure lessens the impact on smaller CAT Reporters by imposing smaller fees on

[51] Section 11.4 of the CAT NMS Plan.

[52] 15 U.S.C. 78f(b)(5).

[53] 15 U.S.C. 78f(b)(4).

[54] Approval Order at 84697.

those CAT Reporters with less market share or message traffic. In addition, the funding model takes into consideration affiliations between CAT Reporters, imposing comparable fees on such affiliated entities.

Moreover, CBOE believes that the division of the total CAT costs between Industry Members and Execution Venues, and the division of the Execution Venue portion of total costs between Equity and Options Execution Venues, is reasonably designed to allocate CAT costs among CAT Reporters. The 75/25 division between Industry Members and Execution Venues maintains the greatest level of comparability across the funding model, keeping in view that comparability should consider affiliations among or between CAT Reporters (*e.g.,* firms with multiple Industry Members or exchange licenses). Similarly, the 75/25 division between Equity and Options Execution Venues maintains elasticity across the funding model as well as the greatest level of fee equitability and comparability based on the current number of Equity and Options Execution Venues.

Finally, CBOE believes that the proposed fees are reasonable because they would provide ease of calculation, ease of billing and other administrative functions, and predictability of a fixed fee. Such factors are crucial to estimating a reliable revenue stream for the Company and for permitting CAT Reporters to reasonably predict their payment obligations for budgeting purposes.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 6(b)(8) of the Act [55] require that CBOE rules not impose any burden on competition that is not necessary or appropriate. CBOE 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. CBOE notes that the proposed rule change implements provisions of the CAT NMS Plan approved by the Commission, and is designed to assist CBOE in meeting its regulatory obligations pursuant to the Plan. Similarly, all national securities exchanges and FINRA are proposing this proposed fee schedule to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive fee filing and, therefore, it does not raise competition issues between and among the exchanges and FINRA.

Moreover, as previously described, CBOE believes that the proposed rule change fairly and equitably allocates costs among CAT Reporters. In particular, the proposed fee schedule is structured to impose comparable fees on similarly situated CAT Reporters, and lessen the impact on smaller CAT Reporters. CAT Reporters with similar levels of CAT activity will pay similar fees. For example, Industry Members (other than Execution Venue ATSs) with higher levels of message traffic will pay higher fees, and those with lower levels of message traffic will pay lower fees. Similarly, Execution Venue ATSs and other Execution Venues with larger market share will pay higher fees, and those with lower levels of market share will pay lower fees. Therefore, given that there is generally a relationship between message traffic and market share to the CAT Reporter's size, smaller CAT Reporters generally pay less than larger CAT Reporters. Accordingly, CBOE does not believe that the CAT Fees would have a disproportionate effect on smaller or larger CAT Reporters. In addition, ATSs and exchanges will pay the same fees based on market share. Therefore, CBOE does not believe that the fees will impose any burden on the competition between ATSs and exchanges. Accordingly, CBOE believes that the proposed fees will minimize the potential for adverse effects on competition between CAT Reporters in the market.

Furthermore, the tiered, fixed fee funding model limits the disincentives to providing liquidity to the market. Therefore, the proposed fees are structured to limit burdens on competitive quoting and other liquidity provision in the market.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [56] and paragraph (f) of Rule 19b–4 [57] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2017–040 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–CBOE–2017–040. 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–CBOE–2017–040 and should be submitted on or before June 22, 2017.

[55] 15 U.S.C. 78f(b)(8).

[56] 15 U.S.C. 78s(b)(3)(A).

[57] 17 CFR 240.19b–4(f).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[58]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–11361 Filed 5–31–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80783; File No. SR–FINRA–2017–013]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change To Eliminate Requirements That Will Be Duplicative of CAT

May 26, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 15, 2017, Financial Industry Regulatory Authority, Inc. (''FINRA'') (f/k/a National Association of Securities Dealers, Inc. (''NASD'')) filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to eliminate the Order Audit Trail System (''OATS'') rules in the FINRA Rule 7400 Series and to amend FINRA's electronic blue sheet (''EBS'') rules, Rules 8211 and 8213, to reflect changes to these rules once members are effectively reporting to the consolidated audit trail (''CAT'') and the CAT's accuracy and reliability meet certain standards as described below.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA 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, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

(1) Background

Bats BYX Exchange, Inc.; Bats BZX Exchange, Inc.; Bats EDGA Exchange, Inc.; Bats EDGX Exchange, Inc.; BOX Options Exchange LLC; C2 Options Exchange, Incorporated; Chicago Board Options Exchange, Incorporated; Chicago Stock Exchange, Inc.; FINRA; International Securities Exchange, LLC; Investors' Exchange LLC; ISE Gemini, LLC; ISE Mercury, LLC; Miami International Securities Exchange LLC; MIAX PEARL, LLC; NASDAQ BX, Inc.; NASDAQ PHLX LLC; The NASDAQ Stock Market LLC; National Stock Exchange, Inc.; New York Stock Exchange LLC; NYSE MKT LLC; and NYSE Arca, Inc. (collectively, the ''Participants'') filed with the Commission, pursuant to Section 11A of the Exchange Act [3] and Rule 608 of Regulation NMS thereunder,[4] the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'').[5] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act.[6] The Plan was published for comment in the **Federal Register** on May 17, 2016,[7] and approved by the Commission, as modified, on November 15, 2016.[8] On March 15, 2017, the Commission approved the new FINRA Rule 6800 Series to implement provisions of the CAT NMS Plan that are applicable to FINRA members.[9]

The CAT NMS Plan is designed to create, implement, and maintain a consolidated audit trail that will capture in a single consolidated data source customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution. Among other things, Section C.9. of Appendix C to the Plan, as modified by the Commission, requires each Participant to ''file with the SEC the relevant rule change filing to eliminate or modify its duplicative rules within six (6) months of the SEC's approval of the CAT NMS Plan.'' [10] The Plan notes that ''the elimination of such rules and the retirement of such systems [will] be effective at such time as CAT Data meets minimum standards of accuracy and reliability.'' [11] Finally, the Plan requires the rule filing to discuss the following:

(i) Specific accuracy and reliability standards that will determine when duplicative systems will be retired, including, but not limited to, whether the attainment of a certain Error Rate should determine when a system duplicative of the CAT can be retired;

(ii) whether the availability of certain data from Small Industry Members two years after the Effective Date would facilitate a more expeditious retirement of duplicative systems; and

(iii) whether individual Industry Members can be exempted from reporting to duplicative systems once their CAT reporting meets specified accuracy and reliability standards, including, but not limited to, ways in which establishing cross-system regulatory functionality or integrating data from existing systems and the CAT would facilitate such Individual Industry Member exemptions.[12]

In response to these requirements, the proposed rule change deletes the Rule 7400 Series (the ''OATS Rules'') [13] and Rule 4554 from the FINRA rulebook and adds new Supplementary Material to FINRA's EBS rules, Rules 8211 and 8213, once the CAT achieves the

[58] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78k–1.

[4] 17 CFR 242.608.

[5] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015. Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth herein, or in the CAT Compliance Rule Series or in the CAT NMS Plan.

[6] 17 CFR 242.613.

[7] Securities Exchange Act Rel. No. 77724 (April 27, 2016), 81 FR 30614 (May 17, 2016).

[8] Securities Exchange Act Rel. No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016) (''Approval Order'').

[9] Securities Exchange Act Rel. No. 80255 (March 15, 2017), 82 FR 14563 (March 21, 2017).

[10] CAT NMS Plan, Appendix C, Section C.9.

[11] *See id.*

[12] *See id.*

[13] FINRA notes that there are multiple rules throughout the FINRA Rulebook that cross-reference or otherwise incorporate some or all of the OATS Rules. If the Commission approves the proposed rule change, FINRA will file a subsequent proposed rule change to eliminate or amend, as applicable, the references to the OATS Rules before the amendments in the current proposed rule change are implemented.

specific accuracy and reliability standards described below and FINRA has determined that its usage of the CAT Data has not revealed material issues that have not been corrected, confirmed that the CAT includes all data necessary to allow FINRA to continue to meet its surveillance obligations,[14] and confirmed that the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan.[15]

(2) Specific Accuracy and Reliability Standards

The first issue the Plan requires the proposed rule change to discuss is ''specific accuracy and reliability standards that will determine when duplicative systems will be retired, including, but not limited to, whether the attainment of a certain Error Rate should determine when a system duplicative of the CAT can be retired.'' [16] FINRA believes that relevant error rates are the primary, but not the sole, metric by which to determine the CAT's accuracy and reliability and will serve as the baseline requirement needed before OATS can be retired and requests for trading information pursuant to Rule 8211 or 8213 can be amended to account for information being available in the CAT.

As discussed in Section A.3.(b) of Appendix C to the CAT NMS Plan, the Participants established an initial Error Rate, as defined in the Plan, of 5% on initially submitted data (*i.e.,* data as submitted by a CAT Reporter before any required corrections are performed). The Participants noted in the Plan that their expectation was that ''error rates after reprocessing of error corrections will be de minimis.'' [17] The Participants based this Error Rate on their consideration of ''current and historical OATS Error Rates, the magnitude of new reporting requirements on the CAT Reporters and the fact that many CAT Reporters may have never been obligated to report data to an audit trail.'' [18]

FINRA agrees with the Participants' conclusion that a 5% pre-correction threshold ''strikes the balance of adapting to a new reporting regime, while ensuring that the data provided to regulators will be capable of being used to conduct surveillance and market reconstruction, as well as having a sufficient level of accuracy to facilitate the retirement of existing regulatory reports and systems where possible.'' [19] However, FINRA believes that, when assessing the accuracy and reliability of the data for the purposes of retiring OATS, the error thresholds should be measured in more granular ways and should also include minimum error rates of post-correction data, which represents the data most likely to be used by FINRA to conduct surveillance. Although FINRA is proposing to measure the appropriate error rates in the aggregate, rather than firm-by-firm, FINRA believes that the error rates for equity securities should be measured separately from options since options orders are not currently reported regularly or included in OATS.

To ensure the CAT's accuracy and reliability, FINRA is proposing that, before OATS could be retired, the CAT would generally need to achieve a sustained error rate for Industry Member reporting in each of the categories below for a period of at least 180 days of 5% or lower, measured on a pre-correction or as-submitted basis and 2% or lower on a post-correction basis (measured at T+5).[20] FINRA is proposing to measure the 5% pre-correction and 2% post-correction thresholds by averaging the error rate across the period, not require a 5% pre-correction and 2% post-correction maximum each day for 180 consecutive days. FINRA believes that measuring each of the thresholds over the course of 180 days will ensure that the CAT consistently meets minimum accuracy and reliability thresholds for Industry Member reporting while also ensuring that single-day measurements do not unduly affect the overall measurements.

FINRA is proposing to use error rates in each the following categories, measured separately for options and for equities, to assess whether the threshold pre- and post-correction error rates are being met:

- *Rejection Rates and Data Validations.* Data validations for the CAT, while not expected to be designed the same as OATS, must be functionally equivalent to OATS in accordance with the CAT NMS Plan (*i.e.,* the same types of basic data validations must be performed by the Plan Processor to comply with the CAT NMS Plan requirements). Appendix D of the Plan, for example, requires that certain file validations [21] and syntax and context checks be performed on all submitted records.[22] If a record does not pass these basic data validations, it must be rejected and returned to the CAT Reporter to be corrected and resubmitted.[23] The specific validations can be determined only after the Plan Processor has finalized the Industry Member Technical Specifications; however, the Plan also requires the Plan Processor to provide daily statistics on rejection rates after the data has been processed, including the number of files rejected and accepted, the number of

[14] As noted in the Participants' September 23, 2016 response to comment letters on the Plan, the Participants ''worked to keep [the CAT] gap analyses up-to-date by including newly-added data fields in these duplicative systems, such as the new OATS data fields related to the tick size pilot and ATS order book changes, in the gap analyses.'' Letter from Participants to Brent J. Fields, Secretary, Commission, dated September 23, 2016, at 21. The Participants noted that they ''will work with the Plan Processor and the industry to develop detailed Technical Specifications to ensure that by the time Industry Members are required to report to the CAT, the CAT will include all data elements necessary to facilitate the rapid retirement of duplicative systems.'' *Id.*

[15] FINRA notes that the OATS Rules were originally proposed to fulfill one of the undertakings contained in an order issued by the Commission relating to the settlement of an enforcement action against the NASD for failure to adequately enforce its rules. *See* Securities Exchange Act Release No. 39729 (March 6, 1998), 63 FR 12559 (March 13, 1998) (''OATS Approval Order''); *see also* Securities Exchange Act Release No. 37538 (August 8, 1996); Administrative Proceeding File No. 3–9056 (''SEC Order''). In approving the OATS Rules, the Commission concluded that OATS satisfied the conditions of the SEC Order and was consistent with the Exchange Act. *See* OATS Approval Order, *supra,* at 12566–67. As noted, the Plan is designed to create, implement, and maintain a CAT that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. FINRA has already adopted rules to enforce compliance by its Industry Members, as applicable, with the provisions of the Plan. *See* Rule 6800 Series. Once the CAT can replace the OATS Rules, FINRA believes it will be appropriate to delete the OATS Rules that were implemented to comply with the SEC Order. Accordingly, FINRA believes that it would continue to be in compliance with the requirements of the SEC Order once the OATS Rules are deleted.

[16] *See* CAT NMS Plan, Appendix C, Section C.9.

[17] *See* CAT NMS Plan, Appendix C, Section A.3(b), at n.102.

[18] *See* CAT NMS Plan, Appendix C, Section A.3(b).

[19] *Id.*

[20] The Plan requires that the Plan Processor must ensure that regulators have access to corrected and linked order and Customer data by 8:00 a.m. Eastern Time on T+5. *See* CAT NMS Plan, Appendix C, Section A.2(a).

[21] *See* CAT NMS Plan, Appendix D, Section 7.2. The Plan requires the Plan Processor to confirm that file transmission and receipt are in the correct formats, including validation of header and trailers on the submitted report, confirmation of a valid SRO-Assigned Market Participant Identifier, and verification of the number of records in the file. *Id.*

[22] *See id.* The Plan notes that syntax and context checks would include format checks (*i.e.,* that data is entered in the specified format); data type checks (*i.e.,* that the data type of each attribute conforms to the specifications); consistency checks (*i.e.,* that all attributes for a record of a specified type are consistent); range/logic checks (*i.e.,* that each attribute for every record has a value within specified limits and the values provided are associated with the event type they represent); data validity checks (*i.e.,* that each attribute for every record has an acceptable value); completeness checks (*i.e.,* that each mandatory attribute for every record is not null); and timeliness checks (*i.e.,* that the records were submitted within the submission timelines). *Id.*

[23] *See id.*

order events accepted and rejected, and the number of each type of report rejected.[24] FINRA is proposing that, over the 180-day period, aggregate rejection rates (measured separately for equities and options) must be no more than 5% pre-correction or 2% post-correction across all CAT Reporters.

• *Intra-Firm Linkages.* The Plan requires that ''the Plan Processor must be able to link all related order events from all CAT Reporters involved in the lifecycle of an order.'' [25] At a minimum, this requirement includes the creation of an order lifecycle between ''[a]ll order events handled within an individual CAT Reporter, including orders routed to internal desks or departments with different functions (*e.g.,* an internal ATS).'' [26] FINRA is proposing that aggregate intra-firm linkage rates across all Industry Member Reporters must be at least 95% pre-correction and 98% post-correction.

• *Inter-Firm Linkages.* The order linkage requirements in the Plan also require that the Plan Processor be able to create the lifecycle between orders routed between broker-dealers.[27] FINRA is proposing that at least a 95% pre-correction and 98% post-correction aggregate match rate be achieved for orders routed between two Industry Member Reporters.[28]

• *Order Linkage Rates.* In addition to creating linkages within and between broker-dealers, the Plan also includes requirements that the Plan Processor be able to create lifecycles to link various pieces of related orders.[29] For example, the Plan requires linkages between customer orders and ''representative'' orders created in firm accounts for the purpose of facilitating a customer order, various legs of option/equity complex orders, riskless principal orders, and orders worked through average price accounts.[30] FINRA is proposing that there be at least a 95% pre-correction and 98% post-correction linkage rate for multi-legged orders (*e.g.,* related equity/options orders, VWAP orders, riskless principal transactions).

• *Exchange and TRF/ORF Match Rates.* The Plan requires that an order lifecycle be created to link ''[o]rders routed from broker-dealers to exchanges'' and ''[e]xecuted orders and trade reports.'' [31] FINRA is proposing at least a 95% pre-correction and 98% post-correction aggregate match rate to each equity exchange for orders routed from Industry Members to an exchange and, for over-the-counter executions, the same match rate for orders linked to trade reports.

In addition to these minimum error rates and matching thresholds that generally must be met before OATS can be retired, FINRA believes that during the minimum 180-day period during which the thresholds are calculated, FINRA's use of the data in the CAT must confirm that (i) usage over that time period has not revealed material issues that have not been corrected, (ii) the CAT includes all data necessary to allow FINRA to continue to meet its surveillance obligations, and (iii) the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan. FINRA believes this time period to use the CAT Data is necessary to reveal any errors that may manifest themselves only after surveillance patterns and other queries have been run and to confirm that the Plan Processor is meeting its obligations and performing its functions adequately.

(3) Small Industry Member Data Availability

The second issue the Plan requires the proposed rule change to address is ''whether the availability of certain data from Small Industry Members two years after the Effective Date would facilitate a more expeditious retirement of duplicative systems.''

FINRA believes that there is no effective way to retire OATS until all current OATS reporters are reporting to the CAT. Although Technical Specifications for Industry Members are not yet available, FINRA believes it would be inefficient, less reliable, and more costly to attempt to marry the OATS and CAT databases for a temporary period to allow some FINRA members to report to CAT while others continue to report to OATS. Consequently, FINRA has concluded at this time that having data from those Small Industry Members currently reporting to OATS available two years after the Effective Date would substantially facilitate a more expeditious retirement of OATS. For this reason, FINRA supports an amendment to the Plan that would require current OATS Reporters that are ''Small Industry Members'' to report two years after the Effective Date (instead of three). FINRA intends to work with the other Participants to submit a proposed amendment to the Plan to require Small Industry Members that are OATS Reporters to report two years after the Effective Date.[32]

FINRA has identified approximately 300 member firms that currently report to OATS and meet the definition of ''Small Industry Member;'' however, only ten of these firms submit information to OATS on their own behalf, and eight of the ten firms report very few orders to OATS.[33] The vast majority of these 300 firms use third parties to fulfill their reporting obligations, and many of these third parties will begin reporting to CAT in November 2018. Consequently, FINRA believes that the burden on current OATS Reporters that are ''Small Industry Members'' would not be significant if those firms are required to report to CAT beginning in November 2018 rather than November 2019. The burdens, however, are significantly greater for those firms that are not reporting to OATS currently; therefore, FINRA does not believe it would be necessary or appropriate to accelerate CAT reporting for ''Small Industry Members'' that are not currently reporting to OATS, and FINRA would not support an amendment to the Plan to accelerate CAT reporting for ''Small Industry Members'' that are not currently OATS Reporters.

(4) Individual Industry Member Exemptions

The final issue the Plan requires the proposed rule change to address is ''whether individual Industry Members can be exempted from reporting to duplicative systems once their CAT reporting meets specified accuracy and reliability standards, including, but not limited to, ways in which establishing cross-system regulatory functionality or integrating data from existing systems and the CAT would facilitate such Individual Industry Member exemptions.''

As described above, FINRA believes that a single cut-over from OATS to CAT is highly preferable to a firm-by-firm approach and is not proposing to exempt members from the OATS requirements on a firm-by-firm basis. The primary benefit to a firm-by-firm

[24] *See id.*

[25] CAT NMS Plan, Appendix D, Section 3.

[26] *Id.*

[27] *Id.*

[28] This assumes linkage statistics will include both unlinked route reports and new orders where no related route report could be found.

[29] *See* CAT NMS Plan, Appendix D, Section 3.

[30] *See id.*

[31] *Id.*

[32] The 180-day timeframes discussed above with respect to usage of the data and calculation of error rates would apply to data reported to the CAT by Small Industry Members that are reporting to OATS. If an amendment to the Plan to accelerate the reporting requirement for those firms is not approved, the retirement of OATS could not be accomplished until at least 180 days after Small Industry Members begin reporting, which is scheduled to begin in November 2019.

[33] For example, in one recent month, eight of the ten firms submitted fewer than 100 reports during the month, with four firms submitting fewer than 50.

exemptive approach would be to reduce the amount of time an individual firm is required to report to a legacy system (*e.g.,* OATS) if it is also accurately and reliably reporting to the CAT. FINRA believes that the overall accuracy and reliability thresholds for the CAT described above would need to be met under any conditions before firms could stop reporting to OATS. Moreover, as discussed above, FINRA supports amending the Plan to accelerate the reporting requirements for Small Industry Members that are OATS Reporters to report on the same timeframe as all other OATS Reporters. If such an amendment were approved by the Commission, there would be no need to exempt members from OATS requirements on a firm-by-firm basis.

(5) Automated Submission of Trading Data

In addition to the OATS rules, Rules 8211 and 8213 (the ''EBS Rules'') will also be affected by the implementation of the CAT. The EBS Rules are FINRA's rules regarding the automated submission of specific trading data to FINRA upon request using the EBS system.

Once broker-dealer reporting to the CAT has begun, the CAT will contain much of the data the Participants would otherwise have requested via the EBS system for purposes of NMS Securities and OTC Equity Securities. Consequently, FINRA will not need to use the EBS system or request information pursuant to the EBS Rules for NMS Securities and OTC Equity Securities for time periods after CAT reporting has begun if the appropriate accuracy and reliability thresholds are achieved, including an acceptable accuracy rate for customer and account information. However, the EBS Rules cannot be completely removed from the FINRA Rulebook immediately upon the CAT achieving the appropriate thresholds because FINRA may still need to request information pursuant to these rules for trading activity occurring before a member was reporting to the CAT.[34] In addition, the EBS Rules apply to information regarding transactions involving securities that will not be reportable to the CAT initially, such as fixed-income securities; thus, the rules must remain in effect with respect to those transactions indefinitely or until those transactions are captured in the CAT.

The proposed rule change adds new Supplementary Material to the EBS Rules to clarify how FINRA will request data under these rules after members are reporting to the CAT. Specifically, the proposed Supplementary Material to each rule will note that FINRA will request information under the rules only if the information is not available in the CAT because, for example, the transactions in question occurred before the firm was reporting information to the CAT or involved securities that are not reportable to the CAT. In essence, under the new Supplementary Material, FINRA will make requests under these rules if and only if the information is not otherwise available through the CAT.

However, as noted above, FINRA believes that the CAT must meet certain minimum accuracy and reliability standards before FINRA could rely on the CAT Data to replace existing regulatory tools, including EBS. Consequently, the proposed Supplementary Material will be implemented only after the CAT achieves the thresholds set forth above with respect to OATS and an accuracy rate for customer and account information of 95% for pre-corrected data and 98% for post-correction data. In addition, as discussed above, FINRA can rely on CAT Data to replace EBS requests only after FINRA has determined that its usage of the CAT Data over a 180-day period has not revealed material issues that have not been corrected, confirmed that the CAT includes all data necessary to allow FINRA to continue to meet its surveillance obligations, and confirmed that the CAT Plan Processor is fulfilling its obligations under the CAT NMS Plan.

If the Commission approves the proposed rule change, the rule text will be effective; however, the amendments will not be implemented until FINRA has determined the accuracy and reliability standards set forth in the proposed rule change have been met. FINRA will announce the implementation date of the proposed rule change in a *Regulatory Notice* that will be published once FINRA concludes the thresholds for accuracy and reliability described herein have been met and that the CAT Plan Processor is sufficiently meeting all of its obligations.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[35] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change fulfills the obligation in the CAT NMS Plan for FINRA to submit a proposed rule change to eliminate or modify duplicative rules. FINRA believes that the approach set forth in the proposed rule change strikes the appropriate balance between ensuring that FINRA is able to continue to fulfill its statutory obligation to protect investors and the public interest by ensuring its surveillance of market activity remains accurate and effective while also establishing a reasonable timeframe for elimination or modification of its rules that will be rendered duplicative after implementation of the CAT.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(a) Economic Impact Assessment—Retirement of OATS and Amendments to the EBS Rules Following the Implementation of CAT

Currently all FINRA members that do business in equity securities are required to report equity audit trail information to OATS and make transaction information available through the EBS system. As stated in the CAT NMS Plan, all large broker-dealers that are also FINRA members will be required to report order information in NMS Securities and OTC Equity Securities to both OATS and CAT beginning in November 2018 and Small Industry Members beginning in November 2019 as part of the broader CAT NMS Plan to implement the CAT and retire other systems. Further, clearing firms will be required to continue to make equity and option transaction data available through EBS requests until the proposed Supplementary Material is implemented. The proposed rule change lays out a plan by which FINRA will retire OATS and amend its rules for EBS to eventually eliminate the need for duplicative reporting and records maintenance.

Costs and benefits associated with establishing the CAT, including the

[34] Firms are required to maintain the trade information for pre-CAT transactions in equities and options pursuant to applicable rules, such as books and records retention requirements, for the relevant time period, which is generally three or six years, depending upon the record. *See* 17 CFR 240.17a–3(a), 240.17a–4.

[35] 15 U.S.C. 78*o*–3(b)(6).

economic impacts associated with retiring existing systems, have been established as a part of the Plan approved by the SEC. Significant economic impacts of OATS retirement as described in this proposed rule change include amending the Plan to require that Small Industry Members who currently report to OATS would be required to begin reporting to the CAT in 2018 rather than 2019 and a single cut-over from OATS to CAT for all firms provided that (1) average error rate thresholds over a 180-day period are met, (2) no material issues related to market surveillance needs have been identified but are uncorrected, (3) the CAT not [sic] contain material issues that would negatively impact market surveillance, and (4) the plan processor is sufficiently meeting all of its obligations under the CAT NMS Plan. The key aspect to the proposed amendments to FINRA's rules for EBS include a provision that FINRA would no longer request data that is available in CAT through EBS, once the accuracy and reliability thresholds are achieved. The EBS Rules would continue to apply for securities that are not included within the CAT and for transactions that occurred before the CAT's accuracy and reliability are confirmed.

(b) Economic Impact

In creating the proposal to retire OATS and amend the EBS Rules, FINRA is seeking to carefully balance the additional costs incurred by member firms associated with continuing to maintain duplicate systems and records created by the CAT NMS Plan and existing rules with the risks to effective and efficient surveillance that could arise from eliminating access to existing data systems before a high-quality alternative has been tested and verified. The costs of maintaining duplicate systems and records include, among other things, system maintenance, quality control oversight, and staff to maintain the systems and records. Because the CAT NMS Plan created the need to have duplicate systems and required a plan for the retirement of duplicate systems and processes, the Economic Impact Assessment will focus on the proposed choices made by FINRA in implementing the retirement plan.

(1) OATS Retirement

The proposed rule change will impact all OATS-reporting firms. Currently all but 299 medium and large broker-dealers and 300 of 630 small broker-dealers report to OATS. Of the 300 Small Industry Members that report to OATS, all but 10 of them currently report through other firms or service providers.[36] Of the 10 that self-report, eight of them report very few orders to OATS as described above in Footnote 33. The approximately 629 broker dealers that are currently exempt or excluded from OATS reporting are not impacted by this proposed rule change. The EIA focuses on the impact of the proposed plan for retiring OATS on all OATS-reporting firms.

First, FINRA's proposed plan recommends a requirement that there be a single cut-over from OATS to CAT rather than a firm-by-firm cut-over. The primary beneficiary of this proposal will be the investing public. This approach eliminates the need to merge OATS and CAT data in order to execute surveillance in accordance with SEC rules and SRO obligations. The integration process would be technologically costly and difficult and could introduce errors into the data being surveilled that did not exist prior to integration. Conducting market surveillance from a single audit trail system increases the efficiency and effectiveness of the process and improves the integrity of the markets. In addition, there are direct benefits of this approach to firms. Specifically, other than during the time period during which the accuracy and reliability of CAT data is validated, a single cut-over approach would eliminate the need for firms that report on other firms' behalf to create a technological solution for receiving and reporting on data structured for both OATS and CAT simultaneously. Such a practice would increase costs to ensure compliance with the proper reporting mechanism. These costs would likely be incorporated into the fees for the service charged to introducing firms and could eventually be borne by customers through higher fees based on the price elasticity for brokerage services.

The potential costs associated with the single cut-over approach will be borne by firms that could meet the maximum error thresholds for reporting to CAT earlier than the single cut-over approach would allow. These firms would bear the technology and compliance costs associated with dual reporting for a longer period than they might otherwise.

Another potential cost of the single cut-over method is that there will likely be firms reporting to CAT that do not meet the maximum error rate thresholds, leading to lower quality data available for surveillance. If firms were individually permitted to end OATS reporting only when meeting a maximum error rate, every firm's reporting would meet the minimum criterion. Requiring an aggregate error rate may permit individual firms to end OATS reporting even while their CAT reporting does not meet the specified error rate as long as the error rate is low enough for the industry. Thus, surveillance of market activity for those firms may not be as efficient or effective due to the higher error rates. Taken further, it is possible that a single cut-over may reduce the incentives for any one firm to put significant effort and costs into meeting or beating the threshold error rates because the benefits are shared among all firms while greater cost is borne by the firms whose compliance rates satisfy the minimum error rate thresholds. This disincentive is likely to be small for firms with significant reporting obligations, who would seek to end duplicative reporting as quickly as possible and who represent the vast majority of OATS reports, but may, at the margin, extend the time necessary to meet the error reporting threshold. However, significant error rates could constitute a rule violation and subject firms to possible disciplinary action.[37] Thus, firms that delay reducing error rates to threshold levels would over time incur higher costs through enforcement actions and be incentivized to improve their compliance rates.

FINRA supports an amendment to the Plan to require that all firms that report to OATS begin CAT reporting in November 2018. This requirement would accelerate by one year the CAT reporting obligations for 300 Small Industry Members. The primary benefit of this approach is that it allows the OATS system to be retired up to a year earlier, saving firms the costs of maintaining duplicate reporting systems. Of the estimated 300 firms who would be impacted by this proposal, 290 report to OATS through clearing firms or other third party providers, all of whom will begin CAT reporting in 2018 either by the requirement in the Plan or on behalf of clients who are required to in the Plan. Thus, there should be limited additional technical requirements or costs to facilitate accelerated reporting for these firms. In fact, the accelerated reporting will likely allow the introducing and clearing firms

[36] All of the clearing firms that report to OATS on behalf of Small Industry Members are required to begin reporting to CAT in 2018. In addition, the service providers that report to OATS on behalf of Small Industry Members have a mix of small and large clients for whom they provide this service and, therefore, would be prepared to begin CAT reporting on behalf of their clients in 2018.

[37] *See* CAT NMS Plan, Appendix C, Section 3(b) (discussing firm-specific compliance thresholds).

to avoid the costs associated with maintaining two systems for reporting during the additional transition year. The other 10 small firms will be required to incur costs associated with the changeover to CAT a year earlier. The magnitude of these costs is dependent on several factors, including the volume of trades expected to be reported to CAT as well as the technological differences between the OATS system specifications and the as yet unknown CAT system specifications.

Third, FINRA proposes that the official retirement of OATS occurs only once CAT has met minimum accuracy and reliability standards defined as (1) a maximum of a 5% pre-correction error rate and 2% post-correction error for all CAT submissions averaged over a 180-day period in applicable categories, (2) no material data issues not captured in the error rates that would negatively impact FINRA's ability to conduct effective market surveillance, (3) the CAT including all data necessary to allow FINRA to continue to meet its surveillance obligations, and (4) the plan processor is sufficiently meeting all of its obligations under the CAT NMS Plan. FINRA believes that a minimum of 180 days is required to provide sufficient time to ensure that future error rates below the maximum thresholds are able to be maintained and that the CAT data can otherwise be relied upon for conducting effective market surveillance. The trade-offs of lengthening or shortening the phase-in period and raising or lowering error rate thresholds are increased costs to member firms for maintaining duplicate reporting systems and records versus increased assurance for FINRA that the data will continue to meet maximum error thresholds and not contain material issues that would negatively impact market surveillance. Note that the current OATS error rates are significantly lower than 2%; however, OATS reporting errors have decreased over time with additional experience by firms, and CAT reporting is anticipated to be more complex and new to some firms and therefore more likely to contain errors when initially reported.

(2) Electronic Blue Sheet System Rule Amendments

Once broker-dealer reporting to the CAT has begun, the CAT will contain much of the data that otherwise would have been requested via the EBS system for purposes of equities and options. Consequently, FINRA will no longer need to rely on the EBS system or request new information pursuant to the EBS Rules for equities or options for time periods after CAT has met the minimum accuracy and reliability standards defined above. Supplementary Material to the EBS Rules detailing the changes in how FINRA requests equity and options data will be implemented once the appropriate accuracy and reliability thresholds are achieved. The EBS Rules will remain applicable for historical equity and options data prior to CAT implementation and for record keeping purposes, three to seven years depending on the record. The EBS Rules will also remain in effect for reporting data for securities not reported in CAT.

The proposed changes to the EBS Rules will impact clearing firms differently depending on the amount of automation already built into each firm's EBS system. As described in the Economic Impact Assessment for OATS retirement, there are economic trade-offs for loosening or tightening the requirements under which the new Supplementary Material outlined in the EBS Rule amendments would become effective. Loosening the requirements would hasten the effective date but could increase the risk that the quality of the data received would hamper FINRA's efforts to conduct market surveillance and investigate trading violations, potentially increasing risks to investors. Alternatively, tightening the requirements could decrease the risk that the data will be low quality but will increase the costs to member firms for maintaining duplicate reporting and data delivery systems. These costs to continue using the EBS system will have a differential impact on clearing firms, depending on the level of automation in each firm's EBS response process. Firms that have a fully automated EBS response system incur lower variable costs to responding to any individual request, but have higher fixed costs stemming from maintenance of a more complex system. Alternatively firms where more of the response process is manual incur higher variable costs to EBS requests due to data collection and validation but do not have the more sophisticated systems to maintain and therefore incur low fixed costs. So, when the Supplementary Material is implemented and clearing firms begin receiving fewer Blue Sheet requests, firms with highly manual processes will incur lower variable and therefore lower overall costs while firms with highly automated systems will likely see more modest cost decline. Firms with semi- or fully-automated EBS response systems may decide to phase out their automated systems and gradually replace them with more manual processes as the number of requests declines. Because clearing firms use different processes and systems to collect and submit EBS requests, there is ambiguity as to whether any individual firm's costs will be affected by the transition to CAT for transaction data requests and at what point firms may choose to move toward manual processes.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Although written comments on the proposed rule change were not solicited, two commenters, the Financial Information Forum (''FIF'') and the Securities Industry and Financial Markets Association (''SIFMA''), submitted letters to the Participants regarding the retirement of systems related to the CAT.[38] In its comment letter, with regard to the retirement of duplicative systems more generally, FIF recommends that the Participants continue the effort to incorporate current reporting obligations into the CAT in order to replace existing reportable systems with the CAT. In addition, FIF further recommends that, once a CAT Reporter achieves satisfactory reporting data quality, the CAT Reporter should be exempt from reporting to any duplicative reporting systems. FIF believes that these recommendations ''would serve both an underlying regulatory objective of more immediate and accurate access to data as well as an industry objective of reduced costs and burdens of regulatory oversight.'' [39] In its comments about EBS specifically, FIF states that the retirement of the EBS requirements should be a high priority, and that the CAT should be designed to include the requisite data elements to permit the rapid retirement of the EBS system.[40] Similarly, SIFMA states that ''the establishment of the CAT must be accompanied by the prompt elimination of duplicative systems,'' and ''recommend[ed] that the initial technical specifications be designed to facilitate the immediate retirement of . . . duplicative reporting systems.'' [41]

As discussed above, FINRA agrees with the commenters that the OATS

[38] Letter from William H. Hebert, FIF, to Participants re: Milestone for Participants' rule change filings to eliminate/modify duplicative rules, dated April 12, 2017 (''FIF Letter''); Letter from Kenneth E. Bentsen, Jr., SIFMA, to Participants re: Selection of Thesys as CAT Processor, dated April 4, 2017, at 2 (''SIFMA Letter'').

[39] FIF Letter at 2.

[40] *Id.*

[41] SIFMA Letter at 2.

reporting requirements should be replaced by the CAT reporting requirements as soon as accurate and reliable CAT Data is available. To this end, FINRA anticipates that the CAT will be designed to collect the data necessary to permit the retirement of OATS. As discussed above, FINRA disagrees with the recommendation to provide individual exemptions to those CAT Reporters who obtain satisfactory data reporting quality; however, FINRA supports amendments to the CAT NMS Plan that would accelerate reporting for Small Industry Members that are currently reporting to OATS to facilitate the retirement of OATS.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2017–013 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2017–013. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet 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 FINRA. 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–FINRA–2017–013 and should be submitted on or before June 22, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[42]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–11359 Filed 5–31–17; 8:45 am]

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[42] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80797; File No. SR–CBOE–2017–041]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Proposed Rule Change To Eliminate Requirements That Will Be Duplicative of CAT

May 26, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 15, 2017, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') 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 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 modify requirements for the collection of information that is duplicative of information intended to be collected for the consolidated audit trail (''CAT'') adopted pursuant to the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'').[3] The Exchange will announce the implementation date of the proposed rule change and effective date of the retirement of any related systems by Regulatory Circular that will be published once the options exchanges determine the thresholds for accuracy and reliability described below have been met and that the Plan Processor for CAT is sufficiently meeting all of its obligations under the CAT NMS Plan.

The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, 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

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth herein, or in the CAT Compliance Rule Series or in the CAT NMS Plan.

(''FINRA''), Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC,[4] NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. and NYSE National, Inc.[5] (collectively, the ''Participants'') filed with the Commission, pursuant to Section 11A of the Exchange Act[6] and Rule 608 of Regulation NMS thereunder,[7] the CAT NMS Plan.[8] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,[9] and approved by the Commission, as modified, on November 15, 2016.[10] The Plan is designed to create, implement and maintain a CAT that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. Pursuant to Appendix C of the CAT NMS Plan, each Participant is required to conduct analyses of which of its existing trade and order data rules and systems require the collection of information that is duplicative of information collected for the CAT.[11] In addition, among other things, Section C.9 of Appendix C to the Plan, as modified by the Commission, requires each Participant to ''file with the SEC the relevant rule change filing to eliminate or modify its duplicative rules within six (6) months of the SEC's approval of the CAT NMS Plan.''[12] The Plan notes that ''the elimination of such rules and the retirement of such systems [will] be effective at such time as CAT Data meets minimum standards of accuracy and reliability.''[13]

After conducting its analysis of its rules in accordance with the CAT NMS Plan, the Exchange determined Rule 6.24 includes references to COATS, which will be retired in accordance with the proposed timeline discussed below, and Rules 6.24(c), 8.9(b) and 15.7 require the reporting of information intended to be collected by the CAT. Therefore, the Exchange believes those provisions will no longer be necessary once the CAT is operational and proposes to modify those Rules as described below. Additionally, the Exchange describes below additional reporting requirements that it may reduce for which no rule changes are necessary. These changes will be implemented in accordance with the timeline described below.

(1) COATS

The options exchanges utilize consolidated options audit trail system (''COATS'') to collect and review data regarding options orders, quotes and transactions. The Participants have provided COATS technical specifications to the Plan Processor for the CAT for use in developing the Technical Specifications for the CAT, and the Participants are working with the Plan Processor to include the necessary COATS data elements in the CAT Technical Specifications. Accordingly, although the Technical Specifications for the CAT have not yet been finalized, the Exchange and the other options exchanges propose to eliminate COATS in accordance with the proposed timeline discussed below.

The Exchange adopted certain provisions of Rule 6.24 to implement certain reporting requirements related to COATS.[14] Rule 6.24(a) states the Exchange has undertaken with the options exchanges to develop COATS to provide an accurate, time-sequenced record of electronic and other orders, quotations, and transactions in certain option classes listed on the Exchange. CBOE proposes to delete this provision.

Rule 6.24(c) requires a Trading Permit Holder transmitting from the floor a report of the execution of an order to record the time at which a report of such execution is received by such Trading Permit Holder. CAT will require Trading Permit Holders to record the time at which they report an execution.[15] Therefore, this rule provision is duplicative of CAT requirements, and the Exchange proposes to delete it.

Interpretations and Policies .01 and .03 through .06 state certain forms and functionality must comply with the requirements of COATS, and that the Exchange will maintain data for orders exempt from systematization requirements of Rule 6.24 in the same format as COATS data is maintained. As COATS will be retired, and data will be collected in a format that complies with the requirements of CAT, the proposed rule change replaces the references to COATS with references to CAT, as well as makes other nonsubstantive changes to conform the language throughout.

(2) Market-Maker Equity Order Reports

Rule 8.9(b)[16] requires Market-Makers, upon request of the Exchange and in the prescribed form, report to the Exchange every order entered by the Market-Maker for the purchase or sale of (i) a security underlying options traded on the Exchange, or (ii) a security convertible into or exchangeable for such underlying security, as well as opening and closing positions in all such securities held in each account reported pursuant to Rule 8.9(a). The report pertaining to orders must include the terms of each order, identification of the brokerage firms through which the

[4] ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. *See* Securities Exchange Act Rel. No. 80248 (Mar. 15, 2017), 82 FR 14547 (Mar. 21, 2017); Securities Exchange Act Rel. No. 80326 (Mar. 29, 2017), 82 FR 16460 (Apr. 4, 2017); and Securities Exchange Act Rel. No. 80325 (Mar. 29, 2017), 82 FR 16445 (Apr. 4, 2017).

[5] National Stock Exchange, Inc. has been renamed NYSE National, Inc. *See* Securities Exchange Act Rel. No. 79902 (Jan. 30, 2017), 82 FR 9258 (Feb. 3, 2017).

[6] 15 U.S.C. 78k–1.

[7] 17 CFR 242.608.

[8] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

[9] Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 FR 30614 (May 17, 2016).

[10] Securities Exchange Act Rel. No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016) (''Approval Order'').

[11] Appendix C of CAT NMS Plan, Approval Order at 85010.

[12] *Id.*

[13] *Id.*

[14] COATS was developed to comply with an order of the Commission requiring CBOE, in coordination with other exchanges, to ''design and implement'' a consolidated audit trail to ''enable the options exchanges to reconstruct markets promptly, effectively surveil them and enforce order handling, firm quote, trade reporting and other rules.'' *See* Section IV.B.e.(v) of the Commission's Order Instituting Public Administrative Proceedings Pursuant to Sections 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions (the ''Order''). *See* Securities Exchange Act Release No. 43268 (September 11, 2000) and Administrative Proceeding File No. 3–10282. As noted, the Plan is designed to create, implement and maintain a CAT that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. CBOE has already adopted rules to enforce compliance by its Industry Members, as applicable, with the provisions of the Plan. *See* CBOE Chapter VI, Section F. Once the CAT is fully operational, it will be appropriate to delete certain provisions of CBOE rules implemented to comply with the Order as duplicative of the CAT. Accordingly, the Exchange believes that it would continue to be in compliance with the requirements of the Order once the CAT is fully operational and the COATS rule is modified.

[15] *See* Chapter VI, Section F.

[16] The Exchange recently submitted a rule filing to amend Rule 8.9(b), which was filed for immediate effectiveness. *See* SR–CBOE–2017–042. This proposed rule change reflects the amended rule text in that filing.

orders were entered, the times of entry or cancellation, the times report of execution were received and, if all or part of the order was executed, the quantity and execution price. CAT will require Market-Makers to report order information for such securities. Therefore, this rule provision as it relates to order reports is duplicative of CAT requirements, and the Exchange proposes to delete it. CAT does not require reporting of positions, so the Exchange will maintain the position reporting requirement in Rule 8.9(b). The Exchange also proposes a conforming change to the rule name and Interpretation and Policy .07.

(3) EBS

Rule 15.7 is the Exchange's rule regarding the automated submission of specific trading data to the Exchange upon request using the Electronic Blue Sheet (''EBS'') system. Rule 15.7 requires a Trading Permit Holder to submit the trade data elements specified in the Rule in such automated format as may be prescribed by the Exchange from time to time, in regard to such transaction or transactions that are the subject of a particular request for information made by the Exchange. The Rule sets forth in paragraphs (a) and (b) the data elements required if the transaction was a proprietary transaction or if it was effected for a customer account, respectively. Paragraph (c) provides a Trading Permit Holder must submit such other information as may from time to time be required. Paragraph (d) permits the Exchange to grant exceptions from these requirements in such cases and for such time periods as it deems appropriate.

The Exchange proposes to amend Rule 15.7 to state it will request information under the Rule only if the information is not available in the CAT because, for example, the transactions in question occurred before the firm was reporting information to the CAT or involved securities that are not reportable to the CAT. In essence, under the proposed rule change, the Exchange will make requests under Rule 15.7 if and only if the information is not otherwise available through the CAT.[17]

Once broker-dealer reporting to the CAT has begun, the CAT will contain the data the Participants would otherwise have requested via the EBS system for purposes of NMS Securities and OTC Equity Securities. Consequently, the Exchange will not need to use the EBS system or request information pursuant to Rule 15.7 for NMS Securities or OTC Equity Securities for time periods after CAT reporting has begun if the appropriate accuracy and reliability thresholds are achieved, including an acceptable accuracy rate for customer and account information. However, Rule 15.7 cannot be completely eliminated immediately upon the CAT achieving the appropriate thresholds because Exchange staff may still need to request information pursuant to Rule 15.7 for trading activity occurring before a member was reporting to the CAT.[18] In addition, Rule 15.7 applies to information regarding transactions involving securities that will not be reportable to the CAT, such as fixed-income securities; thus, the rule must remain in effect with respect to those transactions indefinitely or until those transactions are captured in the CAT.

(4) Other Reports

Various other CBOE Rules require Trading Permit Holders to report information to the Exchange upon request.[19] While the Exchange believes it is necessary to retain these Rules to ensure it has access to the necessary data to perform its regulatory duties and meet its surveillance obligations, it expects it will need to make fewer information requests pursuant to these Rule once Trading Permit Holders begin reporting to the CAT and accuracy and reliability standards are met.

In connection with these Rules requiring Trading Permit Holders to report information to the Exchange upon request, Trading Permit Holders must currently submit to the Exchange stock transaction information for each Qualified Contingent Cross order executed at CBOE. CAT will require Trading Permit Holders to report stock transaction information. Therefore, the Exchange intends to eliminate this reporting requirement in accordance with the proposed timeline below.

(5) Timeline for Elimination of Duplicative Rules

The CAT NMS Plan states that the elimination of rules that are duplicative of the requirements of the CAT and the retirement of the related systems should be effective at such time as CAT Data meets minimum standards of accuracy and reliability.[20] As discussed in more detail below, the Exchange believes the Rule provisions and related systems described above may be retired at a date after all Industry Members are reporting to the CAT when the proposed error rate thresholds have been met, and the Exchange has determined that its usage of the CAT Data has not revealed material issues that have not been corrected, confirmed that the CAT includes all data necessary to allow the Exchange to continue to meet its surveillance obligations, and confirmed that the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan.

The Exchange believes the proposed rule changes should not be effective until all Participants and Industry Members that report data pursuant to the Rules described above are reporting comparable data to the CAT. In this way, the Exchange will continue to have access to the necessary data to perform its regulatory duties.

The CAT NMS Plan requires that a rule filing to eliminate a duplicative rule address whether ''the availability of certain data from Small Industry Members two years after the Effective Date would facilitate a more expeditious retirement of duplicative systems.''[21] The Exchange believes COATS should not be retired until all Participants and Industry Members that report data to COATS are reporting comparable data to the CAT. While the early submission of options data to the CAT by Small Industry Members could expedite the retirement of COATS, the Exchange believes that it premature [sic] to consider such a change and that additional analysis would be necessary to determine whether such early reporting by Small Industry Members would be feasible.

The CAT NMS Plan requires that this rule filing address ''whether individual Industry Members can be exempted from reporting to duplicative systems once their CAT reporting meets specified accuracy and reliability standards, including, but not limited to, ways in which establishing cross-system regulatory functionality or integrating data from existing systems and the CAT would facilitate such Individual Industry Member exemptions.''[22] The Exchange believes that a single cut-over from the reporting requirements described above to CAT is highly preferable to a firm-by-firm approach and is not proposing to exempt members from such reporting requirements on a firm-by-firm basis. The Exchange believes that providing

[17] The proposed rule change also capitalizes the first word of paragraph (a).

[18] Firms are required to maintain the trade information for pre-CAT transactions in equities and options pursuant to applicable rules, such as books and records retention requirements, for the relevant time period, which is generally three or six years depending upon the record. *See* 17 CFR 240.17a–3(a), 240.17a–4.

[19] *See, e.g.,* Rule 17.2, Interpretation and Policy .04.

[20] *Id.* [sic]

[21] *Id.*

[22] *Id.*

such individual exemptions to Industry Members would be inefficient, more costly, and less reliable than the single cut-over. Providing individual exemptions would require the options exchanges to create, for a brief temporary period, a cross-system regulatory function and to integrate data from reports received pursuant to the above requirements and the CAT to avoid creating any regulatory gaps as a result of such exemptions. Such a function would be costly to create and would give rise to a greater likelihood of data errors or other issues. Given the limited time in which such exemptions would be necessary, the Exchange does not believe that such exemptions would be an appropriate use of limited resources.

The CAT NMS Plan also requires that a rule filing to eliminate a duplicative rule to provide ''specific accuracy and reliability standards that will determine when duplicative systems will be retired, including, but not limited to, whether the attainment of a certain Error Rate should determine when a system duplicative of the CAT can be retired.'' [23] The Exchange believes that it is critical that the CAT Data be sufficiently accurate and reliable for the Exchange to perform the regulatory functions that it now performs using the information it receives pursuant to the reporting requirements described above. Accordingly, the Exchange believes that the CAT Data should meet specific quantitative error rates, as well as certain qualitative requirements.

The Exchange believes (and the other options exchanges with respect to COATS and EBS) believe that, before reporting requirements may be modified or eliminated, as applicable, and related systems may be retired, the CAT would need to achieve a sustained error rate for a period of at least 180 days of 5% or lower measured on a pre-correction or as-submitted basis, and 2% or lower on a post-correction basis (measured at T+5).[24] The Exchange proposes to measure the 5% pre-correction and 2% post-correction thresholds by averaging the error rate across the period, not require a 5% pre-correction and 2% post-correction maximum each day for 180 consecutive days. The Exchange believes that measuring each of the thresholds over the course of 180 days will ensure that the CAT consistently meets minimum accuracy and reliability thresholds while also ensuring that single-day measurements do not unduly affect the overall measurements. The Exchange proposes to measure the appropriate error rates in the aggregate, rather than firm-by-firm. In addition, with respect to COATS, the Exchange proposes to measure the error rates for options only, not equity securities, as only options are subject to COATS. The 2% and 5% error rates are in line with the proposed retirement threshold for FINRA's Order Audit Trail System (''OATS'').

In addition to these minimum error rates before reporting requirements may be modified or eliminated, as applicable, and related systems may be retired, the Exchange believes that during the minimum 180-day period during which the thresholds are calculated, the Exchange's use of the data in the CAT must confirm that (i) usage over that time period has not revealed material issues that have not been corrected, (ii) the CAT includes all data necessary to allow the Exchange to continue to meet its surveillance obligations, and (iii) the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan. The Exchange believes this time period to use the CAT Data is necessary to reveal any errors that may manifest themselves only after surveillance patterns and other queries have been run and to confirm that the Plan Processor is meeting its obligations and performing its functions adequately.

If the Commission approves the proposed rule change, the Exchange will announce the date for modification or elimination, as applicable, of reporting requirements and retirement of related systems and the implementation date of the proposed rule change via Regulatory Circular that will be published once the Exchange (and other options exchanges with respect to COATS and EBS) determines that the thresholds for accuracy and reliability described above have been met and that the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Exchange Act,[25] which requires, among other things, that Exchange Rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealer. The Exchange believes that this proposal is consistent with the Exchange Act because it fulfills the obligation in the CAT NMS Plan for the Exchange to submit a proposed rule change to eliminate or modify duplicative rules. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [26] As this proposal implements the Plan, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Exchange Act.

Moreover, the purpose of the proposed rule change is to amend rules that require the submission of duplicative data to the Exchange. The elimination of such duplicative requirements will reduce unnecessary costs and other compliance burdens for the Exchange and its Trading Permit Holders, and therefore, will enhance the efficiency of the securities markets. Furthermore, the Exchange believes that the approach set forth in the proposed rule change strikes the appropriate balance between ensuring that the Exchange is able to continue to fulfill its statutory obligation to protect investors and the public interest by ensuring its surveillance of market activity remains accurate and effective while also establishing a reasonable timeframe for elimination or modification of its rules that will be rendered duplicative after implementation of the CAT.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 6(b)(8) of the Exchange Act [27] requires that Exchange Rules not impose any burden on competition that is not necessary or appropriate. 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 Exchange Act. The Exchange notes that the proposed rule change implements the requirements of the CAT NMS Plan approved by the Commission regarding the elimination of rules and systems that are duplicative the CAT, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. Similarly, all exchanges and FINRA are

[23] *Id.*

[24] The Plan requires that the Plan Processor must ensure that regulators have access to corrected and linked order and Customer data by 8:00 a.m. Eastern Time on T+5. *See* CAT NMS Plan, at C–15.

[25] 15 U.S.C. 78f(b)(5).

[26] Approval Order at 84697.

[27] 15 U.S.C. 78f(b)(8).

proposing the elimination of reporting requirements related to COATS and EBS, as well as other duplicative rules, to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive rule filing and, therefore, it does not raise competition issues between and among the self-regulatory organizations and/or their members.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Although written comments on the proposed rule change were not solicited, the Exchange received comments from two commenters, the Financial Information Forum (''FIF'') and the Securities Industry and Financial Markets Association (''SIFMA''), regarding the retirement of systems related to the CAT.[28] In its comment letters, with regard to the retirement of duplicative systems more generally, FIF recommended that the Participants continue the effort to incorporate current reporting obligations into the CAT in order to replace existing reportable systems with the CAT. In addition, FIF further recommended that, once a CAT Reporter achieved satisfactory reporting data quality, the CAT Reporter should be exempt from reporting to any duplicative reporting systems. FIF believed that these recommendations ''would serve both an underlying regulatory objective of more immediate and accurate access to data as well as an industry objective of reduced costs and burdens of regulatory oversight.'' [29] In its comments about EBS specifically, FIF stated that the retirement of the EBS requirements should be a high priority, and that the CAT should be designed to include the requisite data elements to permit the rapid retirement of EBS.[30] Similarly, SIFMA stated that ''the establishment of the CAT must be accompanied by the prompt elimination of duplicative systems,'' and ''recommend[ed] that the initial technical specifications be designed to facilitate the immediate retirement of . . . duplicative reporting systems.'' [31]

As discussed above, the Exchange agrees with the commenters that the reporting requirements proposed to be modified or eliminated should be replaced by the CAT reporting requirements as soon as accurate and reliable CAT Data is available. To this end, the Exchange anticipates that the CAT will be designed to collect the data necessary to permit the modification or elimination, as applicable, of these reporting requirements and the retirement of related systems. However, as discussed above, the Exchange disagrees with the recommendation to provide individual exemptions to those CAT Reporters who obtain satisfactory data reporting quality.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. By order approve or disapprove such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2017–041 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–CBOE–2017–041. 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–CBOE–2017–041 and should be submitted on or before June 22, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–11373 Filed 5–31–17; 8:45 am]

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[28] Letter from William H. Hebert, FIF, to Participants re: Milestone for Participants' rule change filings to eliminate/modify duplicative rules (Apr. 12, 2017) (''FIF Letter''); Letter from William H. Hebert, FIF, to Brent J. Fields, SEC re: Milestone for Participants' rule change filings to eliminate/modify duplicative rules (Apr. 12, 2017); and Letter from Kenneth E. Bentsen, Jr., SIFMA, to Participants re: Selection of Thesys as CAT Processor (Apr. 4, 2017) (''SIFMA Letter'') at 2.

[29] FIF Letter at 2.

[30] FIF Letter at 2.

[31] SIFMA Letter at 2.

[32] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80771; File No. SR–MRX–2017–05]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Supplementary Material .03 to Rule 713

May 25, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 19, 2017, Nasdaq MRX, LLC (''MRX'' or ''Exchange'') filed with the Securities and Exchange Commission (''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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Supplementary Material .03 to Rule 713 to change the allocation entitlement for Preferred PMMs.

The text of the proposed rule change is available on the Exchange's Web site at *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

Supplementary Material .03 to Rule 713 allows an Electronic Access Member (''EAM'') to designate a ''Preferred Market Maker'' on orders it enters into the System (''Preferenced Orders''). A Preferred Market Maker may be the Primary Market Maker (''PMM'') appointed to the options class or any Competitive Market Maker (''CMM'') appointed to the options class.[3] The purpose of the proposed rule change is to amend Supplementary Material .03 to Rule 713 to change the allocation entitlement for PMMs that receive Preferenced Orders (*i.e.,* ''Preferred PMMs''), consistent with allocation entitlements for PMM equivalents on other options exchanges.

Currently, a Preferred Market Maker that is quoting at the national best bid of offer (''NBBO'') at the time the Preferenced Order is received,[4] is entitled to participation rights equal to the greater of: (i) The proportion of the total size at the best price represented by the size of its quote, or (ii) sixty percent (60%) of the contracts to be allocated if there is only one (1) other Professional Order or market maker quotation at the best price and forty percent (40%) if there are two (2) or more other Professional Orders and/or market maker quotes at the best price.[5] This allocation entitlement is in lieu of the regular allocation provided in Supplementary Material .01 to Rule 713, and applies regardless of whether the Preferred Market Maker is a PMM or CMM. In some instances where the Preferred Market Maker is the PMM appointed to the options class this results in a preferenced allocation that is worse than the market maker's regular allocation entitlement. Specifically, Supplementary Material .01(c) to Rule 713 provides a small order entitlement whereby orders of five contracts or fewer are executed first by the PMM. A PMM that normally receives an allocation entitlement for orders of five contracts or fewer,[6] would not receive this allocation entitlement if it were designated as the Preferred Market Maker.

The Exchange now proposes to amend the participation rights of Preferred PMMs such that the PMM appointed in an option class will receive participation rights that are consistent with the higher allocation entitlement given to PMM equivalents on the MIAX Options Exchange (''MIAX''), and with the allocation entitlement recently adopted on the Exchange's affiliates, Nasdaq ISE, LLC (''ISE'') and Nasdaq GEMX, LLC (''GEMX''). In particular, the Exchange proposes to amend Supplementary Material .03(c) to Rule 713 to provide that, the Preferred Market Maker has participation rights equal to the greater of: (i) The proportion of the total size at the best price represented by the size of its quote, (ii) sixty percent (60%) of the contracts to be allocated if there is only one (1) other Professional Order or market maker quotation at the best price and forty percent (40%) if there are two (2) or more other Professional Orders and/or market maker quotes at the best price, or *(iii) the full size of a Preferenced Order for five (5) contracts or fewer if the Primary Market Maker appointed to the options class is designated as the Preferred Market Maker—i.e.,* the small order allocation entitlement contained in Supplementary Material .01(c) to Rule 713. Thus, the PMM appointed to an options class would receive an allocation entitlement for orders of five contracts or fewer, regardless of whether that order is submitted as a Preferenced Order. The Exchange believes that this is appropriate since the PMMs obligations to the market are the same regardless of whether an order happens to be submitted with a preference instruction. PMM equivalents on other options exchanges currently receive this participation right when preferenced, in addition to the regular 60% or 40% preferenced allocation currently provided in the rule.[7] Preferred CMMs will continue to receive the same allocation entitlement that they receive today.

Pursuant to Supplementary Material .01(c) to Rule 713 the Exchange evaluates on a quarterly basis what percentage of the volume executed on the Exchange is comprised of orders for five (5) contracts or fewer executed by PMMs. The Exchange represents that this review will extend to the small order entitlement for Preferred PMMs. Thus, consistent with Supplementary Material .01(c) to Rule 713, the Exchange will reduce the size of the orders included in the small order entitlement if such percentage is over forty percent (40%).

Implementation

The proposed rule change will be implemented on the Exchange's new INET trading system, which is scheduled to launch in Q3 2017,[8] provided that the Exchange will provide notice of this change in a circular to be distributed to members prior to implementing the new allocation entitlement on INET. The INET migration will take place on a symbol by symbol basis as specified by the Exchange in a notice to be provided to Members. The Exchange is proposing to implement this rule change on the INET platform as the symbols migrate to that platform. As such, PMMs will begin receiving the small order entitlement in symbols as they migrate to the INET platform.

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(b) of the Act.[9] In particular, the proposal is consistent

[3] *See* Supplementary Material .03(a) to Rule 713.

[4] If the Preferred Market Maker is not quoting at a price equal to the NBBO at the time the Preferenced Order is received, the Exchange's regular allocation procedure applies to the execution of the Preferenced Order. *See* Supplementary Material .03(b) to Rule 713.

[5] *See* Supplementary Material .03(c) to Rule 713.

[6] *See* Supplementary Material .01(c) to Rule 713.

[7] *See* MIAX Rule 514(g), (i). *See also* Securities Exchange Act Release Nos. 80239 (March 14, 2017), 82 FR 14413 (March 20, 2017) (SR–ISEGemini–2017–14); 80438 (April 12, 2017), 82 FR 18329 (April 18, 2017) (SR–ISE–2017–31).

[8] *See* SR–MRX–2017–02 (pending publication).

[9] 15 U.S.C. 78f(b).

with Section 6(b)(5) of the Act,[10] because it is designed to promote just and equitable principles of trade, 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 the proposed rule change is consistent with the protection of investors and the public interest as it will allow EAMs to send Preferenced Orders to the PMM appointed in an options class without inadvertently disadvantaging the PMM compared to if the order was not preferenced. The regular allocation entitlements for PMMs, including the small order entitlement, are designed to balance the obligations that the PMM has to the market with corresponding benefits. The Exchange believes that it is appropriate to provide the small order entitlement also when the PMM is designated as a Preferred Market Maker as the obligations that the PMM has to the market are not diminished when it receives a Preferenced Order. Other options exchanges similarly provide the small order entitlement to the PMM regardless of whether the order is submitted as a Preferenced Order.[11] At the same time, the proposed rule change does not amend the current participation rights for Preferred CMMs, which is also consistent with allocation rules of other options exchanges. While the Exchange believes that it is appropriate to grant PMMs an allocation entitlement for small sized orders preferenced to them in recognition of the obligations that PMMs have to maintain fair and orderly markets, the Exchange does not believe that it is appropriate at this time to extend this entitlement to CMMs, preferenced or otherwise.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[12] 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 rule change is designed to allow EAMs to send Preferenced Orders to the PMM appointed in an options class without inadvertently disadvantaging the PMM by reducing its participation rights. The proposed allocation entitlements are equivalent to those currently in effect on other options exchanges.[13] The proposed rule change is therefore not designed to impose any significant 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)(iii) of the Act[14] and subparagraph (f)(6) of Rule 19b–4 thereunder.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MRX–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 Number SR–MRX–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 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–MRX–2017–05 and should be submitted on or before June 22, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–11253 Filed 5–31–17; 8:45 am]

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[10] 15 U.S.C. 78f(b)(5).

[11] *See* supra note 7.

[12] 15 U.S.C. 78f(b)(8).

[13] *See* supra note 7.

[14] 15 U.S.C. 78s(b)(3)(A)(iii).

[15] 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.

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80792; File No. SR–PEARL–2017–23]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing of Proposed Rule Change To Eliminate Requirements That Will Be Duplicative of CAT

May 26, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 15, 2017, MIAX PEARL, LLC (''MIAX PEARL'' 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 is filing a proposal to amend MIAX PEARL Rule 606, Securities Accounts and Orders of Market Makers (''Rule 606'' or the ''Position Reporting Rule'') by adding new Interpretation and Policy .02 to Rule 606, and MIAX PEARL Rule 804, Automated Submission of Trade Data (''Rule 804'' or the ''EBS Rule'' and together with the Position Reporting Rule, the ''CAT Duplicative Rules'') by adding new Interpretation and Policy .01 to Rule 804, as the CAT Duplicative Rules provide for the collection of information that is duplicative of the data collection requirements of the consolidated audit trail (''CAT'') adopted pursuant to the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'').[3]

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/rule-filings/pearl,* at MIAX PEARL's principal office, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth herein, or in the CAT Compliance Rule Series or in the CAT NMS Plan.

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

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC,[4] NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. and NYSE National, Inc.[5] (collectively, the ''Participants'') filed with the Commission, pursuant to Section 11A of the Exchange Act [6] and Rule 608 of Regulation NMS thereunder,[7] the CAT NMS Plan.[8] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,[9] and approved by the Commission, as modified, on November 15, 2016.[10] The Plan is designed to create, implement and maintain a CAT that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. Pursuant to Appendix C of the CAT NMS Plan, each Participant is required to conduct analyses of which of its existing trade and order data rules and systems require the collection of information that is duplicative of information collected for the CAT.[11] In addition, among other things, Section C.9 of Appendix C to the Plan, as modified by the Commission, requires each Participant to ''file with the SEC the relevant rule change filing to eliminate or modify its duplicative rules within six (6) months of the SEC's approval of the CAT NMS Plan.'' [12] The Plan notes that ''the elimination of such rules and the retirement of such systems [will] be effective at such time as CAT Data meets minimum standards of accuracy and reliability.'' [13] The Exchange has determined that the Position Reporting Rule and the EBS Rule is affected by the implementation of the CAT and, therefore, is filing this proposed rule change.

(1) The CAT Duplicative Rules

MIAX PEARL Rule 606, the Position Reporting Rule, is the Exchange's rule requiring Market Makers to (a) keep current and file with the Exchange a list identifying specified accounts in which it may engage in trading activities or over which it exercises investment discretion (''MM account information'') and (b) report to the Exchange every order entered by the Market Maker for the purchase or sale of a security underlying options traded on the Exchange or convertible into or exercisable for such underlying security (''MM order information''), as well as opening and closing positions in all such securities held in each of the aforementioned specified accounts (''MM position information''), in each case in a manner prescribed by the Exchange.

[4] ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. *See* Securities Exchange Act Rel. No. 80248 (Mar. 15, 2017), 82 FR 14547 (Mar. 21, 2017); Securities Exchange Act Rel. No. 80326 (Mar. 29, 2017), 82 FR 16460 (Apr. 4, 2017); and Securities Exchange Act Rel. No. 80325 (Mar. 29, 2017), 82 FR 164FR45 (Apr. 4, 2017).

[5] National Stock Exchange, Inc. has been renamed NYSE National, Inc. *See* Securities Exchange Act Rel. No. 79902 (Jan. 30, 2017), 82 FR 9258 (Feb. 3, 2017).

[6] 15 U.S.C. 78k–1.

[7] 17 CFR 242.608.

[8] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

[9] *See* Securities Exchange Act Release. No. 77724 (Apr. 27, 2016), 81 FR 30614 (May 17, 2016).

[10] *See* Securities Exchange Act Rel. No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016) (''Approval Order'').

[11] Appendix C of CAT NMS Plan, Approval Order at 85010.

[12] *Id.*

[13] *Id.*

MIAX PEARL Rule 804,[14] the EBS Rule, is the Exchange's rule requiring Members to submit requested trade data elements (''Member trade data'') to the Exchange in such automated format as may be prescribed by the Exchange from time to time, in regard to a transaction(s) that is the subject of a particular request for information. Rule 804 contemplates using the Electronic Blue Sheet (''EBS'') system for the automated submission of Member trade data as requested by the Exchange, including, among other information, clearing house number or alpha symbol, identifying symbol assigned to the security, options month and/or series, transaction execution date, number of option contracts for transaction and whether opening or closing purchase or sale, transaction price, account number and/or market center where executed.

Once broker-dealer reporting to the CAT has begun, the CAT will contain certain of the data the Participants would otherwise have requested via the Position Reporting Rule or via the EBS system for purposes of NMS Securities and OTC Equity Securities. Consequently, the Exchange will not need to use the Position Reporting Rule to obtain MM account information or MM order information (although Exchange still anticipates the need to obtain MM position information pursuant to Rule 606 because the CAT does not currently address position reporting) or use the EBS system to obtain Member trade data or request information pursuant to the CAT Duplicative Rules for NMS Securities or OTC Equity Securities for time periods after CAT reporting has begun if the appropriate accuracy and reliability thresholds are achieved, including an acceptable accuracy rate for customer and account information. However, the Position Reporting Rule cannot be completely eliminated immediately upon the CAT achieving the appropriate thresholds because Exchange staff will still need to request information pursuant to the Position Reporting Rule regarding MM position information (because the CAT does not currently address position reporting), and Exchange staff may still need to request information pursuant to the Position Reporting Rule for MM account information and MM order information before a Market Maker was reporting to the CAT. Further, the EBS Rule cannot be completely eliminated immediately upon the CAT achieving the appropriate thresholds because Exchange staff may still need to request information pursuant to the EBS Rule for trading activity occurring before a Member was reporting to the CAT.[15]

The proposed rule change proposes to: (1) Add new Interpretation and Policy .02 to the Position Reporting Rule to clarify how the Exchange will request Market Maker account, order and position data under Rule 606 after MIAX PEARL Market Makers are reporting to the CAT, and (2) add new Interpretation and Policy .01 to the EBS Rule to clarify how the Exchange will request trade data under Rule 804 after MIAX PEARL Members are reporting to the CAT.

With respect to the Position Reporting Rule, proposed Interpretation and Policy .02 to Rule 606 will specifically permit the Exchange to request information under such rule only if the information is not available in the CAT because, for example, the transactions in question occurred before the Market Maker was reporting information to the CAT or relates to position information because the CAT does not currently address position reporting. In essence, under the new Interpretation and Policy .02 to Rule 606, the Exchange will make requests under Rule 606 if and only if the information is not otherwise available through the CAT.

With respect to the EBS Rule, proposed Interpretation and Policy .01 to Rule 804 will specifically permit the Exchange to request information under such rule only if the information is not available in the CAT because, for example, the transactions in question occurred before the Member was reporting information to the CAT. In essence, under the new Interpretation and Policy .01 to Rule 804, the Exchange will make requests under Rule 804 if and only if the information is not otherwise available through the CAT.

The CAT NMS Plan states, however, that the elimination of rules that are duplicative of the requirements of the CAT and the retirement of the related systems should be effective at such time as CAT Data meets minimum standards of accuracy and reliability.[16] Accordingly, as discussed in more detail below, the Exchange believes that MM account information and MM order information (but not MM position information) may be replaced by CAT Data at a date after all Industry Members are reporting to the CAT when the proposed error rate thresholds have been met, and MIAX PEARL has determined that its usage of the CAT Data has not revealed material issues that have not been corrected, confirmed that the CAT includes all data necessary to allow MIAX PEARL to continue to meet its surveillance obligations, and confirmed that the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan.

The Exchange further believes, as discussed in more detail below, that the EBS data may be replaced by CAT Data at a date after all Industry Members are reporting to the CAT when the proposed error rate thresholds have been met, and MIAX PEARL has determined that its usage of the CAT Data has not revealed material issues that have not been corrected, confirmed that the CAT includes all data necessary to allow MIAX PEARL to continue to meet its surveillance obligations, and confirmed that the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan.

MIAX PEARL believes CAT Data should not be used in place of MM account information and MM order information or EBS data until all Participants and Industry Members are reporting data to CAT. In this way, MIAX PEARL will continue to have access to the necessary data to perform its regulatory duties.

The CAT NMS Plan requires that a rule filing to eliminate a duplicative rule address whether ''the availability of certain data from Small Industry Members two years after the Effective Date would facilitate a more expeditious retirement of duplicative systems.'' [17] The Exchange believes that MM account information and MM order information reporting should not be eliminated until all Participants and Industry Members that report such information are reporting comparable data to the CAT. The Exchange further believes that the EBS system should not be retired until all Participants and Industry Members

[14] MIAX PEARL Rule 804 is incorporated by reference from the rules contained in Miami International Securities Exchange, LLC Rule Book Chapter VIII, as such rules may be in effect from time to time (the ''Chapter VIII Rules''), and is thus a MIAX PEARL Rule and thereby applicable to MIAX PEARL Members. MIAX PEARL Members shall comply with the Chapter VIII Rules as though such rules were fully-set forth in the MIAX PEARL Rule Book. All defined terms, including any variations thereof, contained in Chapter VIII Rules shall be read to refer to the MIAX PEARL related meaning of such term. *See* Securities Exchange Act Release No. 79543 (December 13, 2016), 81 FR 92901 (December 20, 2016) (Order pursuant to Section 36 of the Exchange Act granting application by MIAX PEARL for exemption from the rule filing requirements of Section 19(b) of the Exchange Act with respect to certain rules incorporated by reference) at 92916.

[15] Firms are required to maintain the trade information for pre-CAT transactions in equities and options pursuant to applicable rules, such as books and records retention requirements, for the relevant time period, which is generally three or six years depending upon the record. *See* 17 CFR 240.17a–3(a), 240.17a–4.

[16] *Id.* [sic]

[17] *Id.*

that report EBS data to the EBS system are reporting comparable data to the CAT. While the early submission of data to the CAT by Small Industry Members could expedite the replacement of MM account information, MM order information and EBS data with CAT Data, the Exchange believes that it is premature to consider such a change and that additional analysis would be necessary to determine whether such early reporting by Small Industry Members would be feasible.

The CAT NMS Plan requires that this rule filing address ''whether individual Industry Members can be exempted from reporting to duplicative systems once their CAT reporting meets specified accuracy and reliability standards, including, but not limited to, ways in which establishing cross-system regulatory functionality or integrating data from existing systems and the CAT would facilitate such Individual Industry Member exemptions.'' [18] The Exchange believes that a single cut-over from current reporting systems to CAT is highly preferable to a firm-by-firm approach and is not proposing to exempt Members from the Position Reporting Rule or EBS Rule requirements on a firm-by-firm basis. The Exchange believes that providing such individual exemptions to Industry Members would be inefficient, more costly, and less reliable than the single cut-over. Providing individual exemptions would require the exchanges to create, for a brief temporary period, a cross-system regulatory function and to integrate data from current reporting systems and the CAT to avoid creating any regulatory gaps as a result of such exemptions. Such a function would be costly to create and would give rise to a greater likelihood of data errors or other issues. Given the limited time in which such exemptions would be necessary, the Exchange does not believe that such exemptions would be an appropriate use of limited resources.

The CAT NMS Plan also requires that a rule filing to eliminate a duplicative rule to provide ''specific accuracy and reliability standards that will determine when duplicative systems will be retired, including, but not limited to, whether the attainment of a certain Error Rate should determine when a system duplicative of the CAT can be retired.'' [19] The Exchange believes that it is critical that the CAT Data be sufficiently accurate and reliable for the Exchange to perform the regulatory functions that it now performs via current reporting systems. Accordingly, the Exchange believes that the CAT Data should meet specific quantitative error rates, as well as certain qualitative requirements.

The Exchange believes that, before CAT Data may be used in place of MM account information and MM order information or EBS data, the CAT would need to achieve a sustained error rate for a period of at least 180 days of 5% or lower measured on a pre-correction or as-submitted basis, and 2% or lower on a post-correction basis (measured at T+5).[20] The Exchange proposes to measure the 5% pre-correction and 2% post-correction thresholds by averaging the error rate across the period, not require a 5% pre-correction and 2% post-correction maximum each day for 180 consecutive days. The Exchange believes that measuring each of the thresholds over the course of 180 days will ensure that the CAT consistently meets minimum accuracy and reliability thresholds while also ensuring that single-day measurements do not unduly affect the overall measurements. The Exchange proposes to measure the appropriate error rates in the aggregate, rather than firm-by-firm. The 2% and 5% error rates are in line with the proposed retirement threshold for other systems, such as FINRA's Order Audit Trail System (''OATS'') and the consolidated options audit trail system (''COATS'').

In addition to these minimum error rates before using CAT Data instead of MM account information and MM order information or EBS data, the Exchange believes that during the minimum 180-day period during which the thresholds are calculated, the Exchange's use of the data in the CAT must confirm that (i) usage over that time period has not revealed material issues that have not been corrected, (ii) the CAT includes all data necessary to allow the Exchange to continue to meet its surveillance obligations, and (iii) the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan. The Exchange believes this time period to use the CAT Data is necessary to reveal any errors that may manifest themselves only after surveillance patterns and other queries have been run and to confirm that the Plan Processor is meeting its obligations and performing its functions adequately.

If the Commission approves the proposed rule change, the Exchange will announce the implementation date for the proposed rule change in a Regulatory Circular that will be published once the Exchange concludes the thresholds for accuracy and reliability described above have been met and that the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Exchange Act,[21] which require, among other things, that the Exchange rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealers. The Exchange believes that this proposal is consistent with the Exchange Act because it fulfills the obligation in the CAT NMS Plan for the Exchange to submit a proposed rule change to eliminate or modify duplicative rules. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [22] As this proposal implements the Plan, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Exchange Act.

Moreover, the purpose of the proposed rule change is to amend rules that require the submission of duplicative data to the Exchange. The elimination of such duplicative requirements will reduce unnecessary costs and other compliance burdens for the Exchange and its Members, and therefore, will enhance the efficiency of the securities markets. Furthermore, the Exchange believes that the approach set forth in the proposed rule change strikes the appropriate balance between ensuring that the Exchange is able to continue to fulfill its statutory obligation to protect investors and the public interest by ensuring its surveillance of market activity remains accurate and effective while also establishing a reasonable timeframe for elimination or modification of its rules that will be rendered duplicative after implementation of the CAT.

[18] *Id.*

[19] *Id.*

[20] The Plan requires that the Plan Processor must ensure that regulators have access to corrected and linked order and Customer data by 8:00 a.m. Eastern Time on T+5. *See* CAT NMS Plan, at C–15.

[21] 15 U.S.C. 78f(b)(5).

[22] Approval Order at 84697.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 6(b)(8) of the Exchange Act [23] requires that Exchange rules not impose any burden on competition that is not necessary or appropriate. 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 Exchange Act. The Exchange notes that the proposed rule change implements the requirements of the CAT NMS Plan approved by the Commission regarding the elimination of rules and systems that are duplicative the CAT, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. Similarly, all exchanges and FINRA are proposing the elimination of their EBS and other CAT duplicative rules to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive rule filing and, therefore, it does not raise competition issues between and among the self-regulatory organizations and/or their members.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–PEARL–2017–23 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–PEARL–2017–23. 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–PEARL–2017–23, and should be submitted on or before June 22, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–11368 Filed 5–31–17; 8:45 am]

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[23] 15 U.S.C. 78f(b)(8).

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80794; File No. SR–NYSEMKT–2017–30]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing of Proposed Rule Change To Eliminate Requirements That Will Be Duplicative of CAT

May 26, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 22, 2017, NYSE MKT LLC (''NYSE MKT'' or the ''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 delete the Order Audit Trail System (''OATS'') rules in the Rule 7400—Equities Series (Order Audit Trail System) and amend Rule 8211 of the Office Rules (Automated Submission of Trading Data Requested by the Exchange) governing submission of Electronic Blue Sheet trading data (''EBS'') as these Rules provide for the collection of information that is duplicative of the data collection requirements of the CAT once the Financial Industry Regulatory Authority (''FINRA'') publishes a notice announcing the date that it will retire its OATS and EBS rules. The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., FINRA, Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC,[3] NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, the New York Stock Exchange LLC, the Exchange, NYSE Arca, Inc. and NYSE National, Inc.[4] (collectively, the ''Participants'') filed with the Commission, pursuant to Section 11A of the Exchange Act [5] and Rule 608 of Regulation NMS thereunder,[6] the CAT NMS Plan.[7] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act.[8] The Plan was published for comment in the **Federal Register** on May 17, 2016,[9] and approved by the Commission, as modified, on November 15, 2016.[10] On March 21, 2017, the Commission approved [11] the Exchange's new Rule 6800 Series to implement provisions of the CAT NMS Plan that are applicable to Exchange member organizations.[12]

The Plan is designed to create, implement and maintain a CAT that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. Pursuant to Appendix C of the CAT NMS Plan, each Participant is required to conduct analyses of which of its existing trade and order data rules and systems require the collection of information that is duplicative of information collected for the CAT.[13] In addition, among other things, Section C.9 of Appendix C to the Plan, as modified by the Commission, requires each Participant to ''file with the SEC the relevant rule change filing to eliminate or modify its duplicative rules within six (6) months of the SEC's approval of the CAT NMS Plan.'' [14] The Plan notes that ''the elimination of such rules and the retirement of such systems [will] be effective at such time as CAT Data meets minimum standards of accuracy and reliability.'' [15]

After conducting its analysis of its rules in accordance with the CAT NMS Plan, the Exchange has determined that the information collected pursuant to the OATS and EBS rules is intended to be collected by CAT. Therefore, the Exchange believes that the Rule 7400—Equities Series will no longer be necessary once FINRA publishes notice announcing the date it will retire its OATS rules. Similarly, the Exchange believes that it will be necessary to clarify how the Exchange will request EBS data under Rule 8211 after members are reporting to the CAT. Accordingly, the Exchange proposes to amend Rule 8211 to add new Supplementary Material clarifying how the Exchange will request data under these rules after member organizations are reporting to the CAT once FINRA publishes notice announcing the date it will retire its OATS rules. Discussed below is a description of the duplicative rule requirements as well as the timeline for eliminating the duplicative rules.

If the Commission approves the proposed rule change, the rule text will be effective; however, the amendments will not be implemented until FINRA publishes a notice announcing the date that it will retire its OATS rules, at which time the Exchange will publish a regulatory notice announcing implementation date of the proposed rule change. As discussed below, FINRA will publish its notice once the CAT achieves certain specific accuracy and reliability standards and FINRA has determined that its usage of the CAT Data has not revealed material issues that have not been corrected, confirmed that the CAT includes all data necessary to allow FINRA to continue to meet its surveillance obligations,[16] and confirmed that the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan.

Duplicative OATS Requirements

The Exchange's Rule 7400 Series consists of Rules 7410—Equities through 7470—Equities and sets forth the recording and reporting requirements of the OATS Rules. The OATS Rules require all Exchange member organizations and associated persons to record in electronic form and report to FINRA, on a daily basis, certain information with respect to orders originated, received, transmitted, modified, canceled, or executed by

[3] ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. *See* Securities Exchange Act Release No. 80248 (March 15, 2017), 82 FR 14547 (March 21, 2017) (SR–ISEGemini–2017–13); Securities Exchange Act Release No. 80326 (March 29, 2017), 82 FR 16460 (April 4, 2017) (SR–ISEMercury–2017–05); and Securities Exchange Act Release No. 80325 (March 29, 2017), 82 FR 16445 (April 4, 2017) (SR–ISE–2017–25).

[4] National Stock Exchange, Inc. has been renamed NYSE National, Inc. *See* Securities Exchange Act Release No. 79902 (January 30, 2017), 82 FR 9258 (February 3, 2017) (SR–NSX–2016–16).

[5] 15 U.S.C. 78k–1.

[6] 17 CFR 242.608.

[7] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

[8] 17 CFR 242.613.

[9] Securities Exchange Act Release No. 77724 (April 27, 2016), 81 FR 30614 (May 17, 2016) (File No. 4–698).

[10] Securities Exchange Act Release No. 79318 (Nov. 15, 2016), 81 FR 84696 (November 23, 2016) (File No. 4–698) (''Approval Order'').

[11] *See* Securities Exchange Act Release No. 80256 (March 15, 2017), 82 FR 14526 (March 21, 2017) (SR–NYSEMKT–2017–02) (Order Approving Proposed Rule Changes to Adopt Consolidated Audit Trail Compliance Rules).

[12] The Rule 6800 Series applies to Exchange member organizations. The term ''member organization'' means a ''registered broker or dealer (unless exempt pursuant to the Securities Exchange Act of 1934) (the ''Act'') that is a member of FINRA or another registered securities exchange. Member organizations that transact business with public customers or conduct business on the Floor of the Exchange shall at all times be members of FINRA. A registered broker or dealer must also be approved by the Exchange and authorized to designate an associated natural person to effect transactions on the floor of the Exchange or any facility thereof. This term shall include a natural person so registered, approved and licensed who directly effects transactions on the floor of the Exchange or any facility thereof.'' *See* Rule 2(b)(i)—Equities. The term ''member organization'' also includes any registered broker or dealer that is a member of FINRA or a registered securities exchange which does not own a trading license and agrees to be regulated by the Exchange as a member organization and which the Exchange has agreed to regulate. *See* Rule 2(b)(ii)—Equities. *See also* Rule 0—Equities (making clear that the proposed rule applies to transactions conducted on the Equities Trading Systems).

[13] Appendix C of CAT NMS Plan, Approval Order at 85010.

[14] *Id.*

[15] *Id.*

[16] As noted in the Participants' September 23, 2016 response to comment letters on the Plan, the Participants ''worked to keep [the CAT] gap analyses up-to-date by including newly-added data fields in these duplicative systems, such as the new OATS data fields related to the tick size pilot and ATS order book changes, in the gap analyses.'' Letter from Participants to Brent J. Fields, Secretary, Commission, dated September 23, 2016, at 21. The Participants noted that they ''will work with the Plan Processor and the industry to develop detailed Technical Specifications to ensure that by the time Industry Members are required to report to the CAT, the CAT will include all data elements necessary to facilitate the rapid retirement of duplicative systems.'' *Id.*

members in all NMS stocks, as that term is defined in Rule 600(b)(47) of Regulation NMS,[17] traded on the Exchange, including NYSE-listed securities. This information is used by FINRA staff to conduct surveillance and investigations of member firms for violations of FINRA rules and federal securities laws. The Exchange has determined that the requirements of the Rule 7400—Equities Series are duplicative of information available in the CAT and thus will no longer be necessary once the CAT is operational.

The Participants have provided OATS technical specifications to the Plan Processor for the CAT for use in developing the Technical Specifications for the CAT, and the Participants are working with the Plan Processor to include the necessary OATS data elements in the CAT Technical Specifications. Accordingly, the Exchange proposes to eliminate its OATS Rules in accordance with the proposed timeline discussed below.

Timeline for Elimination of Duplicative Rules

The CAT NMS Plan states that the elimination of rules that are duplicative of the requirements of the CAT and the retirement of the related systems should be effective at such time as CAT Data meets minimum standards of accuracy and reliability.[18] As discussed in more detail in its rule filing, FINRA believes that OATS may be retired at a date after all Industry Members are reporting to the CAT when the proposed error rate thresholds have been met, and FINRA has determined that its usage of the CAT Data has not revealed material issues that have not been corrected, confirmed that the CAT includes all data necessary to allow FINRA to continue to meet its surveillance obligations, and confirmed that the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan.[19]

The CAT NMS Plan requires that a rule filing to eliminate a duplicative rule address whether ''the availability of certain data from Small Industry Members two years after the Effective Date would facilitate a more expeditious retirement of duplicative systems.'' [20] FINRA believes that there is no effective way to retire OATS until all current OATS reporters are reporting to the CAT. As discussed in FINRA's filing, FINRA believes that having data from those Small Industry Members currently reporting to OATS available two years after the Effective Date would substantially facilitate a more expeditious retirement of OATS and therefore supports an amendment to the Plan that would require current OATS Reporters that are ''Small Industry Members'' to report two years after the Effective Date (instead of three).[21]

The CAT NMS Plan also requires that this rule filing address ''whether individual Industry Members can be exempted from reporting to duplicative systems once their CAT reporting meets specified accuracy and reliability standards, including, but not limited to, ways in which establishing cross-system regulatory functionality or integrating data from existing systems and the CAT would facilitate such Individual Industry Member exemptions.'' [22]

FINRA believes that a single cut-over from OATS to CAT is highly preferable to a firm-by-firm approach and is not proposing to exempt members from the OATS requirements on a firm-by-firm basis. FINRA believes that that the overall accuracy and reliability thresholds for the CAT described above [sic] would need to be met under any conditions before firms could stop reporting to OATS. Moreover, as discussed above [sic], FINRA supports amending the Plan to accelerate the reporting requirements for Small Industry Members that are OATS Reporters to report on the same timeframe as all other OATS Reporters. If such an amendment were approved by the Commission, there would be no need to exempt members from OATS requirements on a firm-by-firm basis.[23]

The CAT NMS Plan also requires that a rule filing to eliminate a duplicative rule to provide ''specific accuracy and reliability standards that will determine when duplicative systems will be retired, including, but not limited to, whether the attainment of a certain Error Rate should determine when a system duplicative of the CAT can be retired.'' [24] As discussed in Section A.3.(b) of Appendix C to the CAT NMS Plan, the Participants established an initial Error Rate, as defined in the Plan, of 5% on initially submitted data (*i.e.,* data as submitted by a CAT Reporter before any required corrections are performed). The Participants noted in the Plan that their expectation was that ''error rates after reprocessing of error corrections will be de minimis.'' [25] The Participants based this Error Rate on their consideration of ''current and historical OATS Error Rates, the magnitude of new reporting requirements on the CAT Reporters and the fact that many CAT Reporters may have never been obligated to report data to an audit trail.'' [26]

As set forth in its filing, FINRA believes that, when assessing the accuracy and reliability of the data for the purposes of retiring OATS, the error thresholds should be measured in more granular ways and should also include minimum error rates of post-correction data, which represents the data most likely to be used by FINRA to conduct surveillance. To ensure the CAT's accuracy and reliability, FINRA is thus proposing that, before OATS could be retired, the CAT would generally need to achieve a sustained error rate for Industry Member reporting in each of the categories below for a period of at least 180 days of 5% or lower, measured on a pre-correction or as-submitted basis and 2% or lower on a post-correction basis (measured at T+5).[27] FINRA is proposing to measure the 5% pre-correction and 2% post-correction thresholds by averaging the error rate across the period, not require a 5% pre-correction and 2% post-correction maximum each day for 180 consecutive days. FINRA believes that measuring each of the thresholds over the course of 180 days will ensure that the CAT consistently meets minimum accuracy and reliability thresholds for Industry Member reporting while also ensuring that single-day measurements do not unduly affect the overall measurements.[28] Consequently, FINRA is proposing to use error rates in four categories, measured separately for options and for equities, to assess whether the threshold pre- and post-correction error rates are being met.[29]

In addition to these minimum error rates before OATS can be retired FINRA believes that during the minimum 180-day period during which the thresholds are calculated, FINRA's use of the data in the CAT must confirm that (i) usage over that time period has not revealed material issues that have not been

[17] 17 CFR 242.600(B)(47).

[18] Appendix C of CAT NMS Plan, Approval Order at 85010.

[19] *See* SR–FINRA–2017–013.

[20] *Id.* [sic].

[21] *See* SR–FINRA–2017–013. FINRA has represented that it intends to work with the other Participants to submit a proposed amendment to the Plan to require Small Industry Members that are OATS Reporters to report two years after the Effective Date.

[22] *Id.* [sic].

[23] *Id.*

[24] *Id.* [sic].

[25] *See* CAT NMS Plan, Appendix C, Section A.3(b), at n.102.

[26] *Id.*

[27] The Plan requires that the Plan Processor must ensure that regulators have access to corrected and linked order and Customer data by 8:00 a.m. Eastern Time on T+5. *See* CAT NMS Plan, Appendix C, Section A.2(a).

[28] *See* SR–FINRA–2017–013.

[29] The categories are (1) rejection rates and data validations; (2) intra-firm linkages; (3) order linkage rates; and (4) Exchange and TRF/ORF match rates.

corrected, (ii) the CAT includes all data necessary to allow the Exchange to continue to meet its surveillance obligations, and (iii) the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan. The Exchange believes this time period to use the CAT Data is necessary to reveal any errors that may manifest themselves only after surveillance patterns and other queries have been run and to confirm that the Plan Processor is meeting its obligations and performing its functions adequately.[30]

Rule 8211

In addition to the OATS rules, Rule 8211 will also be affected by the implementation of the CAT. Rule 8211 is the Exchange's rule regarding the automated submission of specific trading data to the Exchange upon request (commonly referred to as ''blue sheet'' data) using the EBS system.

Once broker-dealer reporting to the CAT has begun, the CAT will contain much of the data the Participants would otherwise have requested via the EBS system for purposes of NMS Securities and OTC Equity Securities. Consequently, the Exchange will not need to use the EBS system or request information pursuant to Rule 8211 for NMS Securities or OTC Equity Securities for time periods after CAT reporting has begun if the appropriate accuracy and reliability thresholds are achieved, including an acceptable accuracy rate for customer and account information. However, Rule 8211 cannot be completely eliminated upon the CAT achieving the appropriate thresholds because Exchange staff may still need to request information pursuant to Rule 8211 for trading activity occurring before a member organization was reporting to the CAT.[31] In addition, the Rule 8211 applies to information regarding transactions involving securities that will not be reportable to the CAT, such as fixed-income securities; thus, the rule must remain in effect with respect to those transactions until those transactions are captured in the CAT.

The proposed rule change proposes to add new Supplementary Material to the Rule 8211 to clarify how the Exchange will request data under these rules after member organizations are reporting to the CAT. Specifically, the proposed Supplementary Material to the Rule 8211 will note that the Exchange will request information under Rule 8211 only if the information is not available in the CAT because, for example, the transactions in question occurred before the firm was reporting information to the CAT or involved securities that are not reportable to the CAT. In essence, under the new Supplementary Material, the Exchange will make requests under these rules if and only if the information is not otherwise available through the CAT.

However, as noted above, FINRA believes that the CAT must meet certain minimum accuracy and reliability standards before FINRA could rely on the CAT Data to replace existing regulatory tools, including EBS. Consequently, the proposed Supplementary Material will be implemented only after FINRA publishes its notice after the CAT achieves the thresholds set forth above with respect to OATS and an accuracy rate for customer and account information of 95% for pre-corrected data and 98% for post-correction data. In addition, as discussed above, FINRA can rely on CAT Data to replace EBS requests only after FINRA has determined that its usage of the CAT Data over a 180-day period has not revealed material issues that have not been corrected, confirmed that the CAT includes all data necessary to allow FINRA to continue to meet its surveillance obligations, and confirmed that the CAT Plan Processor is fulfilling its obligations under the CAT NMS Plan.

As noted, if the Commission approves the proposed rule change, the Exchange will announce the implementation date of the proposed rule change in a regulatory notice that will be published once FINRA publishes a notice announcing the date that it will retire its EBS rules, which FINRA will do once it concludes the thresholds for accuracy and reliability described above have been met and that the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[32] in general, and furthers the objectives of Section 6(b)(5) of the Act,[33] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, 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 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.

In particular, the Exchange believes that the proposed rule change implements, supports, interprets or clarifies the provisions of the Plan, and is designed to assist the Exchange and its Members in meeting regulatory obligations pursuant to, and milestones established by, the Plan. In approving the Plan, the SEC noted that it ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.''[34] To the extent that this proposal implements, interprets or clarifies the Plan and applies specific requirements to Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

The Exchange also believes that adding a preamble to each current Rule impacted by the Plan would remove impediments to and perfect the mechanism of a free and open market and a national market system by adding clarity and transparency to the Exchange's rules, reducing potential confusion, and making the Exchange's rules easier to navigate and understand.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is not designed to address any competitive issue but rather implement provisions of the CAT NMS Plan, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

[30] *See* SR–FINRA–2017–013.

[31] Firms are required to maintain the trade information for pre-CAT transactions in equities and options pursuant to applicable rules, such as books and records retention requirements, for the relevant time period, which is generally three or six years depending upon the record. *See* 17 CFR 240.17a–3(a), 240.17a–4.

[32] 15 U.S.C. 78f(b).

[33] 15 U.S.C. 78f(b)(5).

[34] Approval Order, 81 FR at 84697.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEMKT–2017–30 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–NYSEMKT–2017–30. 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–NYSEMKT–2017–30, and should be submitted on or before June 22, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[35]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–11370 Filed 5–31–17; 8:45 am]

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[35] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80793; File No. SR–NYSEMKT–2017–29]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing of Proposed Rule Change To Eliminate Requirements That Will Be Duplicative of CAT

May 26, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 15, 2017, NYSE MKT LLC (''NYSE MKT'' or the ''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 delete subsections (a)(1)–(13) of Rule 956NY (Record of Orders) of the Options Rules as these Rules collect information for the consolidated options audit trail system (''COATS'') that are duplicative of the data collection requirements of the CAT NMS Plan. The Exchange will announce the date for the retirement of COATS in a regulatory notice that will be published once the options exchanges determine that the thresholds for accuracy and reliability described below have been met and that the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan. The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, CBOE, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC,[3] NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, the Exchange, NYSE Arca, Inc. and NYSE National, Inc.[4] (collectively, the ''Participants'') filed with the Commission, pursuant to Section 11A of the Exchange Act[5] and Rule 608 of Regulation NMS thereunder,[6] the CAT

[3] ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. *See* Securities Exchange Act Release No. 80248 (March 15, 2017), 82 FR 14547 (March 21, 2017) (SR–ISEGemini–2017–13); Securities Exchange Act Release No. 80326 (March 29, 2017), 82 FR 16460 (April 4, 2017) (SR–ISEMercury–2017–05); and Securities Exchange Act Release No. 80325 (March 29, 2017), 82 FR 16445 (April 4, 2017) (SR–ISE–2017–25).

[4] National Stock Exchange, Inc. has been renamed NYSE National, Inc. *See* Securities Exchange Act Release No. 79902 (January 30, 2017), 82 FR 9258 (February 3, 2017) (SR–NSX–2016–16).

[5] 15 U.S.C. 78k–1.

[6] 17 CFR 242.608.

NMS Plan.[7] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act.[8] The Plan was published for comment in the **Federal Register** on May 17, 2016,[9] and approved by the Commission, as modified, on November 15, 2016.[10]

The Plan is designed to create, implement and maintain a CAT that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. Pursuant to Appendix C of the CAT NMS Plan, each Participant is required to conduct analyses of which of its existing trade and order data rules and systems require the collection of information that is duplicative of information collected for the CAT.[11] In addition, among other things, Section C.9 of Appendix C to the Plan, as modified by the Commission, requires each Participant to ''file with the SEC the relevant rule change filing to eliminate or modify its duplicative rules within six (6) months of the SEC's approval of the CAT NMS Plan.'' [12] The Plan notes that ''the elimination of such rules and the retirement of such systems [will] be effective at such time as CAT Data meets minimum standards of accuracy and reliability.'' [13]

After conducting its analysis of its rules in accordance with the CAT NMS Plan, the Exchange determined that the information collected for COATS is intended to be collected by the CAT. Therefore, the Exchange believes that COATS will no longer be necessary once the CAT is operational and certain accuracy and reliability standards are met. Accordingly, the Exchange submits this proposed rule change to delete subsections (a)(1)–(13) of Rule 956NY of the Options Rules, which set forth certain requirements related to COATS. Discussed below is a description of the duplicative rule requirements as well as the timeline for eliminating the duplicative rule.

If the Commission approves the proposed rule change, the rule text will be effective; however, the amendments will not be implemented until the Exchange, in conjunction with the other options exchanges, publishes a notice announcing the date for the retirement of COATS. As noted below, such a notice would be published once the options exchanges determine that the thresholds for accuracy and reliability described below have been met and that the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan.

Duplicative COATS Requirements

COATS was developed to comply with an order of the Commission requiring the Exchange, in coordination with other exchanges, to ''design and implement'' COATS to ''enable the options exchanges to reconstruct markets promptly, effectively surveil them and enforce order handling, firm quote, trade reporting and other rules.'' [14] The options exchanges utilize COATS to collect and review data regarding options orders, quotes and transactions.

The Exchange has determined that the requirements of subsections (a)(1)–(13) of Rule 956NY, which implement certain requirements related to COATS, are duplicative of information available in the CAT and thus will no longer be necessary once the CAT is operational.[15]

The Participants have provided COATS technical specifications to the Plan Processor for the CAT for use in developing the Technical Specifications for the CAT, and the Participants are working with the Plan Processor to include the necessary COATS data elements in the CAT Technical Specifications. Accordingly, although the Technical Specifications for the CAT have not yet been finalized, the Exchange and the other options exchanges propose to eliminate COATS in accordance with the proposed timeline discussed below.

Timeline for Elimination of Duplicative Rules

The CAT NMS Plan states that the elimination of rules that are duplicative of the requirements of the CAT and the retirement of the related systems should be effective at such time as CAT Data meets minimum standards of accuracy and reliability.[16] As discussed below, the Exchange and the other options exchanges believe that COATS may be retired at a date after all Industry Members are reporting to the CAT when the proposed error rate thresholds have been met, and the Exchange has determined that its usage of the CAT Data has not revealed material issues that have not been corrected, confirmed that the CAT includes all data necessary to allow the Exchange to continue to meet its surveillance obligations, and confirmed that the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan.

The Exchange believes COATS should not be retired until all Participants and Industry Members that report data to COATS are reporting comparable data to the CAT. In this way, the Exchange will continue to have access to the necessary data to perform its regulatory duties.

The CAT NMS Plan requires that a rule filing to eliminate a duplicative rule address whether ''the availability of certain data from Small Industry Members two years after the Effective Date would facilitate a more expeditious retirement of duplicative systems.'' [17] The Exchange believes COATS should not be retired until all Participants and Industry Members that report data to COATS are reporting comparable data to the CAT. While the early submission of

[7] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

[8] 17 CFR 242.613.

[9] Securities Exchange Act Release No. 77724 (April 27, 2016), 81 FR 30614 (May 17, 2016) (File No. 4–698).

[10] Securities Exchange Act Release No. 79318 (Nov. 15, 2016), 81 FR 84696 (November 23, 2016) (File No. 4–698) (''Approval Order'').

[11] Appendix C of CAT NMS Plan, Approval Order at 85010.

[12] *Id.*

[13] *Id.*

[14] *See* Section IV.B.e.(v) of the Commission's Order Instituting Public Administrative Proceedings Pursuant to Sections 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions (the ''Order''). *See* Securities Exchange Act Release No. 43268 (September 11, 2000) and Administrative Proceeding File No. 3–10282. As noted, the Plan is designed to create, implement and maintain a CAT that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. The Exchange has already adopted rules to enforce compliance by its Industry Members, as applicable, with the provisions of the Plan. *See* Securities Exchange Act Release No. 80256 (March 15, 2017), 82 FR 14526 (March 21, 2017) (SR–NYSEMKT–2017–02) (Order Approving Proposed Rule Changes to Adopt Consolidated Audit Trail Compliance Rules). Once the CAT is fully operational, it will be appropriate to delete Exchange rules implemented to comply with the Order as duplicative of the CAT. Accordingly, the Exchange believes that the Exchange would continue to be in compliance with the requirements of the Order once the CAT is fully operational and the COATS rules are deleted.

[15] Rule 956NY requires ATP Holders to maintain and preserve a record of every order and of any other instructions given or received for the purchase or sale of options contracts, including the terms and conditions of the orders (such as whether the order is a market or limit order), the order entry date and time, and the date and time of any modification of the terms of the order or cancellation of the order, or other specific data elements. The Exchange proposes to replace the current data elements in subsections (a)(1)–(13) with the phrase ''the elements required by the Rule 6800 Series.''

[16] *See* Appendix C of CAT NMS Plan, Approval Order at 85010.

[17] *Id.*

options data to the CAT by Small Industry Members could expedite the retirement of COATS, the Exchange believes that it premature to consider such a change and that additional analysis would be necessary to determine whether such early reporting by Small Industry Members would be feasible.

The CAT NMS Plan requires that this rule filing address ''whether individual Industry Members can be exempted from reporting to duplicative systems once their CAT reporting meets specified accuracy and reliability standards, including, but not limited to, ways in which establishing cross-system regulatory functionality or integrating data from existing systems and the CAT would facilitate such Individual Industry Member exemptions.'' [18]

The Exchange believes that a single cut-over from COATS to CAT is highly preferable to a firm-by-firm approach and is not proposing to exempt members from the COATS requirements on a firm-by-firm basis. The Exchange and the other options exchanges believe that providing such individual exemptions to Industry Members would be inefficient, more costly, and less reliable than the single cut-over. Providing individual exemptions would require the options exchanges to create, for a brief temporary period, a cross-system regulatory function and to integrate data from COATS and the CAT to avoid creating any regulatory gaps as a result of such exemptions. Such a function would be costly to create and would give rise to a greater likelihood of data errors or other issues. Given the limited time in which such exemptions would be necessary, the Exchange and the other options exchanges do not believe that such exemptions would be an appropriate use of limited resources. The CAT NMS Plan also requires that a rule filing to eliminate a duplicative rule to provide ''specific accuracy and reliability standards that will determine when duplicative systems will be retired, including, but not limited to, whether the attainment of a certain Error Rate should determine when a system duplicative of the CAT can be retired.'' [19] The Exchange believes that it is critical that the CAT Data be sufficiently accurate and reliable for the Exchange to perform the regulatory functions that it now performs via COATS. Accordingly, the Exchange believes that the CAT Data should meet specific quantitative error rates, as well as certain qualitative requirements.

The Exchange and the other options exchanges believe that, before COATS may be retired, the CAT would need to achieve a sustained error rate for a period of at least 180 days of 5% or lower measured on a pre-correction or as-submitted basis, and 2% or lower on a post-correction basis (measured at T+5).[20] The Exchange proposes to measure the 5% pre-correction and 2% post-correction thresholds by averaging the error rate across the period, not require a 5% pre-correction and 2% post-correction maximum each day for 180 consecutive days. The Exchange believes that measuring each of the thresholds over the course of 180 days will ensure that the CAT consistently meets minimum accuracy and reliability thresholds while also ensuring that single-day measurements do not unduly affect the overall measurements. The Exchange proposes to measure the appropriate error rates in the aggregate, rather than firm-by-firm. In addition, the Exchange proposes to measure the error rates for options only, not equity securities, as only options are subject to COATS. The 2% and 5% error rates are in line with the proposed retirement threshold for FINRA's Order Audit Trail System (''OATS'').

In addition to these minimum error rates before COATS can be retired, the Exchange believes that during the minimum 180-day period during which the thresholds are calculated, the Exchange's use of the data in the CAT must confirm that (i) usage over that time period has not revealed material issues that have not been corrected, (ii) the CAT includes all data necessary to allow the Exchange to continue to meet its surveillance obligations, and (iii) the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan. The Exchange believes this time period to use the CAT Data is necessary to reveal any errors that may manifest themselves only after surveillance patterns and other queries have been run and to confirm that the Plan Processor is meeting its obligations and performing its functions adequately.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[21] in general, and furthers the objectives of Section 6(b)(5) of the Act,[22] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, 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 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.

In particular, the Exchange believes that the proposed rule change is consistent with the Exchange Act because it fulfills the obligation in the CAT NMS Plan for the Exchange to submit a proposed rule change to eliminate or modify duplicative rules. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [23] As this proposal implements the Plan, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Exchange Act.

Moreover, the purpose of the proposed rule change is to eliminate rules that require the submission of duplicative data to the Exchange. The elimination of such duplicative requirements will reduce unnecessary costs and other compliance burdens for the Exchange and its members, and therefore, will enhance the efficiency of the securities markets. Furthermore, the Exchange believes that the approach set forth in the proposed rule change strikes the appropriate balance between ensuring that the Exchange is able to continue to fulfill its statutory obligation to protect investors and the public interest by ensuring its surveillance of market activity remains accurate and effective while also establishing a reasonable timeframe for elimination or modification of its rules that will be rendered duplicative after implementation of the CAT.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is not designed to address any competitive issue but rather implement provisions of the CAT NMS Plan approved by the Commission regarding the elimination of rules and

[18] *Id.*

[19] *Id.*

[20] The Plan requires that the Plan Processor must ensure that regulators have access to corrected and linked order and Customer data by 8:00 a.m. Eastern Time on T+5. *See* CAT NMS Plan, at C–15.

[21] 15 U.S.C. 78f(b).

[22] 15 U.S.C. 78f(b)(5).

[23] Approval Order at 84697.

systems that are duplicative the CAT, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. Similarly, all options exchanges are proposing the elimination of COATS and their rules related to COATS to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive rule filing and, therefore, it does not raise competition issues between and among the options exchanges and/or their members.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2017–29 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–NYSEMKT–2017–29. 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–NYSEMKT–2017–29, and should be submitted on or before June 22, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–11369 Filed 5–31–17; 8:45 am]

BILLING CODE 8011–01–P

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32662; 812–14747]

Northern Lights Fund Trust IV and Main Management ETF Advisors, LLC

May 25, 2017.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

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)(J) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act. The requested order would permit (a) actively-managed 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; (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; and (f) certain Funds (''Feeder Funds'') to create and redeem Creation Units in-kind in a master-feeder structure.

APPLICANTS: Northern Lights Fund Trust IV (the ''Trust''), a Delaware statutory trust registered under the Act as an open-end management investment company with multiple series, and Main Management ETF Advisors, LLC, a Delaware limited liability company registered as an investment adviser under the Investment Advisers Act of 1940.

FILING DATE: The application was filed on February 22, 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 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 June 19, 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: Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: the Trust, 17605 Wright Street, Omaha, NE 68130; the Initial Adviser, 601 California Street, Suite 620, San Francisco, CA 94108.

FOR FURTHER INFORMATION CONTACT: Laura J. Riegel, Senior Counsel, at (202)

551–3038, or Robert H. Shapiro, Branch Chief, at (202) 551–6821 (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 actively-managed exchange traded funds (''ETFs'').[1] 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 a broker-dealer registered under the Securities Exchange Act of 1934 (''Exchange Act'') (together with any future distributor, 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. Certain Funds may operate as Feeder Funds in a master-feeder structure. Any order granting the requested relief would be subject to the terms and conditions stated in the application.

2. Each Fund will consist of a portfolio of securities and other assets and investment positions (''Portfolio Positions''). Each Fund will disclose on its Web site the identities and quantities of the Portfolio Positions that will form the basis for the Fund's calculation of NAV at the end of the day.

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 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 hold non-U.S. Portfolio Positions and that effect creations and redemptions of Creation Units in kind, 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 Portfolio 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.[2] 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. Applicants also request relief to permit a Feeder Fund to acquire shares of another registered investment company managed by the Adviser having substantially the same investment objectives as the Feeder Fund (''Master Fund'') beyond the limitations in section 12(d)(1)(A) and permit the Master Fund, and any principal underwriter for the Master Fund, to sell shares of the Master Fund to the Feeder Fund beyond the limitations in section 12(d)(1)(B).

10. 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

[1] Applicants request that the order apply to future series of the Trust or of other open-end management investment companies that currently exist or that may be created in the future (each, included in the term ''Fund''), each of which will operate as an actively-managed ETF. 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 such entity or any successor thereto is included in the term ''Adviser'') and (b) comply with the terms and conditions of the application.

[2] 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.

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. 2017–11243 Filed 5–31–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 80770]

In the Matter of the NYSE Arca, Inc.; for an Order Granting the Approval of Proposed Rule Change To List and Trade Shares of the ForceShares Daily 4X US Market Futures Long Fund and ForceShares Daily 4X US Market Futures Short Fund Under Commentary .02 to NYSE Arca Equities Rule 8.200; Order Scheduling Filing of Statements on Review

May 25, 2017.

On October 17, 2016, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares of the ForceShares Daily 4X US Market Futures Long Fund and ForceShares Daily 4X US Market Futures Short Fund under Commentary .02 to NYSE Arca Equities Rule 8.200. On November 4, 2016, the proposal was published for comment in the **Federal Register**.[3] On December 14, 2016, the Division of Trading and Markets, for the Commission pursuant to delegated authority, extended the time period for Commission action on the proposed rule change.[4] On February 1, 2017, the Division of Trading and Markets, for the Commission pursuant to delegated authority, instituted proceedings to determine whether to approve or disapprove the proposed rule change.[5] On April 20, 2017, NYSE Arca submitted Amendment No. 3 to the proposed rule change, which replaced and superseded the proposed rule change as modified by previous amendments.[6] No comments on the proposed rule change were received. On May 2, 2017, the Division of Trading and Markets, for the Commission pursuant to delegated authority,[7] approved the proposed rule change, as modified by Amendment No. 3.[8]

Pursuant to Commission Rule of Practice 431,[9] the Commission is reviewing the delegated action, and the May 2, 2017 order is stayed.

Accordingly, *it is ordered,* pursuant to Commission Rule of Practice 431, that by June 15, 2017, any party or other person may file any additional statement.

It is further ordered that the May 2, 2017 order approving the proposed rule change, as modified by Amendment No. 3 (SR–NYSEArca–2016–120) shall remain stayed pending further order of the Commission.

By the Commission.

Brent J. Fields,

Secretary.

[FR Doc. 2017–11245 Filed 5–31–17; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 79201 (Oct. 31, 2016), 81 FR 76977 (Nov. 4, 2016) (SR–NYSEArca–2016–120).

[4] *See* Securities Exchange Act Release No. 79550 (Dec. 14, 2016), 81 FR 92892 (Dec. 20, 2016).

[5] *See* Securities Exchange Act Release No. 79914 (Feb. 1, 2017), 82 FR 9625 (Feb. 7, 2017).

[6] Amendment No. 3 replaced and superseded the proposed rule change as modified by Amendment No. 2. Amendment No. 2 had previously replaced and superseded the proposed rule change as modified by Amendment No. 1. Amendment No. 1 replaced and superseded the original filing in its entirety.

[7] 17 CFR 200.30–3(a)(12).

[8] *See* Securities Exchange Act Release No. 80579 (May 2, 2017), 82 FR 21443 (May 8, 2017).

[9] 17 CFR 201.431.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80784; File No. SR–BatsEDGA–2017–13]

Self-Regulatory Organizations; Bats EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Use on Bats EDGA Exchange, Inc.

May 26, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 16, 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, II and III below, which Items have been prepared by the Exchange.[3] 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 [4] and Rule 19b–4(f)(2) thereunder,[5] 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 proposed rule change to establish the fees for Industry Members related to the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'').[6]

The text of the proposed rule change is available at the Exchange's Web site at *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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange originally filed the proposed rule change on May 5, 2017 under File No. SR–BatsEDGA–2017–11. The Exchange subsequently withdrew that filing on May 11, 2017 and filed this proposed rule change.

[4] 15 U.S.C. 78s(b)(3)(A)(ii).

[5] 17 CFR 240.19b–4(f)(2).

[6] Unless otherwise specified, capitalized terms used in this fee filing are defined as set forth herein, the CAT Compliance Rule Series or in the CAT NMS Plan.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC,[7] NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. and NYSE National, Inc.[8] (collectively, the ''Participants'') filed with the Commission, pursuant to Section 11A of the Exchange Act[9] and Rule 608 of Regulation NMS thereunder,[10] the CAT NMS Plan.[11] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,[12] and approved by the Commission, as modified, on November 15, 2016.[13] The Plan is designed to create, implement and maintain a consolidated audit trail (''CAT'') that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. The Plan accomplishes this by creating CAT NMS, LLC (the ''Company''), of which each Participant is a member, to operate the CAT.[14] Under the CAT NMS Plan, the Operating Committee of the Company (''Operating Committee'') has discretion to establish funding for the Company to operate the CAT, including establishing fees that the Participants will pay, and establishing fees for Industry Members that will be implemented by the Participants (''CAT Fees'').[15] The Participants are required to file with the SEC under Section 19(b) of the Exchange Act any such CAT Fees applicable to Industry Members that the Operating Committee approves.[16] Accordingly, Bats submits this fee filing to propose the Consolidated Audit Trail Funding Fees, which will require Industry Members that are Bats members to pay the CAT Fees determined by the Operating Committee.

(1) Executive Summary

The following provides an executive summary of the CAT funding model approved by the Operating Committee, as well as Industry Members' rights and obligations related to the payment of CAT Fees calculated pursuant to the CAT funding model. A detailed description of the CAT funding model and the CAT Fees follows this executive summary.

(A) CAT Funding Model

• *CAT Costs.* The CAT funding model is designed to establish CAT-specific fees to collectively recover the costs of building and operating the CAT from all CAT Reporters, including Industry Members and Participants. The overall CAT costs for the calculation of the CAT Fees in this fee filing are comprised of Plan Processor CAT costs and non-Plan Processor CAT costs incurred, and estimated to be incurred, from November 21, 2016 through November 21, 2017. (*See* Section 3(a)(2)(E) [sic] below[17])

• *Bifurcated Funding Model.* The CAT NMS Plan requires a bifurcated funding model, where costs associated with building and operating the CAT would be borne by (1) Participants and Industry Members that are Execution Venues for Eligible Securities through fixed tier fees based on market share, and (2) Industry Members (other than alternative trading systems (''ATSs'') that execute transactions in Eligible Securities (''Execution Venue ATSs'')) through fixed tier fees based on message traffic for Eligible Securities. (*See* Section 3(a)(2) [sic] below)

• *Industry Member Fees.* Each Industry Member (other than Execution Venue ATSs) will be placed into one of nine tiers of fixed fees, based on ''message traffic'' in Eligible Securities for a defined period (as discussed below). Prior to the start of CAT reporting, ''message traffic'' will be comprised of historical equity and equity options orders, cancels and quotes provided by each exchange and FINRA over the previous three months. After an Industry Member begins reporting to the CAT, ''message traffic'' will be calculated based on the Industry Member's Reportable Events reported to the CAT. Industry Members with lower levels of message traffic will pay a lower fee and Industry Members with higher levels of message traffic will pay a higher fee. (*See* Section 3(a)(2)(B) [sic] below)

• *Execution Venue Fees.* Each Equity Execution Venue will be placed in one of two tiers of fixed fees based on market share, and each Options Execution Venue will be placed in one of two tiers of fixed fees based on market share. Equity Execution Venue market share will be determined by calculating each Equity Execution Venue's proportion of the total volume of NMS Stock and OTC Equity shares reported by all Equity Execution Venues during the relevant time period. Similarly, market share for Options Execution Venues will be determined by calculating each Options Execution Venue's proportion of the total volume of Listed Options contracts reported by all Options Execution Venues during the relevant time period. Equity Execution Venues with a larger market share will pay a larger CAT Fee than Equity Execution Venues with a smaller market share. Similarly, Options Execution Venues with a larger market share will pay a larger CAT Fee than Options Execution Venues with a smaller market share. (*See* Section 3(a)(2)(C) [sic] below)

• *Cost Allocation.* For the reasons discussed below, in designing the model, the Operating Committee determined that 75 percent of total costs recovered would be allocated to Industry Members (other than Execution Venue ATSs) and 25 percent would be allocated to Execution Venues. In addition, the Operating Committee determined to allocate 75 percent of Execution Venue costs recovered to Equity Execution Venues and 25 percent

[7] ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. *See* Securities Exchange Act Rel. No. 80248 (Mar. 15, 2017), 82 FR 14547 (Mar. 21, 2017); Securities Exchange Act Rel. No. 80326 (Mar. 29, 2017), 82 FR 16460 (Apr. 4, 2017); and Securities Exchange Act Rel. No. 80325 (Mar. 29, 2017), 82 FR 16445 (Apr. 4, 2017).

[8] National Stock Exchange, Inc. has been renamed NYSE National, Inc. *See* Securities Exchange Act Rel. No. 79902 (Jan. 30, 2017), 82 FR 9258 (Feb. 3, 2017).

[9] 15 U.S.C. 78k–1.

[10] 17 CFR 242.608.

[11] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

[12] Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 FR 30614 (May 17, 2016).

[13] Securities Exchange Act Rel. No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016) (''Approval Order'').

[14] The Plan also serves as the limited liability company agreement for the Company.

[15] Section 11.1(b) of the CAT NMS Plan.

[16] *Id.*

[17] The Commission notes that references to Sections 3(a)(2) and 3(a)(3) in this Executive Summary should be instead to Sections II.A.1.(2) and II.A.1.(3), respectively.

to Options Execution Venues. (*See* Section 3(a)(2)(D) [sic] below)

• *Comparability of Fees.* The CAT funding model requires that the CAT Fees charged to the CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable (where, for these comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters, whether Execution Venues and/or Industry Members). (*See* Section 3(a)(2)(F) [sic] below)

(B) CAT Fees for Industry Members

• *Fee Schedule.* The quarterly CAT Fees for each tier for Industry Members are set forth in the two fee schedules in the Consolidated Audit Trail Funding Fees, one for Equity ATSs and one for Industry Members other than Equity ATSs. (*See* Section 3(a)(3)(B) [sic] below)

• *Quarterly Invoices.* Industry Members will be billed quarterly for CAT Fees, with the invoices payable within 30 days. The quarterly invoices will identify within which tier the Industry Member falls. (*See* Section 3(a)(3)(C) [sic] below)

• *Centralized Payment.* Each Industry Member will receive from the Company one invoice for its applicable CAT Fees, not separate invoices from each Participant of which it is a member. The Industry Members will pay its CAT Fees to the Company via the centralized system for the collection of CAT Fees established by the Operating Committee. (*See* Section 3(a)(3)(C) [sic] below)

• *Billing Commencement.* Industry Members will begin to receive invoices for CAT Fees as promptly as possible following the establishment of a billing mechanism. Bats will issue a Regulatory Circular to its members when the billing mechanism is established, specifying the date when such invoicing of Industry Members will commence. (*See* Section 3(a)(2)(G) [sic] below)

(2) Description of the CAT Funding Model

Article XI of the CAT NMS Plan requires the Operating Committee to approve the operating budget, including projected costs of developing and operating the CAT for the upcoming year. As set forth in Article XI of the CAT NMS Plan, the CAT NMS Plan requires a bifurcated funding model, where costs associated with building and operating the Central Repository would be borne by (1) Participants and Industry Members that are Execution Venues through fixed tier fees based on market share, and (2) Industry Members (other than Execution Venue ATSs) through fixed tier fees based on message traffic. In its order approving the CAT NMS Plan, the Commission determined that the proposed funding model was ''reasonable'' [18] and ''reflects a reasonable exercise of the Participants' funding authority to recover the Participants' costs related to the CAT.'' [19]

More specifically, the Commission stated in approving the CAT NMS Plan that ''[t]he Commission believes that the proposed funding model is reasonably designed to allocate the costs of the CAT between the Participants and Industry Members.'' [20] The Commission further noted the following:

> The Commission believes that the proposed funding model reflects a reasonable exercise of the Participants' funding authority to recover the Participants' costs related to the CAT. The CAT is a regulatory facility jointly owned by the Participants and . . . the Exchange Act specifically permits the Participants to charge their members fees to fund their self-regulatory obligations. The Commission further believes that the proposed funding model is designed to impose fees reasonably related to the Participants' self-regulatory obligations because the fees would be directly associated with the costs of establishing and maintaining the CAT, and not unrelated SRO services.[21]

Accordingly, the funding model imposes fees on both Participants and Industry Members.

In addition, as discussed in Appendix C of the CAT NMS Plan, the Operating Committee considered the advantages and disadvantages of a variety of alternative funding and cost allocation models before selecting the proposed model.[22] After analyzing the various alternatives, the Operating Committee determined that the proposed tiered, fixed fee funding model provides a variety of advantages in comparison to the alternatives. First, the fixed fee model, as opposed to a variable fee model, provides transparency, ease of calculation, ease of billing and other administrative functions, and predictability of a fixed fee. Such factors are crucial to estimating a reliable revenue stream for the Company and for permitting CAT Reporters to reasonably predict their payment obligations for budgeting purposes.[23] Additionally, a strictly variable or metered funding model based on message volume would be far more likely to affect market behavior and place an inappropriate burden on competition. Moreover, as the SEC noted in approving the CAT NMS Plan, ''[t]he Participants also have offered a reasonable basis for establishing a funding model based on broad tiers, in that it be may be easier to implement.'' [24]

In addition, multiple reviews of current broker-dealer order and trading data submitted under existing reporting requirements showed a wide range in activity among broker-dealers, with a number of broker-dealers submitting fewer than 1,000 orders per month and other broker-dealers submitting millions and even billions of orders in the same period. Accordingly, the CAT NMS Plan includes a tiered approach to fees. The tiered approach helps ensure that fees are equitably allocated among similarly situated CAT Reporters and furthers the goal of lessening the impact on smaller firms.[25] The self-regulatory organizations considered several approaches to developing a tiered model, including defining fee tiers based on such factors as size of firm, message traffic or trading dollar volume. After analyzing the alternatives, it was concluded that the tiering should be based on the relative impact of CAT Reporters on the CAT System.

Accordingly, the CAT NMS Plan contemplates that costs will be allocated across the CAT Reporters on a tiered basis to allocate costs to those CAT Reporters that contribute more to the costs of creating, implementing and maintaining the CAT.[26] The fees to be assessed at each tier are calculated so as to recoup a proportion of costs appropriate to the message traffic or market share (as applicable) from CAT Reporters in each tier. Therefore, Industry Members generating the most message traffic will be in the higher tiers, and therefore be charged a higher fee. Industry Members with lower levels of message traffic will be in lower tiers and will be assessed a smaller fee for the CAT.[27] Correspondingly, Execution Venues with the highest market share will be in the top tier, and therefore will be charged a higher fee. Execution

[18] Approval Order at 84796.

[19] *Id.* at 84794.

[20] *Id.* at 84795.

[21] *Id.* at 84794.

[22] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85006.

[23] In choosing a tiered fee structure, the SROs concluded that the variety of benefits offered by a tiered fee structure, discussed above, outweighed the fact that Industry Members in any particular tier would pay different rates per message traffic order event (*e.g.,* an Industry Member with the largest amount of message traffic in one tier would pay a smaller amount per order event than an Industry Member in the same tier with the least amount of message traffic). Such variation is the natural result of a tiered fee structure.

[24] Approval Order at 84796.

[25] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85006.

[26] Approval Order at 85005.

[27] *Id.*

Venues with a lower market share will be in the lower tier and will be assessed a smaller fee for the CAT.[28]

The Commission also noted in approving the CAT NMS Plan that ''[t]he Participants have offered a credible justification for using different criteria to charge Execution Venues (market share) and Industry Members (message traffic)'' [29] in the CAT funding model. While there are multiple factors that contribute to the cost of building, maintaining and using the CAT, processing and storage of incoming message traffic is one of the most significant cost drivers for the CAT.[30] Thus, the CAT NMS Plan provides that the fees payable by Industry Members (other than Execution Venue ATSs) will be based on the message traffic generated by such Industry Member.[31]

The CAT NMS Plan provides that the Operating Committee will use different criteria to establish fees for Execution Venues and non-Execution Venues due to the fundamental differences between the two types of entities. In particular, the CAT NMS Plan provides that fees charged to CAT Reporters that are Execution Venues will be based on the level of market share and that costs charged to Industry Members (other than Execution Venue ATSs) will be based upon message traffic.[32] Because most Participant message traffic consists of quotations, and Participants usually disseminate quotations in all instruments they trade, regardless of execution volume, Execution Venues that are Participants generally disseminate similar amounts of message traffic. Accordingly, basing fees for Execution Venues on message traffic would not provide the same degree of differentiation among Execution Venues that it does among Industry Members (other than Execution Venue ATSs). In contrast, execution volume more accurately delineates the different levels of trading activity of Execution Venues.[33]

The CAT NMS Plan's funding model also is structured to avoid a ''reduction in market quality.'' [34] The tiered, fixed fee funding model is designed to limit the disincentives to providing liquidity to the market. For example, the Participants expect that a firm that had a large volume of quotes would likely be categorized in one of the upper tiers, and would not be assessed a fee for this traffic directly as they would under a more directly metered model. In contrast, strictly variable or metered funding models based on message volume were far more likely to affect market behavior. In approving the CAT NMS Plan, the SEC stated that ''[t]he Participants also offered a reasonable basis for establishing a funding model based on broad tiers, in that it may be . . . less likely to have an incremental deterrent effect on liquidity provision.'' [35]

The CAT NMS Plan is structured to avoid potential conflicts raised by the Operating Committee determining fees applicable to its own members—the Participants. First, the Company will be operated on a ''break-even'' basis, with fees imposed to cover costs and an appropriate reserve. Any surpluses will be treated as an operational reserve to offset future fees and will not be distributed to the Participants as profits.[36] To ensure that the Participants' operation of the CAT will not contribute to the funding of their other operations, Section 11.1(c) of the CAT NMS Plan specifically states that ''[a]ny surplus of the Company's revenues over its expenses shall be treated as an operational reserve to offset future fees.'' In addition, as set forth in Article VIII of the CAT NMS Plan, the Company ''intends to operate in a manner such that it qualifies as a 'business league' within the meaning of Section 501(c)(6) of the [Internal Revenue] Code.'' To qualify as a business league, an organization must ''not [be] organized for profit and no part of the net earnings of [the organization can] inure[] to the benefit of any private shareholder or individual.'' [37] As the SEC stated when approving the CAT NMS Plan, ''the Commission believes that the Company's application for Section 501(c)(6) business league status addresses issues raised by commenters about the Plan's proposed allocation of profit and loss by mitigating concerns that the Company's earnings could be used to benefit individual Participants.'' [38]

Finally, by adopting a CAT-specific fee, the Participants will be fully transparent regarding the costs of the CAT. Charging a general regulatory fee, which would be used to cover CAT costs as well as other regulatory costs, would be less transparent than the selected approach of charging a fee designated to cover CAT costs only.

A full description of the funding model is set forth below. This description includes the framework for the funding model as set forth in the CAT NMS Plan, as well as the details as to how the funding model will be applied in practice, including the number of fee tiers and the applicable fees for each tier. Bats notes that the complete funding model is described below, including those fees that are to be paid by the Participants. The proposed Consolidated Audit Trail Funding Fees, however, do not apply to the Participants; the proposed Consolidated Audit Trail Funding Fees only apply to Industry Members. The CAT fees for Participants will be imposed separately by the Operating Committee pursuant to the CAT NMS Plan.

(A) Funding Principles

Section 11.2 of the CAT NMS Plan sets forth the principles that the Operating Committee applied in establishing the funding for the Company. The Operating Committee has considered these funding principles as well as the other funding requirements set forth in the CAT NMS Plan and in Rule 613 in developing the proposed funding model. The following are the funding principles in Section 11.2 of the CAT NMS Plan:

- To create transparent, predictable revenue streams for the Company that are aligned with the anticipated costs to build, operate and administer the CAT and other costs of the Company;
- To establish an allocation of the Company's related costs among Participants and Industry Members that is consistent with the Exchange Act, taking into account the timeline for implementation of the CAT and distinctions in the securities trading operations of Participants and Industry Members and their relative impact upon the Company's resources and operations;
- To establish a tiered fee structure in which the fees charged to: (i) CAT Reporters that are Execution Venues, including ATSs, are based upon the level of market share; (ii) Industry Members' non-ATS activities are based upon message traffic; (iii) the CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable (where, for these comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters, whether Execution Venue and/or Industry Members);

[28] *Id.*

[29] *Id.* at 84796.

[30] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85005.

[31] Section 11.3(b) of the CAT NMS Plan.

[32] Section 11.2(c) of the CAT NMS Plan.

[33] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85005.

[34] Section 11.2(e) of the CAT NMS Plan.

[35] Approval Order at 84796.

[36] *Id.* at 84792.

[37] 26 U.S.C. 501(c)(6).

[38] Approval Order at 84793.

- To provide for ease of billing and other administrative functions;
- To avoid any disincentives such as placing an inappropriate burden on competition and a reduction in market quality; and
- To build financial stability to support the Company as a going concern.

(B) Industry Member Tiering

Under Section 11.3(b) of the CAT NMS Plan, the Operating Committee is required to establish fixed fees to be payable by Industry Members, based on message traffic generated by such Industry Member, with the Operating Committee establishing at least five and no more than nine tiers.

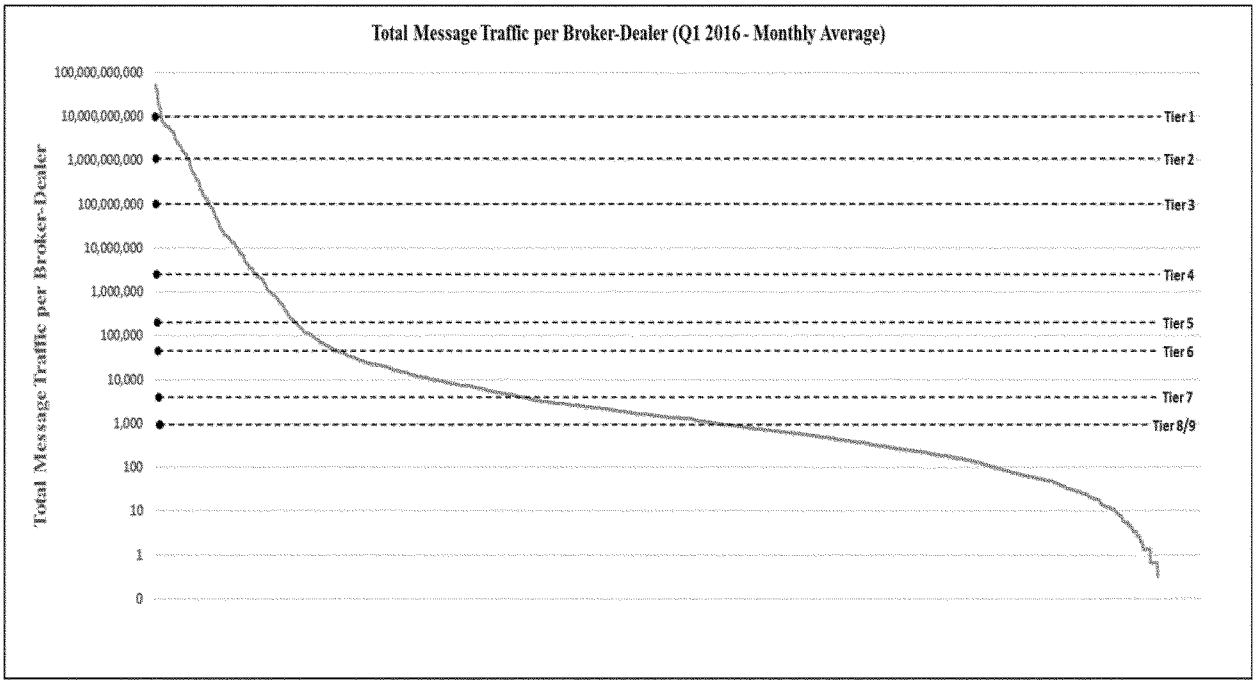
The CAT NMS Plan clarifies that the fixed fees payable by Industry Members pursuant to Section 11.3(b) shall, in addition to any other applicable message traffic, include message traffic generated by: (i) An ATS that does not execute orders that is sponsored by such Industry Member; and (ii) routing orders to and from any ATS sponsored by such Industry Member. In addition, the Industry Member fees will apply to Industry Members that act as routing broker-dealers for exchanges. The Industry Member fees will not be applicable, however, to an ATS that qualifies as an Execution Venue, as discussed in more detail in the section on Execution Venue tiering.

In accordance with Section 11.3(b), the Operating Committee approved a tiered fee structure for Industry Members (other than Execution Venue ATSs) as described in this section. In determining the tiers, the Operating Committee considered the funding principles set forth in Section 11.2 of the CAT NMS Plan, seeking to create funding tiers that take into account the relative impact on CAT System resources of different Industry Members, and that establish comparable fees among the CAT Reporters with the most Reportable Events. The Operating Committee has determined that establishing nine tiers results in the fairest allocation of fees, best distinguishing between Industry Members with differing levels of message traffic. Thus, each such Industry Member will be placed into one of nine tiers of fixed fees, based on ''message traffic'' for a defined period (as discussed below). A nine tier structure was selected to provide the widest range of levels for tiering Industry Members such that Industry Members submitting significantly less message traffic to the CAT would be adequately differentiated from Industry Members submitting substantially more message traffic. The Operating Committee considered historical message traffic generated by Industry Members across all exchanges and as submitted to FINRA's Order Audit Trail System (''OATS''), and considered the distribution of firms with similar levels of message traffic, grouping together firms with similar levels of message traffic. Based on this, the Operating Committee determined that nine tiers would best group firms with similar levels of message traffic, charging those firms with higher impact on the CAT more, while lowering the burden of Industry Members that have less CAT-related activity.

Each Industry Member (other than Execution Venue ATSs) will be ranked by message traffic and tiered by predefined Industry Member percentages (the ''Industry Member Percentages''). The Operating Committee determined to use predefined percentages rather than fixed volume thresholds to allow the funding model to ensure that the total CAT fees collected recover the intended CAT costs regardless of changes in the total level of message traffic. To determine the fixed percentage of Industry Members in each tier, the Operating Committee analyzed historical message traffic generated by Industry Members across all exchanges and as submitted to OATS, and considered the distribution of firms with similar levels of message traffic, grouping together firms with similar levels of message traffic. Based on this, the Operating Committee identified tiers that would group firms with similar levels of message traffic, charging those firms with higher impact on the CAT more, while lowering the burden on Industry Members that have less CAT-related activity.

The percentage of costs recovered by each Industry Member tier will be determined by predefined percentage allocations (the ''Industry Member Recovery Allocation''). In determining the fixed percentage allocation of costs recovered for each tier, the Operating Committee considered the impact of CAT Reporter message traffic on the CAT System as well as the distribution of total message volume across Industry Members while seeking to maintain comparable fees among the largest CAT Reporters. Accordingly, following the determination of the percentage of Industry Members in each tier, the Operating Committee identified the percentage of total market volume for each tier based on the historical message traffic upon which Industry Members had been initially ranked. Taking this into account along with the resulting percentage of total recovery, the percentage allocation of costs recovered for each tier were assigned, allocating higher percentages of recovery to tiers with higher levels of message traffic while avoiding any inappropriate burden on competition. Furthermore, by using percentages of Industry Members and costs recovered per tier, the Operating Committee sought to include stability and elasticity within the funding model, allowing the funding model to respond to changes in either the total number of Industry Members or the total level of message traffic.

The following chart illustrates the breakdown of nine Industry Member tiers across the monthly average of total equity and equity options orders, cancels and quotes in Q1 2016 and identifies relative gaps across varying levels of Industry Member message traffic as well as message traffic thresholds between the largest of Industry Member message traffic gaps. The Operating Committee referenced similar distribution illustrations to determine the appropriate division of Industry Member percentages in each tier by considering the grouping of firms with similar levels of message traffic and seeking to identify relative breakpoints in the message traffic between such groupings. In reviewing the chart and its corresponding table, note that while these distribution illustrations were referenced to help differentiate between Industry Member tiers, the proposed funding model is directly driven, not by fixed message traffic thresholds, but rather by fixed percentages of Industry Members across tiers to account for fluctuating levels of message traffic across time and to provide for the financial stability of the CAT by ensuring that the funding model will recover the required amounts regardless of changes in the number of Industry Members or the amount of message traffic. Actual messages in any tier will vary based on the actual traffic in a given measurement period, as well as the number of firms included in the measurement period. The Industry Member Percentages and Industry Member Recovery Allocation for each tier will remain fixed with each Industry Member's tier to be reassigned periodically, as described below in Section 3(a)(1)(H) [sic].



Industry Member tier	Monthly average message traffic per Industry Member (orders, quotes and cancels)
Tier 1	>10,000,000,000
Tier 2	> 1,000,000,000
Tier 3	> 100,000,000
Tier 4	> 2,500,000
Tier 5	> 200,000
Tier 6	> 50,000
Tier 7	> 5,000
Tier 8	> 1,000
Tier 9	≤ 1,000

Based on the above analysis, the Operating Committee approved the following Industry Member Percentages and Recovery Allocations:

Industry Member tier	Percentage of Industry Members	Percentage of Industry Member recovery	Percentage of total recovery
Tier 1	0.500	8.50	6.38
Tier 2	2.500	35.00	26.25
Tier 3	2.125	21.25	15.94
Tier 4	4.625	15.75	11.81
Tier 5	3.625	7.75	5.81
Tier 6	4.000	5.25	3.94
Tier 7	17.500	4.50	3.38
Tier 8	20.125	1.50	1.13
Tier 9	45.000	0.50	0.38
Total	100	100	75

For the purposes of creating these tiers based on message traffic, the Operating Committee determined to define the term ''message traffic'' separately for the period before the commencement of CAT reporting and for the period after the start of CAT reporting. The different definition for message traffic is necessary as there will be no Reportable Events as defined in the Plan, prior to the commencement of CAT reporting. Accordingly, prior to the start of CAT reporting, ''message traffic'' will be comprised of historical equity and equity options orders, cancels and quotes provided by each exchange and FINRA over the previous three

months.[39] Prior to the start of CAT reporting, orders would be comprised of the total number of equity and equity options orders received and originated by a member of an exchange or FINRA over the previous three-month period, including principal orders, cancel/replace orders, market maker orders originated by a member of an exchange, and reserve (iceberg) orders as well as order routes and executions originated by a member of FINRA, and excluding order rejects and implied orders.[40] In addition, prior to the start of CAT reporting, cancels would be comprised of the total number of equity and equity option cancels received and originated by a member of an exchange or FINRA over a three-month period, excluding order modifications (*e.g.,* order updates, order splits, partial cancels). Furthermore, prior to the start of CAT reporting, quotes would be comprised of information readily available to the exchanges and FINRA, such as the total number of historical equity and equity options quotes received and originated by a member of an exchange or FINRA over the prior three-month period.

After an Industry Member begins reporting to the CAT, ''message traffic'' will be calculated based on the Industry Member's Reportable Events reported to the CAT as will be defined in the Technical Specifications.[41]

The Operating Committee has determined to calculate fee tiers every three months, on a calendar quarter basis, based on message traffic from the prior three months. Based on its analysis of historical data, the Operating Committee believes that calculating tiers based on three months of data will provide the best balance between reflecting changes in activity by Industry Members while still providing predictability in the tiering for Industry Members. Because fee tiers will be calculated based on message traffic from the prior three months, the Operating Committee will begin calculating message traffic based on an Industry Member's Reportable Events reported to the CAT once the Industry Member has been reporting to the CAT for three months. Prior to that, fee tiers will be calculated as discussed above with regard to the period prior to CAT reporting.

(C) Execution Venue Tiering

Under Section 11.3(a) of the CAT NMS Plan, the Operating Committee is required to establish fixed fees payable by Execution Venues. Section 1.1 of the CAT NMS Plan defines an Execution Venue as ''a Participant or an alternative trading system (''ATS'') (as defined in Rule 300 of Regulation ATS) that operates pursuant to Rule 301 of Regulation ATS (excluding any such ATS that does not execute orders).''[42]

The Participants determined that ATSs should be included within the definition of Execution Venue. Given the similarity between the activity of exchanges and ATSs, both of which meet the definition of an ''exchange'' as set forth in the Exchange Act and the fact that the similar trading models would have similar anticipated burdens on the CAT, the Participants determined that ATSs should be treated in the same manner as the exchanges for the purposes of determining the level of fees associated with the CAT.[43]

Given the differences between Execution Venues that trade NMS Stocks and/or OTC Equity Securities and Execution Venues that trade Listed Options, Section 11.3(a) addresses Execution Venues that trade NMS Stocks and/or OTC Equity Securities separately from Execution Venues that trade Listed Options. Equity and Options Execution Venues are treated separately for two reasons. First, the differing quoting behavior of Equity and Options Execution Venues makes comparison of activity between Execution Venues difficult. Second, Execution Venue tiers are calculated based on market share of share volume, and it is therefore difficult to compare market share between asset classes (*i.e.,* equity shares versus options contracts). Discussed below is how the funding model treats the two types of Execution Venues.

(I) NMS Stocks and OTC Equity Securities

Section 11.3(a)(i) of the CAT NMS Plan states that each Execution Venue that (i) executes transactions or, (ii) in the case of a national securities association, has trades reported by its members to its trade reporting facility or facilities for reporting transactions effected otherwise than on an exchange, in NMS Stocks or OTC Equity Securities will pay a fixed fee depending on the market share of that Execution Venue in NMS Stocks and OTC Equity Securities, with the Operating Committee establishing at least two and not more than five tiers of fixed fees, based on an Execution Venue's NMS Stocks and OTC Equity Securities market share. For these purposes, market share for Execution Venues that execute transactions will be calculated by share volume, and market share for a national securities association that has trades reported by its members to its trade reporting facility or facilities for reporting transactions effected otherwise than on an exchange in NMS Stocks or OTC Equity Securities will be calculated based on share volume of trades reported, provided, however, that the share volume reported to such national securities association by an Execution Venue shall not be included in the calculation of such national security association's market share.

In accordance with Section 11.3(a)(i) of the CAT NMS Plan, the Operating Committee approved a tiered fee structure for Equity Execution Venues and Option Execution Venues. In determining the Equity Execution Venue Tiers, the Operating Committee considered the funding principles set forth in Section 11.2 of the CAT NMS Plan, seeking to create funding tiers that take into account the relative impact on system resources of different Equity Execution Venues, and that establish comparable fees among the CAT Reporters with the most Reportable Events. Each Equity Execution Venue will be placed into one of two tiers of fixed fees, based on the Execution Venue's NMS Stocks and OTC Equity Securities market share. In choosing two tiers, the Operating Committee performed an analysis similar to that discussed above with regard to the non-Execution Venue Industry Members to determine the number of tiers for Equity Execution Venues. The Operating Committee determined to establish two tiers for Equity Execution Venues, rather than a larger number of tiers as established for non-Execution Venue

[39] The SEC approved exemptive relief permitting Options Market Maker quotes to be reported to the Central Repository by the relevant Options Exchange in lieu of requiring that such reporting be done by both the Options Exchange and the Options Market Maker, as required by Rule 613 of Regulation NMS. *See* Securities Exchange Act Release No. 77265 (Mar. 1, 2017 [sic], 81 FR 11856 (Mar. 7, 2016). This exemption applies to Options Market Maker quotes for CAT reporting purposes only. Therefore, notwithstanding the reporting exemption provided for Options Market Maker quotes, Options Market Maker quotes will be included in the calculation of total message traffic for Options Market Makers for purposes of tiering under the CAT funding model both prior to CAT reporting and once CAT reporting commences.

[40] Consequently, firms that do not have ''message traffic'' reported to an exchange or OATS before they are reporting to the CAT would not be subject to a fee until they begin to report information to CAT.

[41] If an Industry Member (other than an Execution Venue ATS) has no orders, cancels or quotes prior to the commencement of CAT Reporting, or no Reportable Events after CAT reporting commences, then the Industry Member would not have a CAT fee obligation.

[42] Although FINRA does not operate an execution venue, because it is a Participant, it is considered an ''Execution Venue'' under the Plan for purposes of determining fees.

[43] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85005.

Industry Members, because the two tiers were sufficient to distinguish between the smaller number of Equity Execution Venues based on market share. Furthermore, the incorporation of additional Equity Execution Venue tiers would result in significantly higher fees for Tier 1 Equity Execution Venues and diminish comparability between Execution Venues and Industry Members.

Each Equity Execution Venue will be ranked by market share and tiered by predefined Execution Venue percentages, (the ''Equity Execution Venue Percentages''). In determining the fixed percentage of Equity Execution Venues in each tier, the Operating Committee looked at historical market share of share volume for execution venues. Equities Execution Venue market share of share volume were sourced from market statistics made publicly-available by Bats Global Markets, Inc. (''Bats''). ATS market share of share volume was sourced from market statistics made publicly-available by FINRA. FINRA trading [sic] reporting facility (''TRF'') market share of share volume was sourced from market statistics made publicly available by Bats. As indicated by FINRA, ATSs accounted for 37.80% of the share volume across the TRFs during the recent tiering period. A 37.80/62.20 split was applied to the ATS and non-ATS breakdown of FINRA market share, with FINRA tiered based only on the non-ATS portion of its TRF market share of share volume.

Based on this, the Operating Committee considered the distribution of Execution Venues, and grouped together Execution Venues with similar levels of market share of share volume. In doing so, the Participants considered that, as previously noted, Execution Venues in many cases have similar levels of message traffic due to quoting activity, and determined that it was simpler and more appropriate to have fewer, rather than more, Execution Venue tiers to distinguish between Execution Venues.

The percentage of costs recovered by each Equity Execution Venue tier will be determined by predefined percentage allocations (the ''Equity Execution Venue Recovery Allocation''). In determining the fixed percentage allocation of costs recovered for each tier, the Operating Committee considered the impact of CAT Reporter market share activity on the CAT System as well as the distribution of total market volume across Equity Execution Venues while seeking to maintain comparable fees among the largest CAT Reporters. Accordingly, following the determination of the percentage of Execution Venues in each tier, the Operating Committee identified the percentage of total market volume for each tier based on the historical market share upon which Execution Venues had been initially ranked. Taking this into account along with the resulting percentage of total recovery, the percentage allocation of costs recovered for each tier were assigned, allocating higher percentages of recovery to the tier with a higher level of market share while avoiding any inappropriate burden on competition. Furthermore, due to the similar levels of impact on the CAT System across Execution Venues, there is less variation in CAT Fees between the highest and lowest of tiers for Execution Venues. Furthermore, by using percentages of Equity Execution Venues and costs recovered per tier, the Operating Committee sought to include stability and elasticity within the funding model, allowing the funding model to respond to changes in either the total number of Equity Execution Venues or changes in market share.

Based on this analysis, the Operating Committee approved the following Equity Execution Venue Percentages and Recovery Allocations:

Equity Execution Venue tier	Percentage of Equity Execution Venues	Percentage of Execution Venue recovery	Percentage of total recovery
Tier 1	25.00	26.00	6.50
Tier 2	75.00	49.00	12.25
Total	100	75	18.75

The following table exhibits the relative separation of market share of share volume between Tier 1 and Tier 2 Equity Execution Venues. In reviewing the table, note that while this division was referenced as a data point to help differentiate between Equity Execution Venue tiers, the proposed funding model is directly driven not by market share thresholds, but rather by fixed percentages of Equity Execution Venues across tiers to account for fluctuating levels of market share across time. Actual market share in any tier will vary based on the actual market activity in a given measurement period, as well as the number of Equity Execution Venues included in the measurement period. The Equity Execution Venue Percentages and Equity Execution Venue Recovery Allocation for each tier will remain fixed with each Equity Execution Venue tier to be reassigned periodically, as described below in Section 3(a)(1)(I) [sic].

Equity Execution Venue tier	Equity market share of share volume (%)
Tier 1	≥1
Tier 2	<1

(II) Listed Options

Section 11.3(a)(ii) of the CAT NMS Plan states that each Execution Venue that executes transactions in Listed Options will pay a fixed fee depending on the Listed Options market share of that Execution Venue, with the Operating Committee establishing at least two and no more than five tiers of fixed fees, based on an Execution Venue's Listed Options market share. For these purposes, market share will be calculated by contract volume.

In accordance with Section 11.3(a)(ii) of the CAT NMS Plan, the Operating Committee approved a tiered fee structure for Options Execution Venues. In determining the tiers, the Operating Committee considered the funding principles set forth in Section 11.2 of the CAT NMS Plan, seeking to create funding tiers that take into account the relative impact on system resources of different Options Execution Venues, and that establish comparable fees among the CAT Reporters with the most Reportable Events. Each Options Execution Venue will be placed into one of two tiers of fixed fees, based on the Execution Venue's Listed Options market share. In choosing two tiers, the Operating Committee performed an analysis similar to that discussed above with regard to Industry Members (other

than Execution Venue ATSs) to determine the number of tiers for Options Execution Venues. The Operating Committee determined to establish two tiers for Options Execution Venues, rather than a larger number of tiers as established for Industry Members (other than Execution Venue ATSs), because the two tiers were sufficient to distinguish between the smaller number of Options Execution Venues based on market share. Furthermore, due to the smaller number of Options Execution Venues, the incorporation of additional Options Execution Venue tiers would result in significantly higher fees for Tier 1 Options Execution Venues and reduce comparability between Execution Venues and Industry Members.

Each Options Execution Venue will be ranked by market share and tiered by predefined Execution Venue percentages, (the ''Options Execution Venue Percentages''). To determine the fixed percentage of Options Execution Venues in each tier, the Operating Committee analyzed the historical and publicly available market share of Options Execution Venues to group Options Execution Venues with similar market shares across the tiers. Options Execution Venue market share of share volume were sourced from market statistics made publicly-available by Bats. The process for developing the Options Execution Venue Percentages was the same as discussed above with regard to Equity Execution Venues.

The percentage of costs recovered by each Options Execution Venue tier will be determined by predefined percentage allocations (the ''Options Execution Venue Recovery Allocation''). In determining the fixed percentage allocation of costs recovered for each tier, the Operating Committee considered the impact of CAT Reporter market share activity on the CAT System as well as the distribution of total market volume across Options Execution Venues while seeking to maintain comparable fees among the largest CAT Reporters. Furthermore, by using percentages of Options Execution Venues and costs recovered per tier, the Operating Committee sought to include stability and elasticity within the funding model, allowing the funding model to respond to changes in either the total number of Options Execution Venues or changes in market share. The process for developing the Options Execution Venue Recovery Allocation was the same as discussed above with regard to Equity Execution Venues.

Based on this analysis, the Operating Committee approved the following Options Execution Venue Percentages and Recovery Allocations:

Options Execution Venue tier	Percentage of Options Execution Venues	Percentage of Execution Venue recovery	Percentage of total recovery
Tier 1	75.00	20.00	5.00
Tier 2	25.00	5.00	1.25
Total	100	25	6.25

The following table exhibits the relative separation of market share of share volume between Tier 1 and Tier 2 Options Execution Venues. In reviewing the table, note that while this division was referenced as a data point to help differentiate between Options Execution Venue tiers, the proposed funding model is directly driven, not by market share thresholds, but rather by fixed percentages of Options Execution Venues across tiers to account for fluctuating levels of market share across time. Actual market share in any tier will vary based on the actual market activity in a given measurement period, as well as the number of Options Execution Venues included in the measurement period. The Options Execution Venue Percentages and Equity Execution Venue Recovery Allocation for each tier will remain fixed with each Options Execution Venue tier to be reassigned periodically, as described below in Section 3(a)(1)(I) [sic].

Options Execution Venue tier	Options market share of share volume (%)
Tier 1	≥1
Tier 2	<1

(III) Market Share/Tier Assignments

The Operating Committee determined that, prior to the start of CAT reporting, market share for Execution Venues would be sourced from publicly-available market data. Options and equity volumes for Participants will be sourced from market data made publicly available by Bats while Execution Venue ATS volumes will be sourced from market data made publicly available by FINRA. Set forth in the Appendix are two charts, one listing the current Equity Execution Venues, each with its rank and tier, and one listing the current Options Execution Venues, each with its rank and tier.

After the commencement of CAT reporting, market share for Execution Venues will be sourced from data reported to the CAT. Equity Execution Venue market share will be determined by calculating each Equity Execution Venue's proportion of the total volume of NMS Stock and OTC Equity shares reported by all Equity Execution Venues during the relevant time period. Similarly, market share for Options Execution Venues will be determined by calculating each Options Execution Venue's proportion of the total volume of Listed Options contracts reported by all Options Execution Venues during the relevant time period.

The Operating Committee has determined to calculate fee tiers for Execution Venues every three months based on market share from the prior three months. Based on its analysis of historical data, the Operating Committee believes calculating tiers based on three months of data will provide the best balance between reflecting changes in activity by Execution Venues while still providing predictability in the tiering for Execution Venues.

(D) Allocation of Costs

In addition to the funding principles discussed above, including comparability of fees, Section 11.1(c) of the CAT NMS Plan also requires expenses to be fairly and reasonably shared among the Participants and Industry Members. Accordingly, in developing the proposed fee schedules pursuant to the funding model, the Operating Committee calculated how the CAT costs would be allocated between Industry Members and

Execution Venues, and how the portion of CAT costs allocated to Execution Venues would be allocated between Equity Execution Venues and Options Execution Venues. These determinations are described below.

(I) Allocation Between Industry Members and Execution Venues

In determining the cost allocation between Industry Members (other than Execution Venue ATSs) and Execution Venues, the Operating Committee analyzed a range of possible splits for revenue recovered from such Industry Members and Execution Venues. Based on this analysis, the Operating Committee determined that 75 percent of total costs recovered would be allocated to Industry Members (other than Execution Venue ATSs) and 25 percent would be allocated to Execution Venues. The Operating Committee determined that this 75/25 division maintained the greatest level of comparability across the funding model, keeping in view that comparability should consider affiliations among or between CAT Reporters (*e.g.,* firms with multiple Industry Members and/or exchange licenses). For example, the cost allocation establishes fees for the largest Industry Members (*i.e.,* those Industry Members in Tiers 1, 2 and 3) that are comparable to the largest Equity Execution Venues and Options Execution Venues (*i.e.,* those Execution Venues in Tier 1). In addition, the cost allocation establishes fees for Execution Venue complexes that are comparable to those of Industry Member complexes. For example, when analyzing alternative allocations, other possible allocations led to much higher fees for larger Industry Members than for larger Execution Venues or vice versa, and/or led to much higher fees for Industry Member complexes than Execution Venue complexes or vice versa.

Furthermore, the allocation of total CAT costs recovered recognizes the difference in the number of CAT Reporters that are Industry Members versus CAT Reporters that are Execution Venues. Specifically, the cost allocation takes into consideration that there are approximately 25 times more Industry Members expected to report to the CAT than Execution Venues (*e.g.,* an estimated 1,630 Industry Members versus 70 Execution Venues as of January 2017).

(II) Allocation Between Equity Execution Venues and Options Execution Venues

The Operating Committee also analyzed how the portion of CAT costs allocated to Execution Venues would be allocated between Equity Execution Venues and Options Execution Venues. In considering this allocation of costs, the Operating Committee analyzed a range of alternative splits for revenue recovered between Equity and Options Execution Venues, including a 70/30, 67/33, 65/35, 50/50 and 25/75 split. Based on this analysis, the Operating Committee determined to allocate 75 percent of Execution Venue costs recovered to Equity Execution Venues and 25 percent to Options Execution Venues. The Operating Committee determined that a 75/25 division between Equity and Options Execution Venues maintained elasticity across the funding model as well the greatest level of fee equitability and comparability based on the current number of Equity and Options Execution Venues. For example, the allocation establishes fees for the larger Equity Execution Venues that are comparable to the larger Options Execution Venues, and fees for the smaller Equity Execution Venues that are comparable to the smaller Options Execution Venues. In addition to fee comparability between Equity Execution Venues and Options Execution Venues, the allocation also establishes equitability between larger (Tier 1) and smaller (Tier 2) Execution Venues based upon the level of market share. Furthermore, the allocation is intended to reflect the relative levels of current equity and options order events.

(E) Fee Levels

The Operating Committee determined to establish a CAT-specific fee to collectively recover the costs of building and operating the CAT. Accordingly, under the funding model, the sum of the CAT Fees is designed to recover the total cost of the CAT. The Operating Committee has determined overall CAT costs to be comprised of Plan Processor costs and non-Plan Processor costs, which are estimated to be $50,700,000 in total for the year beginning November 21, 2016.[44]

The Plan Processor costs relate to costs incurred by the Plan Processor and consist of the Plan Processor's current estimates of average yearly ongoing costs, including development cost, which total $37,500,000. This amount is based upon the fees due to the Plan Processor pursuant to the agreement with the Plan Processor.

The non-Plan Processor estimated costs incurred and to be incurred by the Company through November 21, 2017 consist of three categories of costs. The first category of such costs are third party support costs, which include historic legal fees, consulting fees and audit fees from November 21, 2016 until the date of filing as well as estimated third party support costs for the rest of the year. These amount to an estimated $5,200,000. The second category of non-Plan Processor costs are estimated insurance costs for the year. Based on discussions with potential insurance providers, assuming $2–5 million insurance premium on $100 million in coverage, the Company has received an estimate of $3,000,000 for the annual cost. The final cost figures will be determined following receipt of final underwriter quotes. The third category of non-Plan Processor costs is the operational reserve, which is comprised of three months of ongoing Plan Processor costs ($9,375,000), third party support costs ($1,300,000) and insurance costs ($750,000). The Operating Committee aims to accumulate the necessary funds for the establishment of the three-month operating reserve for the Company through the CAT Fees charged to CAT Reporters for the year. On an ongoing basis, the Operating Committee will account for any potential need for the replenishment of the operating reserve or other changes to total cost during its annual budgeting process. The following table summarizes the Plan Processor and non-Plan Processor cost components which comprise the total CAT costs of $50,700,000.

Cost category	Cost component	Amount
Plan Processor	Operational Costs	$37,500,000
Non-Plan Processor	Third Party Support Costs	5,200,000
	Operational Reserve	[45] 5,000,000
	Insurance Costs	3,000,000

[44] It is anticipated that CAT-related costs incurred prior to November 21, 2016 will be addressed via a separate fee filing.

Cost category	Cost component	Amount
Estimated Total		50,700,000

Based on the estimated costs and the calculations for the funding model described above, the Operating Committee determined to impose the following fees: [46]

For Industry Members (other than Execution Venue ATSs):

Tier	Monthly CAT fee	Quarterly CAT fee	CAT fees paid annually [47]
1	$33,668	$101,004	$404,016
2	27,051	81,153	324,612
3	19,239	57,717	230,868
4	6,655	19,965	79,860
5	4,163	12,489	49,956
6	2,560	7,680	30,720
7	501	1,503	6,012
8	145	435	1,740
9	22	66	264

For Execution Venues for NMS Stocks and OTC Equity Securities:

Tier	Monthly CAT fee	Quarterly CAT fee	CAT fees paid annually [48]
1	$21,125	$63,375	$253,500
2	12,940	38,820	155,280

For Execution Venues for Listed Options:

Tier	Monthly CAT fee	Quarterly CAT fee	CAT fees paid annually [49]
1	$19,205	$57,615	$230,460
2	13,204	39,612	158,448

As noted above, the fees set forth in the tables reflect the Operating Committee's decision to ensure comparable fees between Execution Venues and Industry Members. The fees of the top tiers for Industry Members (other than Execution Venue ATSs) are not identical to the top tier for Execution Venues, however, because the Operating Committee also determined that the fees for Execution Venue complexes should be comparable to those of Industry Member complexes. The difference in the fees reflects this decision to recognize affiliations.

The Operating Committee has calculated the schedule of effective fees for Industry Members (other than Execution Venue ATSs) and Execution Venues in the following manner. Note that the calculation of CAT Reporter fees assumes 53 Equity Execution Venues, 15 Options Execution Venues and 1,631 Industry Members (other than Execution Venue ATSs) as of January 2017.

CALCULATION OF ANNUAL TIER FEES FOR INDUSTRY MEMBERS ("IM")

Industry Member tier	Percentage of Industry Members	Percentage of Industry Member recovery	Percentage of total recovery
Tier 1	0.500	8.50	6.38
Tier 2	2.500	35.00	26.25
Tier 3	2.125	21.25	15.94
Tier 4	4.625	15.75	11.81

[45] This $5,000,000 represents the gradual accumulation of the funds for a target operating reserve of $11,425,000.

[46] Note that all monthly, quarterly and annual CAT Fees have been rounded to the nearest dollar.

[47] This column represents the approximate total CAT Fees paid each year by each Industry Member (other than Execution Venue ATSs) (*i.e.,* "CAT Fees Paid Annually" = "Monthly CAT Fee" × 12 months).

[48] This column represents the approximate total CAT Fees paid each year by each Execution Venue for NMS Stocks and OTC Equity Securities (*i.e.,* "CAT Fees Paid Annually" = "Monthly CAT Fee" × 12 months).

[49] This column represents the approximate total CAT Fees paid each year by each Execution Venue for Listed Options (*i.e.,* "CAT Fees Paid Annually" = "Monthly CAT Fee" × 12 months).

CALCULATION OF ANNUAL TIER FEES FOR INDUSTRY MEMBERS ("IM")—Continued

Industry Member tier	Percentage of Industry Members	Percentage of Industry Member recovery	Percentage of total recovery
Tier 5	3.625	7.75	5.81
Tier 6	4.000	5.25	3.94
Tier 7	17.500	4.50	3.38
Tier 8	20.125	1.50	1.13
Tier 9	45.000	0.50	0.38
Total	100	100	75

Industry Member tier	Estimated number of Industry Members
Tier 1	8
Tier 2	41
Tier 3	35
Tier 4	75
Tier 5	59
Tier 6	65
Tier 7	285
Tier 8	328
Tier 9	735
Total	1,631

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Calculation 1.1 (Calculation of a Tier 1 Industry Member Monthly Fee)

1,631 [Estimated Tot. IMs] × 0.5% [% of Tier 1 IMs] = 8 [Estimated Tier 1 IMs]

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 8.50\%\ [\text{\% of Tier 1 IM Recovery}]}{8\ [\text{Estimated Tier 1 IMs}]}\right) \div$$

12 [Months per year] = **$33,668**

Calculation 1.2 (Calculation of a Tier 2 Industry Member Monthly Fee)

1,631 [Estimated Tot. IMs] × 2.5% [% of Tier 2 IMs] = 41 [Estimated Tier 2 IMs]

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 35\%\ [\text{\% of Tier 2 IM Recovery}]}{41\ [\text{Estimated Tier 2 IMs}]}\right) \div$$

12 [Months per year] = **$27,051**

Calculation 1.3 (Calculation of a Tier 3 Industry Member Monthly Fee)

1,631 [Estimated Tot. IMs] × 2.125% [% of Tier 3 IMs] = 35 [Estimated Tier 3 IMs]

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 21.25\%\ [\text{\% of Tier 3 IM Recovery}]}{35\ [\text{Estimated Tier 3 IMs}]}\right) \div$$

12 [Months per year] = **$19,239**

Calculation 1.4 (Calculation of a Tier 4 Industry Member Monthly Fee)

1,631 [Estimated Tot. IMs] × 4.625% [% of Tier 4 IMs] = 75 [Estimated Tier 4 IMs]

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 15.75\%\ [\text{\% of Tier 4 IM Recovery}]}{75\ [\text{Estimated Tier 4 IMs}]}\right) \div$$

12 [Months per year] = **$6,655**

Calculation 1.5 (Calculation of a Tier 5 Industry Member Annual Fee)

1,631 [Estimated Tot. IMs] × 3.625% [% of Tier 5 IMs] = 59 [Estimated Tier 5 IMs]

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 7.75\%\ [\text{\% of Tier 5 IM Recovery}]}{59\ [\text{Estimated Tier 5 IMs}]}\right) \div$$

12 [Months per year] = **$4,163**

Calculation 1.6 (Calculation of a Tier 6 Industry Member Monthly Fee)

1,631 [Estimated Tot. IMs] × 4% [% of Tier 6 IMs] = 65 [Estimated Tier 6 IMs]

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 5.25\%\ [\text{\% of Tier 6 IM Recovery}]}{65\ [\text{Estimated Tier 6 IMs}]}\right) \div$$

12 [Months per year] = **$2,560**

Calculation 1.7 (Calculation of a Tier 7 Industry Member Monthly Fee)

1,631 [Estimated Tot. IMs] × 17.5% [% of Tier 7 IMs] = 285 [Estimated Tier 7 IMs]

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 4.50\%\ [\text{\% of Tier 7 IM Recovery}]}{285\ [\text{Estimated Tier 7 IMs}]}\right) \div$$

12 [Months per year] = **$501**

Calculation 1.8 (Calculation of a Tier 8 Industry Member Monthly Fee)

1,631 [Estimated Tot. IMs] × 20.125% [% of Tier 8 IMs] = 328 [Estimated Tier 8 IMs]

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 1.50\%\ [\text{\% of Tier 8 IM Recovery}]}{328\ [\text{Estimated Tier 8 IMs}]}\right) \div$$

12 [Months per year] = **$145**

Calculation 1.9 (Calculation of a Tier 9 Industry Member Monthly Fee)

1,631 [Estimated Tot. IMs] × 45% [% of Tier 9 IMs] = 735 [Estimated Tier 9 IMs]

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 0.50\%\ [\text{\% of Tier 9 IM Recovery}]}{735\ [\text{Est.Tier 9 IMs}]}\right) \div$$

12 [Months per year] = **$22**

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CALCULATION OF ANNUAL TIER FEES FOR EQUITY EXECUTION VENUES ("EV")

Equity Execution Venue tier	Percentage of Equity Execution Venues	Percentage of Execution Venue Recovery	Percentage of total recovery
Tier 1	25.00	26.00	6.50
Tier 2	75.00	49.00	12.25
Total	100	75	18.75

Equity Execution Venue tier	Estimated number of Equity Execution Venues
Tier 1	13
Tier 2	40
Total	53

Calculation 2.1 (Calculation of a Tier 1 Equity Execution Venue Monthly Fee)

$$52\ [\text{Estimated Tot. Equity EVs}]\ \times 25\%\ [\%\ \text{of Tier 1 Equity EVs}] = 13\ [\text{Estimated Tier 1 Equity EVs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot. Ann.CAT Costs}] \times 25\%\ [\text{EV \% of Tot.Ann.CAT Costs}] \times 26\%\ [\%\ \text{of Tier 1 Equity EV Recovery}]}{13\ [\text{Estimated Tier 1 Equity EVs}]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$21{,}125}$$

Calculation 2.2 (Calculation of a Tier 2 Equity Execution Venue Monthly Fee)

$$52\ [\text{Estimated Tot. Equity EVs}]\ \times 75\%\ [\%\ \text{of Tier 2 Equity EVs}] = 40\ [\text{Estimated Tier 2 Equity EVs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot. Ann.CAT Costs}] \times 25\%\ [\text{EV \% of Tot.Ann.CAT Costs}] \times 49\%\ [\%\ \text{of Tier 2 Equity EV Recovery}]}{40\ [\text{Estimated Tier 2 Equity EVs}]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$12{,}940}$$

CALCULATION OF ANNUAL TIER FEES FOR OPTIONS EXECUTION VENUES ("EV")

Options Execution Venue tier	Percentage of Options Execution Venues	Percentage of Execution Venue Recovery	Percentage of total recovery
Tier 1	75.00	20.00	5.00
Tier 2	25.00	5.00	1.25
Total	100	25	6.25

Options Execution Venue tier	Estimated number of Options Execution Venues
Tier 1	11
Tier 2	4
Total	15

Calculation 3.1 (Calculation of a Tier 1 Options Execution Venue Monthly Fee)

$$15\ [\text{Estimated Tot. Options EVs}] \times 75\%\ [\text{\% of Tier 1 Options EVs}] = 11\ [\text{Estimated Tier 1 Options EVs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 25\%\ [\text{EV \% of Tot.Ann.CAT Costs}] \times 20\%\ [\text{\% of Tier 1 Options EV Recovery}]}{11\ [\text{Estimated Tier 1 Options EVs}]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$19{,}205}$$

Calculation 3.2 (Calculation of a Tier 2 Options Execution Venue Annual Fee)

$$15\ [\text{Estimated Tot. Options EVs}] \times 25\%\ [\text{\% of Tier 2 Options EVs}] = 4\ [\text{Estimated Tier 2 Options EVs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 25\%\ [\text{EV \% of Tot.Ann.CAT Costs}] \times 5\%\ [\text{\% of Tier 2 Options EV Recovery}]}{4\ [\text{Estimated Tier 2 Options EVs}]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$13{,}204}$$

TRACEABILITY OF TOTAL CAT FEES

Type	Industry Member tier	Estimated number of members	CAT fees paid annually	Total recovery
Industry Members	Tier 1	8	$404,016	$3,232,128
	Tier 2	41	324,612	13,309,092
	Tier 3	35	230,868	8,080,380
	Tier 4	75	79,860	5,989,500
	Tier 5	59	49,956	2,947,404
	Tier 6	65	30,720	1,996,800
	Tier 7	285	6,012	1,713,420
	Tier 8	328	1,740	570,720
	Tier 9	735	264	194,040
Total		1,631		38,033,484
Equity Execution Venues	Tier 1	13	253,500	3,295,500
	Tier 2	40	155,280	6,211,200
Total		53		9,506,700
Options Execution Venues	Tier 1	11	230,460	2,535,060
	Tier 2	4	158,448	633,792
Total		15		3,168,852
Total				50,709,036
Excess [50]				9,036

(F) Comparability of Fees

The funding principles require a funding model in which the fees charged to the CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable (where, for these comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters, whether Execution Venue and/or Industry Members). Accordingly, in creating the model, the Operating Committee sought to take account of the affiliations between or among CAT Reporters—that is, where affiliated entities may have multiple Industry Member and/or Execution Venue licenses, by maintaining relative comparability of fees among such affiliations with the most expected CAT-related activity. To do this, the Participants identified representative affiliations in the largest tier of both Execution Venues and Industry Members and compared the aggregate fees that would be paid by such firms.

While the proposed fees for Tier 1 and Tier 2 Industry Members are relatively higher than those of Tier 1 and Tier 2 Execution Venues, Execution Venue complex fees are relatively higher than those of Industry Member complexes largely due to affiliations between Execution Venues. The tables set forth below describe the largest Execution Venue and Industry Member complexes and their associated fees: [51]

[50] The amount in excess of the total CAT costs will contribute to the gradual accumulation of the target operating reserve of $11.425 million.

[51] Note that the analysis of the complexes was performed on a best efforts basis, as all affiliations between the 1631 Industry Members may not be included.

EXECUTION VENUE COMPLEXES

Execution Venue complex	Listing of Equity Execution Venue tiers	Listing of options Execution Venue tier	Total fees by EV complex
Execution Venue Complex 1	• Tier 1 (x2) • Tier 2 (x1)	• Tier 1 (x4) • Tier 2 (x2)	$1,900,962
Execution Venue Complex 2	• Tier 1 (x2)	• Tier 1 (x2) • Tier 2 (x1)	1,863,801
Execution Venue Complex 3	• Tier 1 (x2) • Tier 2 (x2)	• Tier 1 (x2)	1,278,447

INDUSTRY MEMBER COMPLEXES

Industry Member complex	Listing of Industry Member tiers	Listing of ATS tiers	Total fees by IM complex
Industry Member Complex 1	• Tier 1 (x2)	• Tier 2 (x1)	$963,300
Industry Member Complex 2	• Tier 1 (x1) • Tier 4 (x1)	• Tier 2 (x3)	949,674
Industry Member Complex 3	• Tier 1 (x1) • Tier 2 (x1)	• Tier 2 (x1)	883,888
Industry Member Complex 4	• Tier 1 (x1) • Tier 2 (x1) • Tier 4 (x1)	• N/A	808,472
Industry Member Complex 5	• Tier 2 (x1) • Tier 3 (x1) • Tier 4 (x1) • Tier 7 (x1)	• Tier 2 (x1)	796,595

(G) Billing Onset

Under Section 11.1(c) of the CAT NMS Plan, to fund the development and implementation of the CAT, the Company shall time the imposition and collection of all fees on Participants and Industry Members in a manner reasonably related to the timing when the Company expects to incur such development and implementation costs. The Company is currently incurring such development and implementation costs and will continue to do so prior to the commencement of CAT reporting and thereafter. For example, the Plan Processor has required up-front payments to begin building the CAT. In addition, the Company continues to incur consultant and legal expenses on an on-going basis to implement the CAT. Accordingly, the Operating Committee determined that all CAT Reporters, including both Industry Members and Execution Venues (including Participants), would begin to be invoiced as promptly as possible following the establishment of a billing mechanism. Bats will issue a Regulatory Circular to its members when the billing mechanism is established, specifying the date when such invoicing of Industry Members will commence.

(H) Changes to Fee Levels and Tiers

Section 11.3(d) of the CAT NMS Plan states that ''[t]he Operating Committee shall review such fee schedule on at least an annual basis and shall make any changes to such fee schedule that it deems appropriate. The Operating Committee is authorized to review such fee schedule on a more regular basis, but shall not make any changes on more than a semi-annual basis unless, pursuant to a Supermajority Vote, the Operating Committee concludes that such change is necessary for the adequate funding of the Company.'' With such reviews, the Operating Committee will review the distribution of Industry Members and Execution Venues across tiers, and make any updates to the percentage of CAT Reporters allocated to each tier as may be necessary. In addition, the reviews will evaluate the estimated ongoing CAT costs and the level of the operating reserve. To the extent that the total CAT costs decrease, the fees would be adjusted downward, and, to the extent that the total CAT costs increase, the fees would be adjusted upward.[52] Furthermore, any surplus of the Company's revenues over its expenses is to be included within the operational reserve to offset future fees. The limitations on more frequent changes to the fee, however, are intended to provide budgeting certainty for the CAT Reporters and the Company.[53] To the extent that the Operating Committee approves changes to the number of tiers in the funding model or the fees assigned to each tier, then Bats will file such changes with the SEC pursuant to Section 19(b) of the Exchange Act, and any such changes will become effective in accordance with the requirements of Section 19(b).

(I) Initial and Periodic Tier Reassignments

The Operating Committee has determined to calculate fee tiers every three months based on market share or message traffic, as applicable, from the prior three months. For the initial tier assignments, the Company will calculate the relevant tier for each CAT Reporter using the three months of data prior to the commencement date. As with the initial tier assignment, for the tri-monthly reassignments, the Company will calculate the relevant tier using the three months of data prior to the relevant tri-monthly date. Bats notes that any movement of CAT Reporters between tiers will not change the criteria for each tier or the fee amount corresponding to each tier.

In performing the tri-monthly reassignments, Bats notes that the percentage of CAT Reporters in each assigned tier is relative. Therefore, a CAT Reporter's assigned tier will depend, not only on its own message traffic or market share, but it also will depend on the message traffic/market share across all CAT Reporters. For

[52] The CAT Fees are designed to recover the costs associated with the CAT. Accordingly, CAT Fees would not be affected by increases or decreases in other non-CAT expenses incurred by the SROs, such as any changes in costs related to the retirement of existing regulatory systems, such as OATS.

[53] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85006.

example, the percentage of Industry Members (other than Execution Venue ATSs) in each tier is relative such that such Industry Member's assigned tier will depend on message traffic generated across all CAT Reporters as well as the total number of CAT Reporters. The Operating Committee will inform CAT Reporters of their assigned tier every three months following the periodic tiering process, as the funding model will compare an individual CAT Reporter's activity to that of other CAT Reporters in the marketplace.

The following demonstrates a tier reassignment. In accordance with the funding model, the top 75% of Options Execution Venues in market share are categorized as Tier 1 while the bottom 25% of Options Execution Venues in market share are categorized as Tier 2. In the sample scenario below, Options Execution Venue L is initially categorized as a Tier 2 Options Execution Venue in Period A due to its market share. When market share is recalculated for Period B, the market share of Execution Venue L increases, and it is therefore subsequently reranked and reassigned to Tier 1 in Period B. Correspondingly, Options Execution Venue K, initially a Tier 1 Options Execution Venue in Period A, is reassigned to Tier 2 in Period B due to decreases in its market share of share volume.

Period A			Period B		
Options Execution Venue	Market share rank	Tier	Options Execution Venue	Market share rank	Tier
Options Execution Venue A	1	1	Options Execution Venue A	1	1
Options Execution Venue B	2	1	Options Execution Venue B	2	1
Options Execution Venue C	3	1	Options Execution Venue C	3	1
Options Execution Venue D	4	1	Options Execution Venue D	4	1
Options Execution Venue E	5	1	Options Execution Venue E	5	1
Options Execution Venue F	6	1	Options Execution Venue F	6	1
Options Execution Venue G	7	1	Options Execution Venue I	7	1
Options Execution Venue H	8	1	Options Execution Venue H	8	1
Options Execution Venue I	9	1	Options Execution Venue G	9	1
Options Execution Venue J	10	1	Options Execution Venue J	10	1
Options Execution Venue K	11	1	Options Execution Venue L	11	1
Options Execution Venue L	12	2	Options Execution Venue K	12	2
Options Execution Venue M	13	2	Options Execution Venue N	13	2
Options Execution Venue N	14	2	Options Execution Venue M	14	2
Options Execution Venue O	15	2	Options Execution Venue O	15	2

(3) Proposed CAT Fee Schedule

Bats proposes the Consolidated Audit Trail Funding Fees to implement the CAT Fees determined by the Operating Committee on SRO's Industry Members. The proposed fee schedule has three sections, covering definitions, the fee schedule for CAT Fees, and the timing and manner of payments. Each of these sections is discussed in detail below.

(A) Definitions

Paragraph (a) of the proposed fee schedule sets forth the definitions for the proposed fee schedule. Paragraph (a)(1) states that, for purposes of the Consolidated Audit Trail Funding Fees, the terms ''CAT NMS Plan,'' ''Industry Member,'' ''NMS Stock,'' ''OTC Equity Security'', and ''Participant'' are defined as set forth in Rule 4.5 (Consolidated Audit Trail—Definitions).

The proposed fee schedule imposes different fees on Equity ATSs and Industry Members that are not Equity ATSs. Accordingly, the proposed fee schedule defines the term ''Equity ATS.'' First, paragraph (a)(2) defines an ''ATS'' to mean an alternative trading system as defined in Rule 300(a) of Regulation ATS under the Securities Exchange Act of 1934, as amended, that operates pursuant to Rule 301 of Regulation ATS. This is the same definition of an ATS as set forth in Section 1.1 of the CAT NMS Plan in the definition of an ''Execution Venue.'' Then, paragraph (a)(4) defines an ''Equity ATS'' as an ATS that executes transactions in NMS Stocks and/or OTC Equity Securities.

Paragraph (a)(3) of the proposed fee schedule defines the term ''CAT Fee'' to mean the Consolidated Audit Trail Funding Fee(s) to be paid by Industry Members as set forth in paragraph (b) in the proposed fee schedule.

Finally, Paragraph (a)(6) defines an ''Execution Venue'' as a Participant or an ATS (excluding any such ATS that does not execute orders). This definition is the same substantive definition as set forth in Section 1.1 of the CAT NMS Plan. Paragraph (a)(5) defines an ''Equity Execution Venue'' as an Execution Venue that trades NMS Stocks and/or OTC Equity Securities.

(B) Fee Schedule

Bats proposes to impose the CAT Fees applicable to its Industry Members through paragraph (b) of the proposed fee schedule. Paragraph (b)(1) of the proposed fee schedule sets forth the CAT Fees applicable to Industry Members other than Equity ATSs. Specifically, paragraph (b)(1) states that the Company will assign each Industry Member (other than an Equity ATS) to a fee tier once every quarter, where such tier assignment is calculated by ranking each Industry Member based on its total message traffic for the three months prior to the quarterly tier calculation day and assigning each Industry Member to a tier based on that ranking and predefined Industry Member percentages. The Industry Members with the highest total quarterly message traffic will be ranked in Tier 1, and the Industry Members with lowest quarterly message traffic will be ranked in Tier 9. Each quarter, each Industry Member (other than an Equity ATS) shall pay the following CAT Fee corresponding to the tier assigned by the Company for such Industry Member for that quarter:

Tier	Percentage of Industry Members	Quarterly CAT fee
1	0.500	$101,004
2	2.500	81,153
3	2.125	57,717
4	4.625	19,965
5	3.625	12,489
6	4.000	7,680
7	17.500	1,503
8	20.125	435
9	45.000	66

Paragraph (b)(2) of the proposed fee schedule sets forth the CAT Fees applicable to Equity ATSs.[54] These are the same fees that Participants that trade NMS Stocks and/or OTC Equity Securities will pay. Specifically, paragraph (b)(2) states that the Company will assign each Equity ATS to a fee tier once every quarter, where such tier assignment is calculated by ranking each Equity Execution Venue based on its total market share of NMS Stocks and OTC Equity Securities for the three months prior to the quarterly tier calculation day and assigning each Equity Execution Venue to a tier based on that ranking and predefined Equity Execution Venue percentages. The Equity Execution Venues with the higher total quarterly market share will be ranked in Tier 1, and the Equity Execution Venues with the lower quarterly market share will be ranked in Tier 2. Specifically, paragraph (b)(2) states that, each quarter, each Equity ATS shall pay the following CAT Fee corresponding to the tier assigned by the Company for such Equity ATS for that quarter:

Tier	Percentage of Equity Execution Venues	Quarterly CAT fee
1	25.00	$63,375
2	75.00	38,820

(C) Timing and Manner of Payment

Section 11.4 of the CAT NMS Plan states that the Operating Committee shall establish a system for the collection of fees authorized under the CAT NMS Plan. The Operating Committee may include such collection responsibility as a function of the Plan Processor or another administrator. To implement the payment process to be adopted by the Operating Committee, paragraph (c)(1) of the proposed fee schedule states that the Company will provide each Industry Member with one invoice each quarter for its CAT Fees as determined pursuant to paragraph (b) of the proposed fee schedule, regardless of whether the Industry Member is a member of multiple self-regulatory organizations. Paragraph (c)(1) further states that each Industry Member will pay its CAT Fees to the Company via the centralized system for the collection of CAT Fees established by the Company in the manner prescribed by the Company. Bats will provide Industry Members with details regarding the manner of payment of CAT Fees by Regulatory Circular.

Although the exact fee collection system and processes for CAT fees has not yet been established, all CAT fees will be billed and collected centrally through the Company, via the Plan Processor or otherwise. Although each Participant will adopt its own fee schedule regarding CAT Fees, no CAT Fees or portion thereof will be collected by the individual Participants. Each Industry Member will receive from the Company one invoice for its applicable CAT fees, not separate invoices from each Participant of which it is a member. The Industry Members will pay the CAT Fees to the Company via the centralized system for the collection of CAT fees established by the Company.[55]

Section 11.4 of the CAT NMS Plan also states that Participants shall require each Industry Member to pay all applicable authorized CAT Fees within thirty days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). Section 11.4 further states that, if an Industry Member fails to pay any such fee when due, such Industry Member shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of: (i) The Prime Rate plus 300 basis points; or (ii) the maximum rate permitted by applicable law. Therefore, in accordance with Section 11.4 of the CAT NMS Plan, Bats proposes to adopt paragraph (c)(2) of the proposed fee schedule. Paragraph (c)(2) of the proposed fee schedule states that each Industry Member shall pay CAT Fees within thirty days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). If an Industry Member fails to pay any such fee when due, such Industry Member shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of: (i) The Prime Rate plus 300 basis points; or (ii) the maximum rate permitted by applicable law.

2. Statutory Basis

Bats believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,[56] which require, among other things, that the SRO rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to

[54] Note that no fee schedule is provided for Execution Venue ATSs that execute transactions in Listed Options, as no such Execution Venue ATSs currently exist due trading restrictions related to Listed Options.

[55] Section 11.4 of the CAT NMS Plan.

[56] 15 U.S.C. 78f(b)(5).

protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealers, and Section 6(b)(4) of the Act,[57] which requires that SRO rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using its facilities. As discussed above, the SEC approved the bifurcated, tiered, fixed fee funding model in the CAT NMS Plan, finding it was reasonable and that it equitably allocated fees among Participants and Industry Members. Bats believes that the proposed tiered fees adopted pursuant to the funding model approved by the SEC in the CAT NMS Plan are reasonable, equitably allocated and not unfairly discriminatory.

Bats believes that this proposal is consistent with the Act because it implements, interprets or clarifies the provisions of the Plan, and is designed to assist Bats and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [58] To the extent that this proposal implements, interprets or clarifies the Plan and applies specific requirements to Industry Members, Bats believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

Bats believes that the proposed tiered fees are reasonable. First, the total CAT Fees to be collected would be directly associated with the costs of establishing and maintaining the CAT, where such costs include Plan Processor costs and costs related to insurance, third party services and the operational reserve. The CAT Fees would not cover Participant services unrelated to the CAT. In addition, any surplus CAT Fees cannot be distributed to the individual Participants; such surpluses must be used as a reserve to offset future fees. Given the direct relationship between the fees and the CAT costs, Bats believes that the total level of the CAT Fees is reasonable.

In addition, Bats believes that the proposed CAT Fees are reasonably designed to allocate the total costs of the CAT equitably between and among the Participants and Industry Members, and are therefore not unfairly discriminatory. As discussed in detail above, the proposed tiered fees impose comparable fees on similarly situated CAT Reporters. For example, those with a larger impact on the CAT (measured via message traffic or market share) pay higher fees, whereas CAT Reporters with a smaller impact pay lower fees. Correspondingly, the tiered structure lessens the impact on smaller CAT Reporters by imposing smaller fees on those CAT Reporters with less market share or message traffic. In addition, the funding model takes into consideration affiliations between CAT Reporters, imposing comparable fees on such affiliated entities.

Moreover, Bats believes that the division of the total CAT costs between Industry Members and Execution Venues, and the division of the Execution Venue portion of total costs between Equity and Options Execution Venues, is reasonably designed to allocate CAT costs among CAT Reporters. The 75/25 division between Industry Members and Execution Venues maintains the greatest level of comparability across the funding model, keeping in view that comparability should consider affiliations among or between CAT Reporters (*e.g.,* firms with multiple Industry Members or exchange licenses). Similarly, the 75/25 division between Equity and Options Execution Venues maintains elasticity across the funding model as well as the greatest level of fee equitability and comparability based on the current number of Equity and Options Execution Venues.

Finally, Bats believes that the proposed fees are reasonable because they would provide ease of calculation, ease of billing and other administrative functions, and predictability of a fixed fee. Such factors are crucial to estimating a reliable revenue stream for the Company and for permitting CAT Reporters to reasonably predict their payment obligations for budgeting purposes.

(B) Self-Regulatory Organization's Statement on Burden on Competition

Section 6(b)(8) of the Act [59] require that SRO rules not impose any burden on competition that is not necessary or appropriate. Bats 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. Bats notes that the proposed rule change implements provisions of the CAT NMS Plan approved by the Commission, and is designed to assist Bats in meeting its regulatory obligations pursuant to the Plan. Similarly, all national securities exchanges and FINRA are proposing this proposed fee schedule to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive fee filing and, therefore, it does not raise competition issues between and among the exchanges and FINRA.

Moreover, as previously described, Bats believes that the proposed rule change fairly and equitably allocates costs among CAT Reporters. In particular, the proposed fee schedule is structured to impose comparable fees on similarly situated CAT Reporters, and lessen the impact on smaller CAT Reporters. CAT Reporters with similar levels of CAT activity will pay similar fees. For example, Industry Members (other than Execution Venue ATSs) with higher levels of message traffic will pay higher fees, and those with lower levels of message traffic will pay lower fees. Similarly, Execution Venue ATSs and other Execution Venues with larger market share will pay higher fees, and those with lower levels of market share will pay lower fees. Therefore, given that there is generally a relationship between message traffic and market share to the CAT Reporter's size, smaller CAT Reporters generally pay less than larger CAT Reporters. Accordingly, Bats does not believe that the CAT Fees would have a disproportionate effect on smaller or larger CAT Reporters. In addition, ATSs and exchanges will pay the same fees based on market share. Therefore, Bats does not believe that the fees will impose any burden on the competition between ATSs and exchanges. Accordingly, Bats believes that the proposed fees will minimize the potential for adverse effects on competition between CAT Reporters in the market.

Furthermore, the tiered, fixed fee funding model limits the disincentives to providing liquidity to the market. Therefore, the proposed fees are structured to limit burdens on competitive quoting and other liquidity provision in the market.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)

[57] 15 U.S.C. 78f(b)(4).

[58] Approval Order at 84697.

[59] 15 U.S.C. 78f(b)(8).

of the Act[60] and paragraph (f) of Rule 19b–4 thereunder.[61] 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 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.* Please include File Number SR–BatsEDGA–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 Number SR–BatsEDGA–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 Number SR–BatsEDGA–2017–13 and should be submitted on or before June 22, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[62]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–11360 Filed 5–31–17; 8:45 am]

BILLING CODE 8011–01–P

[60] 15 U.S.C. 78s(b)(3)(A).

[61] 17 CFR 240.19b–4(f).

[62] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32661; 812–14715]

PIMCO Equity Series, et al.

May 25, 2017.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

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)(J) 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 (''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; (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; (f) certain Funds (''Feeder Funds'') to create and redeem Creation Units in-kind in a master-feeder structure; and (g) certain Funds to issue shares in less than Creation Unit size to investors participating in a distribution reinvestment program.

APPLICANTS: PIMCO Equity Series (the ''Trust''), a Delaware statutory trust that is registered under the Act as an open-end management investment company with multiple series, Pacific Investment Management Company LLC (the ''Initial Adviser''), a Delaware limited liability company registered as an investment adviser under the Investment Advisers Act of 1940, and PIMCO Investments LLC (the ''Distributor''), a Delaware limited liability company and broker-dealer registered under the Securities Exchange Act of 1934 (''Exchange Act'').[1]

FILING DATES: The application was filed on November 18, 2016 and amended on March 13, 2017, May 2, 2017 and May 25, 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 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 June 19, 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: Joshua D. Ratner, Esq., Pacific Investment Management Company LLC, 650 Newport Center Drive, Newport Beach, CA 92660 and Douglas P. Dick, Esq., Dechert LLP, 1900 K Street NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Barbara T. Heussler, Senior Counsel, at (202) 551–6990, or Robert H. Shapiro, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application

[1] The Initial Adviser has previously received exemptive relief from the Commission permitting it to operate ETFs (defined below) that track fixed income securities indexes created by an unaffiliated index provider. See Pacific Investment Management Company LLC, et al., Investment Company Act Release Nos. 28723 (May 11, 2009) (notice) and 28752 (Jun. 1, 2009) (order) (''Existing Relief''). No Fund relying on the requested order will rely on the Existing Relief.

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'').[2] Fund shares will be purchased and redeemed at their NAV in Creation Units (other than pursuant to a distribution reinvestment program), as described in the application. 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. Certain Funds may operate as Feeder Funds in a master-feeder structure. Any order granting the requested relief would be subject to the terms and conditions stated in the application.

2. Each Fund will hold investment positions selected to correspond closely 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, the Distributor or a promoter of a Fund will compile, create, sponsor or maintain the Underlying Index.[3]

3. Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis, or issued in less than Creation Unit size to investors participating in a distribution reinvestment program. 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 (other than pursuant to a dividend reinvestment program).

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 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.[4]

[2] Applicants request that the ETFs (i) track a specified index (''Underlying Index'') comprised of domestic and/or foreign equity securities (''Equity Funds'') for which a third party that is not an ''affiliated person'' (as such term is defined in section 2(a)(3) of the Act), or an affiliated person of an affiliated person, of the Trust, the Adviser, any Sub-Adviser, the Distributor or a promoter of the Fund will serve as the index provider (each, an ''Equity Index-Based Fund''), (ii) track a specified index for which an ''affiliated person,'' as defined in section 2(a)(3) of the Act, or an affiliated person of an affiliated person of the Trust or a Fund, of the Adviser, any Sub-Adviser, the Distributor or a promoter of a Fund will serve as the index provider (each, a ''Self-Indexing Fund''), or (iii) operate as a Feeder Fund pursuant to the Master-Feeder Relief described in the application.

Applicants request that the order apply to new series of the Trust, and any additional series of the Trust, and any other existing or future open-end management investment company or existing or future series thereof (each, included in the term ''Fund''), that operate as (i) Equity Index-Based Funds, and their respective existing or future Master Funds, (ii) Self-Indexing Funds that are Equity Funds, and their respective existing or future Master Funds, or Self-Indexing Funds that track a specified index comprised of domestic and/or foreign fixed income securities (''Fixed Income Funds''), and their respective existing or future Master Funds, and (iii) Feeder Funds, which may be Equity Funds or Fixed Income Funds, pursuant to the Master-Feeder Relief. 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.

[3] 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.

[4] 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

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. Applicants also request relief to permit a Feeder Fund to acquire shares of another registered investment company managed by the Adviser having substantially the same investment objectives as the Feeder Fund (''Master Fund'') beyond the limitations in section 12(d)(1)(A) and permit the Master Fund, and any principal underwriter for the Master Fund, to sell shares of the Master Fund to the Feeder Fund beyond the limitations in section 12(d)(1)(B).

10. 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. 2017–11242 Filed 5–31–17; 8:45 am]

BILLING CODE 8011–01–P

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.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80787; File No. SR–ISE–2017–46]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing of Proposed Rule Change To Eliminate Requirements That Will Be Duplicative of CAT

May 26, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 15, 2017, Nasdaq ISE, 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 1404 (the ''EBS Rule''), as the EBS Rule provides for the collection of information that is duplicative of the data collection requirements of the Consolidated Audit Trail (''CAT'') adopted pursuant to the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'').[3]

The text of the proposed rule change is available on the Exchange's Web site at *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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth herein, or in the CAT Compliance Rule Series or in the CAT NMS Plan.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC,[4] NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. and NYSE National, Inc.[5] (collectively, the ''Participants'') filed with the Commission, pursuant to Section 11A of the Exchange Act [6] and Rule 608 of Regulation NMS thereunder,[7] CAT NMS Plan.[8] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,[9] and approved by the Commission, as modified, on November 15, 2016.[10] On March 15, 2017, the Commission approved the new Rule 900 Series to implement provisions of the CAT NMS Plan that are applicable to ISE members.[11]

The Plan is designed to create, implement and maintain a CAT that

[4] ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. *See* Securities Exchange Act Release No. 80248 (March 15, 2017), 82 FR. 14547 (March 21, 2017); Securities Exchange Act Release No. 80326 (March 29, 2017), 82 FR 16460 (April 4, 2017); and Securities Exchange Act Release No. 80325 (March 29, 2017), 82 FR 16445 (Apr. 4, 2017).

[5] National Stock Exchange, Inc. has been renamed NYSE National, Inc. *See* Securities Exchange Act Release No. 79902 (January 30, 2017), 82 FR 9258 (February 3, 2017).

[6] 15 U.S.C. 78k–1.

[7] 17 CFR 242.608.

[8] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

[9] Securities Exchange Act Release No. 77724 (April 27, 2016), 81 FR 30614 (May 17, 2016).

[10] Securities Exchange Act Release No. 79318 (Nov. 15, 2016), 81 FR 84696 (November 23, 2016) (''Approval Order'').

[11] *See* Securities Exchange Act Release No. 80256 (March 15, 2017), 82 FR 14526 (March 21, 2017) (SR–ISE–2017–08).

would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. Pursuant to Appendix C of the CAT NMS Plan, each Participant is required to conduct analyses of which of its existing trade and order data rules and systems require the collection of information that is duplicative of information collected for the CAT.[12] In addition, among other things, Section C.9 of Appendix C to the Plan, as modified by the Commission, requires each Participant to ''file with the SEC the relevant rule change filing to eliminate or modify its duplicative rules within six (6) months of the SEC's approval of the CAT NMS Plan.'' [13] The Plan notes that ''the elimination of such rules and the retirement of such systems [will] be effective at such time as CAT Data meets minimum standards of accuracy and reliability.'' [14] ISE has determined that the EBS Rule is affected by the implementation of the CAT and, therefore, is filing this proposed rule change.

The EBS Rule is the Exchange's rule regarding the automated submission of specific trading data to ISE upon request using the Electronic Blue Sheet (''EBS'') system. Rule 1404 require members to submit certain trade information as prescribed by the Exchange, including, for proprietary transactions, the clearing house number or alpha symbol of the member submitting the data, the identifying symbol assigned to the security, and the date the transaction was executed.[15]

Once broker-dealer reporting to the CAT has begun, the CAT will contain the data the Participants would otherwise have requested via the EBS system for purposes of NMS Securities and OTC Equity Securities. Consequently, the Exchange will not need to use the EBS system or request information pursuant to the EBS Rule for NMS Securities or OTC Equity Securities for time periods after CAT reporting has begun if the appropriate accuracy and reliability thresholds are achieved, including an acceptable accuracy rate for customer and account information. However, the EBS Rule cannot be completely eliminated immediately upon the CAT achieving the appropriate thresholds because Exchange staff may still need to request information pursuant to the EBS Rule for trading activity occurring before a member was reporting to the CAT.[16]

The proposed rule change proposes to add new Supplementary Material to the EBS Rule to clarify how the Exchange will request data under these rules after members are reporting to the CAT. Specifically, the proposed Supplementary Material to the EBS Rule will note that the Exchange will request information under the EBS Rule only if the information is not available in the CAT because, for example, the transactions in question occurred before the firm was reporting information to the CAT or involved securities that are not reportable to the CAT. In essence, under the new Supplementary Material, the Exchange will make requests under these rules if and only if the information is not otherwise available through the CAT.

The CAT NMS Plan states, however, that the elimination of rules that are duplicative of the requirements of the CAT and the retirement of the related systems should be effective at such time as CAT Data meets minimum standards of accuracy and reliability.[17] Accordingly, as discussed in more detail below, the Exchange believes that the EBS data may be replaced by CAT Data at a date after all Industry Members are reporting to the CAT when the proposed error rate thresholds have been met, and the Exchange has determined that its usage of the CAT Data has not revealed material issues that have not been corrected, confirmed that the CAT includes all data necessary to allow the Exchange to continue to meet its surveillance obligations, and confirmed that the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan.

The Exchange believes CAT Data should not be used in place of EBS data until all Participants and Industry Members are reporting data to CAT. In this way, the Exchange will continue to have access to the necessary data to perform its regulatory duties.

The CAT NMS Plan requires that a rule filing to eliminate a duplicative rule address whether ''the availability of certain data from Small Industry Members two years after the Effective Date would facilitate a more expeditious retirement of duplicative systems.'' [18] The Exchange believes that the submission of data to the CAT by Small Industry Members a year earlier than is required in the CAT NMS Plan, at the same time as the other Industry Members, would expedite the replacement of EBS data with CAT Data, as the Exchange believes that the CAT would then have all necessary data from the Industry Members for the Exchange to perform the regulatory surveillance that currently is performed via EBS. For this reason, the Exchange supports amending the CAT NMS Plan to require Small Industry Members to report data to the CAT two years after the Effective Date (instead of three), and intends to work with other Participants toward that end.

The CAT NMS Plan requires that this rule filing address ''whether individual Industry Members can be exempted from reporting to duplicative systems once their CAT reporting meets specified accuracy and reliability standards, including, but not limited to, ways in which establishing cross-system regulatory functionality or integrating data from existing systems and the CAT would facilitate such Individual Industry Member exemptions.'' [19] The Exchange believes that a single cut-over from EBS to CAT is highly preferable to a firm-by-firm approach and is not proposing to exempt members from the EBS requirements on a firm-by-firm basis. The Exchange believes that providing such individual exemptions to Industry Members would be inefficient, more costly, and less reliable than the single cut-over. Providing individual exemptions would require the exchanges to create, for a brief temporary period, a cross-system regulatory function and to integrate data from EBS and the CAT to avoid creating any regulatory gaps as a result of such exemptions. Such a function would be costly to create and would give rise to a greater likelihood of data errors or other issues. Given the limited time in which such exemptions would be necessary, the Exchange does not believe that such exemptions would be an appropriate use of limited resources. Moreover, the primary benefit to a firm-by-firm exemptive approach would be to reduce the amount of time an individual firm is required to comply with EBS if it is also accurately and reliably reporting to the CAT. The Exchange believes that the overall accuracy and reliability thresholds for the CAT described above would need to be met under any conditions before

[12] Appendix C of CAT NMS Plan, Approval Order at 85010.

[13] *Id.*

[14] *Id.*

[15] The Exchange notes that both the rules of Nasdaq MRX, LLC and Nasdaq GEMX, LLC incorporate Rule 1404 by reference.

[16] Firms are required to maintain the trade information for pre-CAT transactions in equities and options pursuant to applicable rules, such as books and records retention requirements, for the relevant time period, which is generally three or six years depending upon the record. *See* 17 CFR 240.17a–3(a), 240.17a–4.

[17] *Id.* [sic].

[18] *Id.*

[19] *Id.*

firms could stop reporting to EBS, and as discussed above, by accelerating Small Industry Members to report on the same timeframe as all other Industry Members, there is no need to exempt members from EBS requirements on a firm-by-firm basis.

The CAT NMS Plan also requires that a rule filing to eliminate a duplicative rule to provide ''specific accuracy and reliability standards that will determine when duplicative systems will be retired, including, but not limited to, whether the attainment of a certain Error Rate should determine when a system duplicative of the CAT can be retired.'' [20] The Exchange believes that it is critical that the CAT Data be sufficiently accurate and reliable for the Exchange to perform the regulatory functions that it now performs via EBS. Accordingly, the Exchange believes that the CAT Data should meet specific quantitative error rates, as well as certain qualitative requirements.

The Exchange believes that, before CAT Data may be used in place of EBS data, the CAT would need to achieve a sustained error rate for a period of at least 180 days of 5% or lower measured on a pre-correction or as-submitted basis, and 2% or lower on a post-correction basis (measured at T+5).[21] ISE proposes to measure the 5% pre-correction and 2% post-correction thresholds by averaging the error rate across the period, not require a 5% pre-correction and 2% post-correction maximum each day for 180 consecutive days. The Exchange believes that measuring each of the thresholds over the course of 180 days will ensure that the CAT consistently meets minimum accuracy and reliability thresholds while also ensuring that single-day measurements do not unduly affect the overall measurements. The Exchange proposes to measure the appropriate error rates in the aggregate, rather than firm-by-firm. The 2% and 5% error rates are in line with the proposed retirement threshold for other systems, such as FINRA's Order Audit Trail System (''OATS'') and the consolidated options audit trail system (''COATS'').

In addition to these minimum error rates before using CAT Data instead of EBS data, the Exchange believes that during the minimum 180-day period during which the thresholds are calculated, the Exchange's use of the data in the CAT must confirm that (i) usage over that time period has not revealed material issues that have not been corrected, (ii) the CAT includes all data necessary to allow the Exchange to continue to meet its surveillance obligations, and (iii) the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan. The Exchange believes this time period to use the CAT Data is necessary to reveal any errors that may manifest themselves only after surveillance patterns and other queries have been run and to confirm that the Plan Processor is meeting its obligations and performing its functions adequately.

If the Commission approves the proposed rule change, the Exchange will announce the implementation date for the proposed rule change in a Regulatory Notice that will be published once the Exchange concludes the thresholds for accuracy and reliability described above have been met and that the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Exchange Act,[22] which require, among other things, that the ISE rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealer. The Exchange believes that this proposal is consistent with the Exchange Act because it fulfills the obligation in the CAT NMS Plan for the Exchange to submit a proposed rule change to eliminate or modify duplicative rules. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [23] As this proposal implements the Plan, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Exchange Act.

Moreover, the purpose of the proposed rule change is to amend rules that require the submission of duplicative data to the exchange. The elimination of such duplicative requirements will reduce unnecessary costs and other compliance burdens for the Exchange and its members, and therefore, will enhance the efficiency of the securities markets. Furthermore, the Exchange believes that the approach set forth in the proposed rule change strikes the appropriate balance between ensuring that the Exchange is able to continue to fulfill its statutory obligation to protect investors and the public interest by ensuring its surveillance of market activity remains accurate and effective while also establishing a reasonable timeframe for elimination or modification of its rules that will be rendered duplicative after implementation of the CAT.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 6(b)(8) of the Exchange Act [24] requires that Exchange rules not impose any burden on competition that is not necessary or appropriate. 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 Exchange Act. The Exchange notes that the proposed rule change implements the requirements of the CAT NMS Plan approved by the Commission regarding the elimination of rules and systems that are duplicative the CAT, and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. Similarly, all exchanges and FINRA are proposing the elimination of their EBS rules to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive rule filing and, therefore, it does not raise competition issues between and among the self-regulatory organizations and/or their members.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Although written comments on the proposed rule change were not solicited, ISE received comments from two commenters, the Financial Information Forum (''FIF'') and the Securities Industry and Financial Markets Association (''SIFMA''), regarding the retirement of systems related to the CAT.[25] In its comment letters, with

[20] *Id.*

[21] The Plan requires that the Plan Processor must ensure that regulators have access to corrected and linked order and Customer data by 8:00 a.m. Eastern Time on T+5. *See* CAT NMS Plan, at C–15.

[22] 15 U.S.C. 78f(b)(5).

[23] Approval Order at 84697.

[24] 15 U.S.C. 78f(b)(8).

[25] Letter from William H. Hebert, FIF, to Participants re: Milestone for Participants' rule change filings to eliminate/modify duplicative rules (Apr. 12, 2017) (''FIF Letter''); Letter from William H. Hebert, FIF, to Brent J. Fields, SEC re: Milestone for Participants' rule change filings to eliminate/

Continued

regard to the retirement of duplicative systems more generally, FIF recommended that the Participants continue the effort to incorporate current reporting obligations into the CAT in order to replace existing reportable systems with the CAT. In addition, FIF further recommended that, once a CAT Reporter achieved satisfactory reporting data quality, the CAT Reporter should be exempt from reporting to any duplicative reporting systems. FIF believed that these recommendations ''would serve both an underlying regulatory objective of more immediate and accurate access to data as well as an industry objective of reduced costs and burdens of regulatory oversight.'' [26] In its comments about EBS specifically, FIF stated that the retirement of the EBS requirements should be a high priority, and that the CAT should be designed to include the requisite data elements to permit the rapid retirement of EBS.[27] Similarly, SIFMA stated that ''the establishment of the CAT must be accompanied by the prompt elimination of duplicative systems,'' and ''recommend[ed] that the initial technical specifications be designed to facilitate the immediate retirement of . . . duplicative reporting systems.'' [28]

As discussed above in Section 3 [sic], the Exchange agrees with the commenters that the EBS reporting requirements should be replaced by the CAT reporting requirements as soon as accurate and reliable CAT Data is available. To this end, the Exchange anticipates that the CAT will be designed to collect the data necessary to permit the retirement of EBS. However, as discussed above, the Exchange disagrees with the recommendation to provide individual exemptions to those CAT Reporters who obtain satisfactory data reporting quality.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2017–46 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–ISE–2017–46. 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–ISE–2017–46 and should be submitted on or before June 22, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

Eduardo A. Aleman,

Assistant Secretary.

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modify duplicative rules (Apr. 12, 2017); and Letter from Kenneth E. Bentsen, Jr., SIFMA, to Participants re: Selection of Thesys as CAT Processor (Apr. 4, 2017) (''SIFMA Letter'') at 2.

[26] FIF Letter at 2.

[27] FIF Letter at 2.

[28] SIFMA Letter at 2.

[29] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80769; File No. SR–Phlx–2017–41]

Self-Regulatory Organizations; NASDAQ PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 1012

May 25, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 22, 2017, NASDAQ PHLX LLC (''Phlx'' 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 1012, Series of Options Open for Trading, with respect to long term options.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqphlx.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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 this rule filing is to make three simple clarifying changes to Rule 1012, Series of Options Open for Trading, with respect to long term options. Pursuant to current subsection (a)(i)(D) of Rule 1012, the Exchange may list, with respect to any class of stock or Exchange-Traded Fund Share options series, options having up to thirty-nine months from the time they are listed until expiration.

The Exchange proposes to amend subsection (a)(i)(D) of Rule 1012 by adding a caption to the section to make clear that it deals with long term options. It is also amending that subsection to specify, consistent with the proposed rule change filings which adopted it, that the expirations to which the subsection refers may have from twelve to thirty-nine months until expiration.[3] Finally, the rule currently states that there may be ''up to six additional expiration months''. Because the rule does not specify which expiration months the six months are in addition to, and thus is ambiguous, the Exchange proposes to delete the word ''additional.'' As amended, the rule would clearly and simply provide that the Exchange may list six expiration months having from twelve up to thirty-nine months from the time they are listed until expiration.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Section 6(b)(5) of the Act,[5] 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, by clarifying rule language associated with permitted listings of long term options.

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 changes to Rule 1012(a)(i)(D) are intended simply to provide clarity in the rule.

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[6] and subparagraph (f)(6) of Rule 19b–4 thereunder.[7]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–Phlx–2017–41 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–Phlx–2017–41. 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 No. SR–Phlx–2017–41, and should be submitted on or before June 22, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–11252 Filed 5–31–17; 8:45 am]

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[3] *See* Securities Exchange Act Release Nos. 28910 (February 22, 1991), 56 FR 9032 (March 4, 1991) (SR–Phlx–90–38) (adopting Rule 1012 Commentary .03), and 29103 (April 18, 1991), 56 FR 19132 (April 25, 1991) (SR–Phlx–91–18). The provision was subsequently relocated to subsection (a)(i)(D) of Rule 1012. *See* Securities Exchange Act Release No. 63700 (January 11, 2011), 76 FR 2931 (January 18, 2011) (SR–Phlx–2011–04).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A)(iii).

[7] 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.

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80786; File No. SR–C2–2017–017]

Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Establish the Fees for Industry Members Related to the National Market System Plan Governing the Consolidated Audit Trail

May 26, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 16, 2017, C2 Options Exchange, Incorporated (the ''Exchange'' or ''C2'') 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 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 its Fees Schedule to establish the fees for Industry Members related to the National Market System Plan Governing the Consolidated Audit Trail. The text of the proposed rule change is available on the Exchange's Web site (*http://www.c2exchange.com/Legal/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC,[3] NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. and NYSE National, Inc.[4] (collectively, the ''Participants'') filed with the Commission, pursuant to Section 11A of the Exchange Act [5] and Rule 608 of Regulation NMS thereunder,[6] the CAT NMS Plan.[7] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,[8] and approved by the Commission, as modified, on November 15, 2016.[9] The Plan is designed to create, implement and maintain a consolidated audit trail (''CAT'') that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. The Plan accomplishes this by creating CAT NMS, LLC (the ''Company''), of which each Participant is a member, to operate the CAT.[10] Under the CAT NMS Plan, the Operating Committee of the Company (''Operating Committee'') has discretion to establish funding for the Company to operate the CAT, including establishing fees that the Participants will pay, and establishing fees for Industry Members that will be implemented by the Participants (''CAT Fees'').[11] The Participants are required to file with the SEC under Section 19(b) of the Exchange Act any such CAT Fees applicable to Industry Members that the Operating Committee approves.[12] Accordingly, C2 submits this fee filing to propose the Consolidated Audit Trail Funding Fees, which will require Industry Members that are C2 Trading Permit Holders to pay the CAT Fees determined by the Operating Committee.

(1) Executive Summary

The following provides an executive summary of the CAT funding model approved by the Operating Committee, as well as Industry Members' rights and obligations related to the payment of CAT Fees calculated pursuant to the CAT funding model. A detailed description of the CAT funding model and the CAT Fees follows this executive summary.

(A) CAT Funding Model

- *CAT Costs.* The CAT funding model is designed to establish CAT-specific fees to collectively recover the costs of building and operating the CAT from all CAT Reporters, including Industry Members and Participants. The overall CAT costs for the calculation of the CAT Fees in this fee filing are comprised of Plan Processor CAT costs and non-Plan Processor CAT costs incurred, and estimated to be incurred, from November 21, 2016 through November 21, 2017. (*See* Section 3(a)(2)(E) [sic] below [13])
- *Bifurcated Funding Model.* The CAT NMS Plan requires a bifurcated funding model, where costs associated with building and operating the CAT would be borne by (1) Participants and Industry Members that are Execution Venues for Eligible Securities through fixed tier fees based on market share, and (2) Industry Members (other than alternative trading systems (''ATSs'')

[3] ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. *See* Securities Exchange Act Rel. No. 80248 (Mar. 15, 2017), 82 FR 14547 (Mar. 21, 2017); Securities Exchange Act Rel. No. 80326 (Mar. 29, 2017), 82 FR 16460 (Apr. 4, 2017); and Securities Exchange Act Rel. No. 80325 (Mar. 29, 2017), 82 FR 16445 (Apr. 4, 2017).

[4] National Stock Exchange, Inc. has been renamed NYSE National, Inc. *See* Securities Exchange Act Rel. No. 79902 (Jan. 30, 2017), 82 FR 9258 (Feb. 3, 2017).

[5] 15 U.S.C. 78k–1.

[6] 17 CFR 242.608.

[7] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

[8] Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 FR 30614 (May 17, 2016).

[9] Securities Exchange Act Rel. No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016) (''Approval Order'').

[10] The Plan also serves as the limited liability company agreement for the Company.

[11] Section 11.1(b) of the CAT NMS Plan.

[12] *Id.*

[13] The Commission notes that references to Sections 3(a)(2) and 3(a)(3) in this Executive Summary should be instead to Sections II.A.1.(2) and II.A.1.(3), respectively.

that execute transactions in Eligible Securities (''Execution Venue ATSs'')) through fixed tier fees based on message traffic for Eligible Securities. (*See* Section 3(a)(2) [sic] below)

• *Industry Member Fees.* Each Industry Member (other than Execution Venue ATSs) will be placed into one of nine tiers of fixed fees, based on ''message traffic'' in Eligible Securities for a defined period (as discussed below). Prior to the start of CAT reporting, ''message traffic'' will be comprised of historical equity and equity options orders, cancels and quotes provided by each exchange and FINRA over the previous three months. After an Industry Member begins reporting to the CAT, ''message traffic'' will be calculated based on the Industry Member's Reportable Events reported to the CAT. Industry Members with lower levels of message traffic will pay a lower fee and Industry Members with higher levels of message traffic will pay a higher fee. (*See* Section 3(a)(2)(B) [sic] below)

• *Execution Venue Fees.* Each Equity Execution Venue will be placed in one of two tiers of fixed fees based on market share, and each Options Execution Venue will be placed in one of two tiers of fixed fees based on market share. Equity Execution Venue market share will be determined by calculating each Equity Execution Venue's proportion of the total volume of NMS Stock and OTC Equity shares reported by all Equity Execution Venues during the relevant time period. Similarly, market share for Options Execution Venues will be determined by calculating each Options Execution Venue's proportion of the total volume of Listed Options contracts reported by all Options Execution Venues during the relevant time period. Equity Execution Venues with a larger market share will pay a larger CAT Fee than Equity Execution Venues with a smaller market share. Similarly, Options Execution Venues with a larger market share will pay a larger CAT Fee than Options Execution Venues with a smaller market share. (*See* Section 3(a)(2)(C) [sic] below)

• *Cost Allocation.* For the reasons discussed below, in designing the model, the Operating Committee determined that 75 percent of total costs recovered would be allocated to Industry Members (other than Execution Venue ATSs) and 25 percent would be allocated to Execution Venues. In addition, the Operating Committee determined to allocate 75 percent of Execution Venue costs recovered to Equity Execution Venues and 25 percent to Options Execution Venues. (*See* Section 3(a)(2)(D) [sic] below)

• *Comparability of Fees.* The CAT funding model requires that the CAT Fees charged to the CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable (where, for these comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters, whether Execution Venues and/or Industry Members). (*See* Section 3(a)(2)(F) [sic] below)

(B) CAT Fees for Industry Members

• *Fee Schedule.* The quarterly CAT Fees for each tier for Industry Members are set forth in the two fee schedules in the Consolidated Audit Trail Funding Fees, one for Equity ATSs and one for Industry Members other than Equity ATSs. (*See* Section 3(a)(3)(B) [sic] below)

• *Quarterly Invoices.* Industry Members will be billed quarterly for CAT Fees, with the invoices payable within 30 days. The quarterly invoices will identify within which tier the Industry Member falls. (*See* Section 3(a)(3)(C) [sic] below)

• *Centralized Payment.* Each Industry Member will receive from the Company one invoice for its applicable CAT Fees, not separate invoices from each Participant of which it is a member. The Industry Members will pay its CAT Fees to the Company via the centralized system for the collection of CAT Fees established by the Operating Committee. (*See* Section 3(a)(3)(C) [sic] below)

• *Billing Commencement.* Industry Members will begin to receive invoices for CAT Fees as promptly as possible following the establishment of a billing mechanism. C2 will issue a Regulatory Circular to Trading Permit Holders when the billing mechanism is established, specifying the date when such invoicing of Industry Members will commence. (*See* Section 3(a)(2)(G) [sic] below)

(2) Description of the CAT Funding Model

Article XI of the CAT NMS Plan requires the Operating Committee to approve the operating budget, including projected costs of developing and operating the CAT for the upcoming year. As set forth in Article XI of the CAT NMS Plan, the CAT NMS Plan requires a bifurcated funding model, where costs associated with building and operating the Central Repository would be borne by (1) Participants and Industry Members that are Execution Venues through fixed tier fees based on market share, and (2) Industry Members (other than Execution Venue ATSs) through fixed tier fees based on message traffic. In its order approving the CAT NMS Plan, the Commission determined that the proposed funding model was ''reasonable'' [14] and ''reflects a reasonable exercise of the Participants' funding authority to recover the Participants' costs related to the CAT.'' [15]

More specifically, the Commission stated in approving the CAT NMS Plan that ''[t]he Commission believes that the proposed funding model is reasonably designed to allocate the costs of the CAT between the Participants and Industry Members.'' [16] The Commission further noted the following:

> The Commission believes that the proposed funding model reflects a reasonable exercise of the Participants' funding authority to recover the Participants' costs related to the CAT. The CAT is a regulatory facility jointly owned by the Participants and . . . the Exchange Act specifically permits the Participants to charge their members fees to fund their self-regulatory obligations. The Commission further believes that the proposed funding model is designed to impose fees reasonably related to the Participants' self-regulatory obligations because the fees would be directly associated with the costs of establishing and maintaining the CAT, and not unrelated SRO services.[17]

Accordingly, the funding model imposes fees on both Participants and Industry Members.

In addition, as discussed in Appendix C of the CAT NMS Plan, the Operating Committee considered the advantages and disadvantages of a variety of alternative funding and cost allocation models before selecting the proposed model.[18] After analyzing the various alternatives, the Operating Committee determined that the proposed tiered, fixed fee funding model provides a variety of advantages in comparison to the alternatives. First, the fixed fee model, as opposed to a variable fee model, provides transparency, ease of calculation, ease of billing and other administrative functions, and predictability of a fixed fee. Such factors are crucial to estimating a reliable revenue stream for the Company and for permitting CAT Reporters to reasonably predict their payment obligations for budgeting purposes.[19] Additionally, a

[14] Approval Order at 84796.

[15] *Id.* at 84794.

[16] *Id.* at 84795.

[17] *Id.* at 84794.

[18] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85006.

[19] In choosing a tiered fee structure, the self-regulatory organizations (''SROs'') concluded that the variety of benefits offered by a tiered fee

Continued

strictly variable or metered funding model based on message volume would be far more likely to affect market behavior and place an inappropriate burden on competition. Moreover, as the SEC noted in approving the CAT NMS Plan, ''[t]he Participants also have offered a reasonable basis for establishing a funding model based on broad tiers, in that it be may be easier to implement.'' [20]

In addition, multiple reviews of current broker-dealer order and trading data submitted under existing reporting requirements showed a wide range in activity among broker-dealers, with a number of broker-dealers submitting fewer than 1,000 orders per month and other broker-dealers submitting millions and even billions of orders in the same period. Accordingly, the CAT NMS Plan includes a tiered approach to fees. The tiered approach helps ensure that fees are equitably allocated among similarly situated CAT Reporters and furthers the goal of lessening the impact on smaller firms.[21] The self-regulatory organizations considered several approaches to developing a tiered model, including defining fee tiers based on such factors as size of firm, message traffic or trading dollar volume. After analyzing the alternatives, it was concluded that the tiering should be based on the relative impact of CAT Reporters on the CAT System.

Accordingly, the CAT NMS Plan contemplates that costs will be allocated across the CAT Reporters on a tiered basis to allocate costs to those CAT Reporters that contribute more to the costs of creating, implementing and maintaining the CAT.[22] The fees to be assessed at each tier are calculated so as to recoup a proportion of costs appropriate to the message traffic or market share (as applicable) from CAT Reporters in each tier. Therefore, Industry Members generating the most message traffic will be in the higher tiers, and therefore be charged a higher fee. Industry Members with lower levels of message traffic will be in lower tiers and will be assessed a smaller fee for the CAT.[23] Correspondingly, Execution Venues with the highest market share will be in the top tier, and therefore will be charged a higher fee. Execution Venues with a lower market share will be in the lower tier and will be assessed a smaller fee for the CAT.[24]

The Commission also noted in approving the CAT NMS Plan that ''[t]he Participants have offered a credible justification for using different criteria to charge Execution Venues (market share) and Industry Members (message traffic)'' [25] in the CAT funding model. While there are multiple factors that contribute to the cost of building, maintaining and using the CAT, processing and storage of incoming message traffic is one of the most significant cost drivers for the CAT.[26] Thus, the CAT NMS Plan provides that the fees payable by Industry Members (other than Execution Venue ATSs) will be based on the message traffic generated by such Industry Member.[27]

The CAT NMS Plan provides that the Operating Committee will use different criteria to establish fees for Execution Venues and non-Execution Venues due to the fundamental differences between the two types of entities. In particular, the CAT NMS Plan provides that fees charged to CAT Reporters that are Execution Venues will be based on the level of market share and that costs charged to Industry Members (other than Execution Venue ATSs) will be based upon message traffic.[28] Because most Participant message traffic consists of quotations, and Participants usually disseminate quotations in all instruments they trade, regardless of execution volume, Execution Venues that are Participants generally disseminate similar amounts of message traffic. Accordingly, basing fees for Execution Venues on message traffic would not provide the same degree of differentiation among Execution Venues that it does among Industry Members (other than Execution Venue ATSs). In contrast, execution volume more accurately delineates the different levels of trading activity of Execution Venues.[29]

The CAT NMS Plan's funding model also is structured to avoid a ''reduction in market quality.'' [30] The tiered, fixed fee funding model is designed to limit the disincentives to providing liquidity to the market. For example, the Participants expect that a firm that had a large volume of quotes would likely be categorized in one of the upper tiers, and would not be assessed a fee for this traffic directly as they would under a more directly metered model. In contrast, strictly variable or metered funding models based on message volume were far more likely to affect market behavior. In approving the CAT NMS Plan, the SEC stated that ''[t]he Participants also offered a reasonable basis for establishing a funding model based on broad tiers, in that it may be . . . less likely to have an incremental deterrent effect on liquidity provision.'' [31]

The CAT NMS Plan is structured to avoid potential conflicts raised by the Operating Committee determining fees applicable to its own members—the Participants. First, the Company will be operated on a ''break-even'' basis, with fees imposed to cover costs and an appropriate reserve. Any surpluses will be treated as an operational reserve to offset future fees and will not be distributed to the Participants as profits.[32] To ensure that the Participants' operation of the CAT will not contribute to the funding of their other operations, Section 11.1(c) of the CAT NMS Plan specifically states that ''[a]ny surplus of the Company's revenues over its expenses shall be treated as an operational reserve to offset future fees.'' In addition, as set forth in Article VIII of the CAT NMS Plan, the Company ''intends to operate in a manner such that it qualifies as a 'business league' within the meaning of Section 501(c)(6) of the [Internal Revenue] Code.'' To qualify as a business league, an organization must ''not [be] organized for profit and no part of the net earnings of [the organization can] inure[] to the benefit of any private shareholder or individual.'' [33] As the SEC stated when approving the CAT NMS Plan, ''the Commission believes that the Company's application for Section 501(c)(6) business league status addresses issues raised by commenters about the Plan's proposed allocation of profit and loss by mitigating concerns that the Company's earnings could be used to benefit individual Participants.'' [34]

Finally, by adopting a CAT-specific fee, the Participants will be fully transparent regarding the costs of the CAT. Charging a general regulatory fee, which would be used to cover CAT costs as well as other regulatory costs,

structure, discussed above, outweighed the fact that Industry Members in any particular tier would pay different rates per message traffic order event (*e.g.,* an Industry Member with the largest amount of message traffic in one tier would pay a smaller amount per order event than an Industry Member in the same tier with the least amount of message traffic). Such variation is the natural result of a tiered fee structure.

[20] Approval Order at 84796.

[21] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85006.

[22] Approval Order at 85005.

[23] *Id.*

[24] *Id.*

[25] *Id.* at 84796.

[26] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85005.

[27] Section 11.3(b) of the CAT NMS Plan.

[28] Section 11.2(c) of the CAT NMS Plan.

[29] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85005.

[30] Section 11.2(e) of the CAT NMS Plan.

[31] Approval Order at 84796.

[32] *Id.* at 84792.

[33] 26 U.S.C. 501(c)(6).

[34] Approval Order at 84793.

would be less transparent than the selected approach of charging a fee designated to cover CAT costs only.

A full description of the funding model is set forth below. This description includes the framework for the funding model as set forth in the CAT NMS Plan, as well as the details as to how the funding model will be applied in practice, including the number of fee tiers and the applicable fees for each tier. C2 notes that the complete funding model is described below, including those fees that are to be paid by the Participants. The proposed Consolidated Audit Trail Funding Fees, however, do not apply to the Participants; the proposed Consolidated Audit Trail Funding Fees only apply to Industry Members. The CAT fees for Participants will be imposed separately by the Operating Committee pursuant to the CAT NMS Plan.

(A) Funding Principles

Section 11.2 of the CAT NMS Plan sets forth the principles that the Operating Committee applied in establishing the funding for the Company. The Operating Committee has considered these funding principles as well as the other funding requirements set forth in the CAT NMS Plan and in Rule 613 in developing the proposed funding model. The following are the funding principles in Section 11.2 of the CAT NMS Plan:

- To create transparent, predictable revenue streams for the Company that are aligned with the anticipated costs to build, operate and administer the CAT and other costs of the Company;
- To establish an allocation of the Company's related costs among Participants and Industry Members that is consistent with the Exchange Act, taking into account the timeline for implementation of the CAT and distinctions in the securities trading operations of Participants and Industry Members and their relative impact upon the Company's resources and operations;
- To establish a tiered fee structure in which the fees charged to: (i) CAT Reporters that are Execution Venues, including ATSs, are based upon the level of market share; (ii) Industry Members' non-ATS activities are based upon message traffic; (iii) the CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable (where, for these comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters, whether Execution Venue and/or Industry Members);
- To provide for ease of billing and other administrative functions;
- To avoid any disincentives such as placing an inappropriate burden on competition and a reduction in market quality; and
- To build financial stability to support the Company as a going concern.

(B) Industry Member Tiering

Under Section 11.3(b) of the CAT NMS Plan, the Operating Committee is required to establish fixed fees to be payable by Industry Members, based on message traffic generated by such Industry Member, with the Operating Committee establishing at least five and no more than nine tiers.

The CAT NMS Plan clarifies that the fixed fees payable by Industry Members pursuant to Section 11.3(b) shall, in addition to any other applicable message traffic, include message traffic generated by: (i) An ATS that does not execute orders that is sponsored by such Industry Member; and (ii) routing orders to and from any ATS sponsored by such Industry Member. In addition, the Industry Member fees will apply to Industry Members that act as routing broker-dealers for exchanges. The Industry Member fees will not be applicable, however, to an ATS that qualifies as an Execution Venue, as discussed in more detail in the section on Execution Venue tiering.

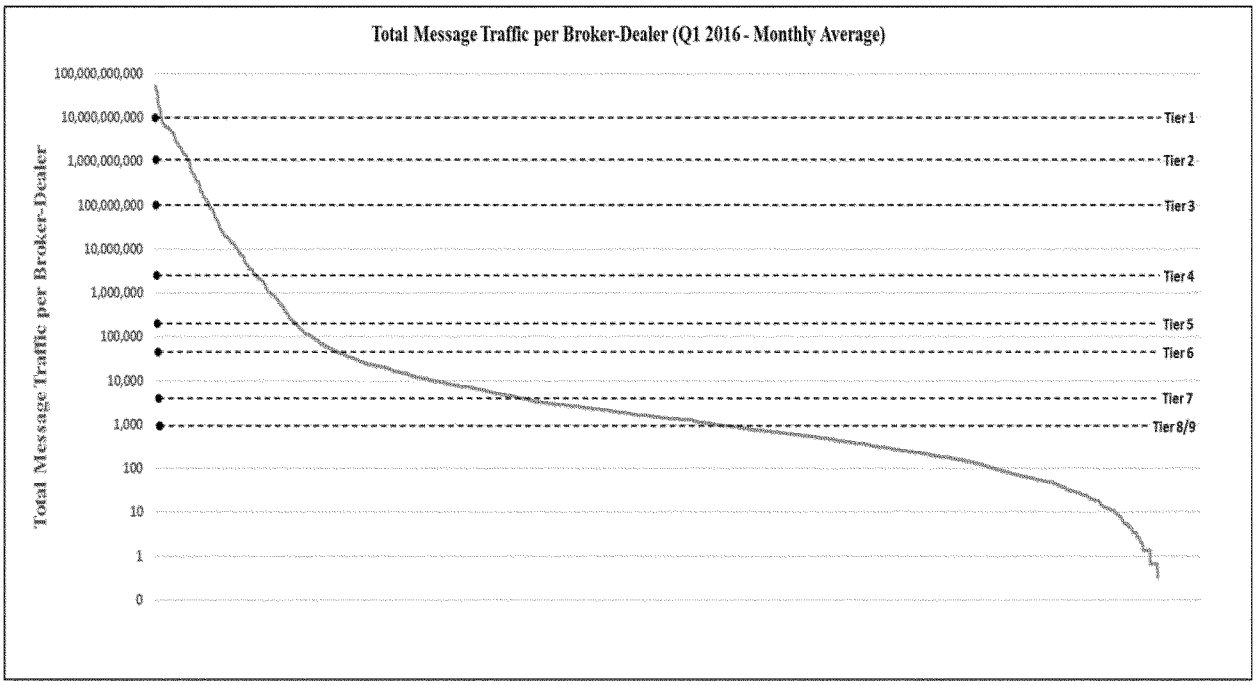
In accordance with Section 11.3(b), the Operating Committee approved a tiered fee structure for Industry Members (other than Execution Venue ATSs) as described in this section. In determining the tiers, the Operating Committee considered the funding principles set forth in Section 11.2 of the CAT NMS Plan, seeking to create funding tiers that take into account the relative impact on CAT System resources of different Industry Members, and that establish comparable fees among the CAT Reporters with the most Reportable Events. The Operating Committee has determined that establishing nine tiers results in the fairest allocation of fees, best distinguishing between Industry Members with differing levels of message traffic. Thus, each such Industry Member will be placed into one of nine tiers of fixed fees, based on ''message traffic'' for a defined period (as discussed below). A nine tier structure was selected to provide the widest range of levels for tiering Industry Members such that Industry Members submitting significantly less message traffic to the CAT would be adequately differentiated from Industry Members submitting substantially more message traffic. The Operating Committee considered historical message traffic generated by Industry Members across all exchanges and as submitted to FINRA's Order Audit Trail System (''OATS''), and considered the distribution of firms with similar levels of message traffic, grouping together firms with similar levels of message traffic. Based on this, the Operating Committee determined that nine tiers would best group firms with similar levels of message traffic, charging those firms with higher impact on the CAT more, while lowering the burden of Industry Members that have less CAT-related activity.

Each Industry Member (other than Execution Venue ATSs) will be ranked by message traffic and tiered by predefined Industry Member percentages (the ''Industry Member Percentages''). The Operating Committee determined to use predefined percentages rather than fixed volume thresholds to allow the funding model to ensure that the total CAT fees collected recover the intended CAT costs regardless of changes in the total level of message traffic. To determine the fixed percentage of Industry Members in each tier, the Operating Committee analyzed historical message traffic generated by Industry Members across all exchanges and as submitted to OATS, and considered the distribution of firms with similar levels of message traffic, grouping together firms with similar levels of message traffic. Based on this, the Operating Committee identified tiers that would group firms with similar levels of message traffic, charging those firms with higher impact on the CAT more, while lowering the burden on Industry Members that have less CAT-related activity.

The percentage of costs recovered by each Industry Member tier will be determined by predefined percentage allocations (the ''Industry Member Recovery Allocation''). In determining the fixed percentage allocation of costs recovered for each tier, the Operating Committee considered the impact of CAT Reporter message traffic on the CAT System as well as the distribution of total message volume across Industry Members while seeking to maintain comparable fees among the largest CAT Reporters. Accordingly, following the determination of the percentage of Industry Members in each tier, the Operating Committee identified the percentage of total market volume for each tier based on the historical message traffic upon which Industry Members had been initially ranked. Taking this

into account along with the resulting percentage of total recovery, the percentage allocation of costs recovered for each tier were assigned, allocating higher percentages of recovery to tiers with higher levels of message traffic while avoiding any inappropriate burden on competition. Furthermore, by using percentages of Industry Members and costs recovered per tier, the Operating Committee sought to include stability and elasticity within the funding model, allowing the funding model to respond to changes in either the total number of Industry Members or the total level of message traffic.

The following chart illustrates the breakdown of nine Industry Member tiers across the monthly average of total equity and equity options orders, cancels and quotes in Q1 2016 and identifies relative gaps across varying levels of Industry Member message traffic as well as message traffic thresholds between the largest of Industry Member message traffic gaps. The Operating Committee referenced similar distribution illustrations to determine the appropriate division of Industry Member percentages in each tier by considering the grouping of firms with similar levels of message traffic and seeking to identify relative breakpoints in the message traffic between such groupings. In reviewing the chart and its corresponding table, note that while these distribution illustrations were referenced to help differentiate between Industry Member tiers, the proposed funding model is directly driven, not by fixed message traffic thresholds, but rather by fixed percentages of Industry Members across tiers to account for fluctuating levels of message traffic across time and to provide for the financial stability of the CAT by ensuring that the funding model will recover the required amounts regardless of changes in the number of Industry Members or the amount of message traffic. Actual messages in any tier will vary based on the actual traffic in a given measurement period, as well as the number of firms included in the measurement period. The Industry Member Percentages and Industry Member Recovery Allocation for each tier will remain fixed with each Industry Member's tier to be reassigned periodically, as described below in Section 3(a)(1)(H) [sic].



Industry Member tier	Monthly average message traffic per Industry Member (orders, quotes and cancels)
Tier 1	>10,000,000,000
Tier 2	>1,000,000,000
Tier 3	>100,000,000
Tier 4	>2,500,000
Tier 5	>200,000
Tier 6	>50,000
Tier 7	>5,000
Tier 8	>1,000
Tier 9	≤1,000

Based on the above analysis, the Operating Committee approved the following Industry Member Percentages and Recovery Allocations:

Industry Member tier	Percentage of Industry Members	Percentage of Industry Member recovery	Percentage of total recovery
Tier 1	0.500	8.50	6.38
Tier 2	2.500	35.00	26.25
Tier 3	2.125	21.25	15.94
Tier 4	4.625	15.75	11.81
Tier 5	3.625	7.75	5.81
Tier 6	4.000	5.25	3.94
Tier 7	17.500	4.50	3.38
Tier 8	20.125	1.50	1.13
Tier 9	45.000	0.50	0.38
Total	100	100	75

For the purposes of creating these tiers based on message traffic, the Operating Committee determined to define the term ''message traffic'' separately for the period before the commencement of CAT reporting and for the period after the start of CAT reporting. The different definition for message traffic is necessary as there will be no Reportable Events as defined in the Plan, prior to the commencement of CAT reporting. Accordingly, prior to the start of CAT reporting, ''message traffic'' will be comprised of historical equity and equity options orders, cancels and quotes provided by each exchange and FINRA over the previous three months.[35] Prior to the start of CAT reporting, orders would be comprised of the total number of equity and equity options orders received and originated by a member of an exchange or FINRA over the previous three-month period, including principal orders, cancel/replace orders, market maker orders originated by a member of an exchange, and reserve (iceberg) orders as well as order routes and executions originated by a member of FINRA, and excluding order rejects and implied orders.[36] In addition, prior to the start of CAT reporting, cancels would be comprised of the total number of equity and equity option cancels received and originated by a member of an exchange or FINRA over a three-month period, excluding order modifications (*e.g.,* order updates, order splits, partial cancels). Furthermore, prior to the start of CAT reporting, quotes would be comprised of information readily available to the exchanges and FINRA, such as the total number of historical equity and equity options quotes received and originated by a member of an exchange or FINRA over the prior three-month period.

After an Industry Member begins reporting to the CAT, ''message traffic'' will be calculated based on the Industry Member's Reportable Events reported to the CAT as will be defined in the Technical Specifications.[37]

The Operating Committee has determined to calculate fee tiers every three months, on a calendar quarter basis, based on message traffic from the prior three months. Based on its analysis of historical data, the Operating Committee believes that calculating tiers based on three months of data will provide the best balance between reflecting changes in activity by Industry Members while still providing predictability in the tiering for Industry Members. Because fee tiers will be calculated based on message traffic from the prior three months, the Operating Committee will begin calculating message traffic based on an Industry Member's Reportable Events reported to the CAT once the Industry Member has been reporting to the CAT for three months. Prior to that, fee tiers will be calculated as discussed above with regard to the period prior to CAT reporting.

(C) Execution Venue Tiering

Under Section 11.3(a) of the CAT NMS Plan, the Operating Committee is required to establish fixed fees payable by Execution Venues. Section 1.1 of the CAT NMS Plan defines an Execution Venue as ''a Participant or an alternative trading system (''ATS'') (as defined in Rule 300 of Regulation ATS) that operates pursuant to Rule 301 of Regulation ATS (excluding any such ATS that does not execute orders).''[38]

The Participants determined that ATSs should be included within the definition of Execution Venue. Given the similarity between the activity of exchanges and ATSs, both of which meet the definition of an ''exchange'' as set forth in the Exchange Act and the fact that the similar trading models would have similar anticipated burdens on the CAT, the Participants determined that ATSs should be treated in the same manner as the exchanges for the purposes of determining the level of fees associated with the CAT.[39]

Given the differences between Execution Venues that trade NMS Stocks and/or OTC Equity Securities and Execution Venues that trade Listed Options, Section 11.3(a) addresses Execution Venues that trade NMS Stocks and/or OTC Equity Securities separately from Execution Venues that trade Listed Options. Equity and Options Execution Venues are treated separately for two reasons. First, the differing quoting behavior of Equity and Options Execution Venues makes comparison of activity between Execution Venues difficult. Second, Execution Venue tiers are calculated based on market share of share volume, and it is therefore difficult to compare market share between asset classes (*i.e.,*

[35] The SEC approved exemptive relief permitting Options Market Maker quotes to be reported to the Central Repository by the relevant Options Exchange in lieu of requiring that such reporting be done by both the Options Exchange and the Options Market Maker, as required by Rule 613 of Regulation NMS. *See* Securities Exchange Act Release No. 77265 (Mar. 1, 2017 [sic], 81 FR 11856 (Mar. 7, 2016). This exemption applies to Options Market Maker quotes for CAT reporting purposes only. Therefore, notwithstanding the reporting exemption provided for Options Market Maker quotes, Options Market Maker quotes will be included in the calculation of total message traffic for Options Market Makers for purposes of tiering under the CAT funding model both prior to CAT reporting and once CAT reporting commences

[36] Consequently, firms that do not have ''message traffic'' reported to an exchange or OATS before they are reporting to the CAT would not be subject to a fee until they begin to report information to CAT.

[37] If an Industry Member (other than an Execution Venue ATS) has no orders, cancels or quotes prior to the commencement of CAT Reporting, or no Reportable Events after CAT reporting commences, then the Industry Member would not have a CAT fee obligation.

[38] Although FINRA does not operate an execution venue, because it is a Participant, it is considered an ''Execution Venue'' under the Plan for purposes of determining fees.

[39] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85005.

equity shares versus options contracts). Discussed below is how the funding model treats the two types of Execution Venues.

(I) NMS Stocks and OTC Equity Securities

Section 11.3(a)(i) of the CAT NMS Plan states that each Execution Venue that (i) executes transactions or, (ii) in the case of a national securities association, has trades reported by its members to its trade reporting facility or facilities for reporting transactions effected otherwise than on an exchange, in NMS Stocks or OTC Equity Securities will pay a fixed fee depending on the market share of that Execution Venue in NMS Stocks and OTC Equity Securities, with the Operating Committee establishing at least two and not more than five tiers of fixed fees, based on an Execution Venue's NMS Stocks and OTC Equity Securities market share. For these purposes, market share for Execution Venues that execute transactions will be calculated by share volume, and market share for a national securities association that has trades reported by its members to its trade reporting facility or facilities for reporting transactions effected otherwise than on an exchange in NMS Stocks or OTC Equity Securities will be calculated based on share volume of trades reported, provided, however, that the share volume reported to such national securities association by an Execution Venue shall not be included in the calculation of such national security association's market share.

In accordance with Section 11.3(a)(i) of the CAT NMS Plan, the Operating Committee approved a tiered fee structure for Equity Execution Venues and Option Execution Venues. In determining the Equity Execution Venue Tiers, the Operating Committee considered the funding principles set forth in Section 11.2 of the CAT NMS Plan, seeking to create funding tiers that take into account the relative impact on system resources of different Equity Execution Venues, and that establish comparable fees among the CAT Reporters with the most Reportable Events. Each Equity Execution Venue will be placed into one of two tiers of fixed fees, based on the Execution Venue's NMS Stocks and OTC Equity Securities market share. In choosing two tiers, the Operating Committee performed an analysis similar to that discussed above with regard to the non-Execution Venue Industry Members to determine the number of tiers for Equity Execution Venues. The Operating Committee determined to establish two tiers for Equity Execution Venues, rather than a larger number of tiers as established for non-Execution Venue Industry Members, because the two tiers were sufficient to distinguish between the smaller number of Equity Execution Venues based on market share. Furthermore, the incorporation of additional Equity Execution Venue tiers would result in significantly higher fees for Tier 1 Equity Execution Venues and diminish comparability between Execution Venues and Industry Members.

Each Equity Execution Venue will be ranked by market share and tiered by predefined Execution Venue percentages, (the ''Equity Execution Venue Percentages''). In determining the fixed percentage of Equity Execution Venues in each tier, the Operating Committee looked at historical market share of share volume for execution venues. Equities Execution Venue market share of share volume were sourced from market statistics made publicly-available by Bats Global Markets, Inc. (''Bats''). ATS market share of share volume was sourced from market statistics made publicly-available by FINRA. FINRA trading [sic] reporting facility (''TRF'') market share of share volume was sourced from market statistics made publicly available by Bats. As indicated by FINRA, ATSs accounted for 37.80% of the share volume across the TRFs during the recent tiering period. A 37.80/62.20 split was applied to the ATS and non-ATS breakdown of FINRA market share, with FINRA tiered based only on the non-ATS portion of its TRF market share of share volume.

Based on this, the Operating Committee considered the distribution of Execution Venues, and grouped together Execution Venues with similar levels of market share of share volume. In doing so, the Participants considered that, as previously noted, Execution Venues in many cases have similar levels of message traffic due to quoting activity, and determined that it was simpler and more appropriate to have fewer, rather than more, Execution Venue tiers to distinguish between Execution Venues.

The percentage of costs recovered by each Equity Execution Venue tier will be determined by predefined percentage allocations (the ''Equity Execution Venue Recovery Allocation''). In determining the fixed percentage allocation of costs recovered for each tier, the Operating Committee considered the impact of CAT Reporter market share activity on the CAT System as well as the distribution of total market volume across Equity Execution Venues while seeking to maintain comparable fees among the largest CAT Reporters. Accordingly, following the determination of the percentage of Execution Venues in each tier, the Operating Committee identified the percentage of total market volume for each tier based on the historical market share upon which Execution Venues had been initially ranked. Taking this into account along with the resulting percentage of total recovery, the percentage allocation of costs recovered for each tier were assigned, allocating higher percentages of recovery to the tier with a higher level of market share while avoiding any inappropriate burden on competition. Furthermore, due to the similar levels of impact on the CAT System across Execution Venues, there is less variation in CAT Fees between the highest and lowest of tiers for Execution Venues. Furthermore, by using percentages of Equity Execution Venues and costs recovered per tier, the Operating Committee sought to include stability and elasticity within the funding model, allowing the funding model to respond to changes in either the total number of Equity Execution Venues or changes in market share.

Based on this analysis, the Operating Committee approved the following Equity Execution Venue Percentages and Recovery Allocations:

Equity Execution Venue tier	Percentage of Equity Execution Venues	Percentage of Execution Venue recovery	Percentage of total recovery
Tier 1	25.00	26.00	6.50
Tier 2	75.00	49.00	12.25
Total	100	75	18.75

The following table exhibits the relative separation of market share of share volume between Tier 1 and Tier 2 Equity Execution Venues. In reviewing the table, note that while this division was referenced as a data point to help differentiate between Equity Execution Venue tiers, the proposed funding model is directly driven not by market share thresholds, but rather by fixed percentages of Equity Execution Venues across tiers to account for fluctuating levels of market share across time. Actual market share in any tier will vary based on the actual market activity in a given measurement period, as well as the number of Equity Execution Venues included in the measurement period. The Equity Execution Venue Percentages and Equity Execution Venue Recovery Allocation for each tier will remain fixed with each Equity Execution Venue tier to be reassigned periodically, as described below in Section 3(a)(1)(I) [sic].

Equity Execution Venue tier	Equity market share of share volume (%)
Tier 1	≥1
Tier 2	<1

(II) Listed Options

Section 11.3(a)(ii) of the CAT NMS Plan states that each Execution Venue that executes transactions in Listed Options will pay a fixed fee depending on the Listed Options market share of that Execution Venue, with the Operating Committee establishing at least two and no more than five tiers of fixed fees, based on an Execution Venue's Listed Options market share. For these purposes, market share will be calculated by contract volume.

In accordance with Section 11.3(a)(ii) of the CAT NMS Plan, the Operating Committee approved a tiered fee structure for Options Execution Venues. In determining the tiers, the Operating Committee considered the funding principles set forth in Section 11.2 of the CAT NMS Plan, seeking to create funding tiers that take into account the relative impact on system resources of different Options Execution Venues, and that establish comparable fees among the CAT Reporters with the most Reportable Events. Each Options Execution Venue will be placed into one of two tiers of fixed fees, based on the Execution Venue's Listed Options market share. In choosing two tiers, the Operating Committee performed an analysis similar to that discussed above with regard to Industry Members (other than Execution Venue ATSs) to determine the number of tiers for Options Execution Venues. The Operating Committee determined to establish two tiers for Options Execution Venues, rather than a larger number of tiers as established for Industry Members (other than Execution Venue ATSs), because the two tiers were sufficient to distinguish between the smaller number of Options Execution Venues based on market share. Furthermore, due to the smaller number of Options Execution Venues, the incorporation of additional Options Execution Venue tiers would result in significantly higher fees for Tier 1 Options Execution Venues and reduce comparability between Execution Venues and Industry Members.

Each Options Execution Venue will be ranked by market share and tiered by predefined Execution Venue percentages, (the ''Options Execution Venue Percentages''). To determine the fixed percentage of Options Execution Venues in each tier, the Operating Committee analyzed the historical and publicly available market share of Options Execution Venues to group Options Execution Venues with similar market shares across the tiers. Options Execution Venue market share of share volume were sourced from market statistics made publicly-available by Bats. The process for developing the Options Execution Venue Percentages was the same as discussed above with regard to Equity Execution Venues.

The percentage of costs recovered by each Options Execution Venue tier will be determined by predefined percentage allocations (the ''Options Execution Venue Recovery Allocation''). In determining the fixed percentage allocation of costs recovered for each tier, the Operating Committee considered the impact of CAT Reporter market share activity on the CAT System as well as the distribution of total market volume across Options Execution Venues while seeking to maintain comparable fees among the largest CAT Reporters. Furthermore, by using percentages of Options Execution Venues and costs recovered per tier, the Operating Committee sought to include stability and elasticity within the funding model, allowing the funding model to respond to changes in either the total number of Options Execution Venues or changes in market share. The process for developing the Options Execution Venue Recovery Allocation was the same as discussed above with regard to Equity Execution Venues.

Based on this analysis, the Operating Committee approved the following Options Execution Venue Percentages and Recovery Allocations:

Options Execution Venue tier	Percentage of Options Execution Venues (%)	Percentage of Execution Venue recovery (%)	Percentage of total recovery (%)
Tier 1	75.00	20.00	5.00
Tier 2	25.00	5.00	1.25
Total	100	25	6.25

The following table exhibits the relative separation of market share of share volume between Tier 1 and Tier 2 Options Execution Venues. In reviewing the table, note that while this division was referenced as a data point to help differentiate between Options Execution Venue tiers, the proposed funding model is directly driven, not by market share thresholds, but rather by fixed percentages of Options Execution Venues across tiers to account for fluctuating levels of market share across time. Actual market share in any tier will vary based on the actual market activity in a given measurement period, as well as the number of Options Execution Venues included in the measurement period. The Options Execution Venue Percentages and Equity Execution Venue Recovery Allocation for each tier will remain fixed with each Options Execution Venue tier to be reassigned periodically, as described below in Section 3(a)(1)(I) [sic].

Options Execution Venue tier	Options market share of share volume (%)
Tier 1	≥1
Tier 2	<1

(III) Market Share/Tier Assignments

The Operating Committee determined that, prior to the start of CAT reporting, market share for Execution Venues would be sourced from publicly-available market data. Options and equity volumes for Participants will be sourced from market data made publicly available by Bats while Execution Venue ATS volumes will be sourced from market data made publicly available by FINRA. Set forth in the Appendix are two charts, one listing the current Equity Execution Venues, each with its rank and tier, and one listing the current Options Execution Venues, each with its rank and tier.

After the commencement of CAT reporting, market share for Execution Venues will be sourced from data reported to the CAT. Equity Execution Venue market share will be determined by calculating each Equity Execution Venue's proportion of the total volume of NMS Stock and OTC Equity shares reported by all Equity Execution Venues during the relevant time period. Similarly, market share for Options Execution Venues will be determined by calculating each Options Execution Venue's proportion of the total volume of Listed Options contracts reported by all Options Execution Venues during the relevant time period.

The Operating Committee has determined to calculate fee tiers for Execution Venues every three months based on market share from the prior three months. Based on its analysis of historical data, the Operating Committee believes calculating tiers based on three months of data will provide the best balance between reflecting changes in activity by Execution Venues while still providing predictability in the tiering for Execution Venues.

(D) Allocation of Costs

In addition to the funding principles discussed above, including comparability of fees, Section 11.1(c) of the CAT NMS Plan also requires expenses to be fairly and reasonably shared among the Participants and Industry Members. Accordingly, in developing the proposed fee schedules pursuant to the funding model, the Operating Committee calculated how the CAT costs would be allocated between Industry Members and Execution Venues, and how the portion of CAT costs allocated to Execution Venues would be allocated between Equity Execution Venues and Options Execution Venues. These determinations are described below.

(I) Allocation Between Industry Members and Execution Venues

In determining the cost allocation between Industry Members (other than Execution Venue ATSs) and Execution Venues, the Operating Committee analyzed a range of possible splits for revenue recovered from such Industry Members and Execution Venues. Based on this analysis, the Operating Committee determined that 75 percent of total costs recovered would be allocated to Industry Members (other than Execution Venue ATSs) and 25 percent would be allocated to Execution Venues. The Operating Committee determined that this 75/25 division maintained the greatest level of comparability across the funding model, keeping in view that comparability should consider affiliations among or between CAT Reporters (*e.g.,* firms with multiple Industry Members and/or exchange licenses). For example, the cost allocation establishes fees for the largest Industry Members (*i.e.,* those Industry Members in Tiers 1, 2 and 3) that are comparable to the largest Equity Execution Venues and Options Execution Venues (*i.e.,* those Execution Venues in Tier 1). In addition, the cost allocation establishes fees for Execution Venue complexes that are comparable to those of Industry Member complexes. For example, when analyzing alternative allocations, other possible allocations led to much higher fees for larger Industry Members than for larger Execution Venues or vice versa, and/or led to much higher fees for Industry Member complexes than Execution Venue complexes or vice versa.

Furthermore, the allocation of total CAT costs recovered recognizes the difference in the number of CAT Reporters that are Industry Members versus CAT Reporters that are Execution Venues. Specifically, the cost allocation takes into consideration that there are approximately 25 times more Industry Members expected to report to the CAT than Execution Venues (*e.g.,* an estimated 1,630 Industry Members versus 70 Execution Venues as of January 2017).

(II) Allocation Between Equity Execution Venues and Options Execution Venues

The Operating Committee also analyzed how the portion of CAT costs allocated to Execution Venues would be allocated between Equity Execution Venues and Options Execution Venues. In considering this allocation of costs, the Operating Committee analyzed a range of alternative splits for revenue recovered between Equity and Options Execution Venues, including a 70/30, 67/33, 65/35, 50/50 and 25/75 split. Based on this analysis, the Operating Committee determined to allocate 75 percent of Execution Venue costs recovered to Equity Execution Venues and 25 percent to Options Execution Venues. The Operating Committee determined that a 75/25 division between Equity and Options Execution Venues maintained elasticity across the funding model as well the greatest level of fee equitability and comparability based on the current number of Equity and Options Execution Venues. For example, the allocation establishes fees for the larger Equity Execution Venues that are comparable to the larger Options Execution Venues, and fees for the smaller Equity Execution Venues that are comparable to the smaller Options Execution Venues. In addition to fee comparability between Equity Execution Venues and Options Execution Venues, the allocation also establishes equitability between larger (Tier 1) and smaller (Tier 2) Execution Venues based upon the level of market share. Furthermore, the allocation is intended to reflect the relative levels of current equity and options order events.

(E) Fee Levels

The Operating Committee determined to establish a CAT-specific fee to collectively recover the costs of building and operating the CAT. Accordingly, under the funding model, the sum of the CAT Fees is designed to recover the total cost of the CAT. The Operating Committee has determined overall CAT costs to be comprised of Plan Processor costs and non-Plan Processor costs, which are estimated to be $50,700,000 in total for the year beginning November 21, 2016.[40]

The Plan Processor costs relate to costs incurred by the Plan Processor and consist of the Plan Processor's current estimates of average yearly ongoing costs, including development cost, which total $37,500,000. This amount is based upon the fees due to the Plan Processor pursuant to the agreement with the Plan Processor.

The non-Plan Processor estimated costs incurred and to be incurred by the Company through November 21, 2017 consist of three categories of costs. The

[40] It is anticipated that CAT-related costs incurred prior to November 21, 2016 will be addressed via a separate fee filing.

first category of such costs are third party support costs, which include historic legal fees, consulting fees and audit fees from November 21, 2016 until the date of filing as well as estimated third party support costs for the rest of the year. These amount to an estimated $5,200,000. The second category of non-Plan Processor costs are estimated insurance costs for the year. Based on discussions with potential insurance providers, assuming $2–5 million insurance premium on $100 million in coverage, the Company has received an estimate of $3,000,000 for the annual cost. The final cost figures will be determined following receipt of final underwriter quotes. The third category of non-Plan Processor costs is the operational reserve, which is comprised of three months of ongoing Plan Processor costs ($9,375,000), third party support costs ($1,300,000) and insurance costs ($750,000). The Operating Committee aims to accumulate the necessary funds for the establishment of the three-month operating reserve for the Company through the CAT Fees charged to CAT Reporters for the year. On an ongoing basis, the Operating Committee will account for any potential need for the replenishment of the operating reserve or other changes to total cost during its annual budgeting process. The following table summarizes the Plan Processor and non-Plan Processor cost components which comprise the total CAT costs of $50,700,000.

Cost category	Cost component	Amount
Plan Processor	Operational Costs	$37,500,000
Non-Plan Processor	Third Party Support Costs	5,200,000
	Operational Reserve	[41] 5,000,000
	Insurance Costs	3,000,000
Estimated Total		50,700,000

Based on the estimated costs and the calculations for the funding model described above, the Operating Committee determined to impose the following fees: [42]

For Industry Members (other than Execution Venue ATSs):

Tier	Monthly CAT fee	Quarterly CAT fee	CAT fees paid annually [43]
1	$33,668	$101,004	$404,016
2	27,051	81,153	324,612
3	19,239	57,717	230,868
4	6,655	19,965	79,860
5	4,163	12,489	49,956
6	2,560	7,680	30,720
7	501	1,503	6,012
8	145	435	1,740
9	22	66	264

For Execution Venues for NMS Stocks and OTC Equity Securities:

Tier	Monthly CAT fee	Quarterly CAT fee	CAT fees paid annually [44]
1	$21,125	$63,375	$253,500
2	12,940	38,820	155,280

For Execution Venues for Listed Options:

Tier	Monthly CAT fee	Quarterly CAT fee	CAT fees paid annually [45]
1	$19,205	$57,615	$230,460
2	13,204	39,612	158,448

[41] This 5,000,000 represents the gradual accumulation of the funds for a target operating reserve of 11,425,000.

[42] Note that all monthly, quarterly and annual CAT Fees have been rounded to the nearest dollar.

[43] This column represents the approximate total CAT Fees paid each year by each Industry Member (other than Execution Venue ATSs) (*i.e.,* ''CAT Fees Paid Annually'' = ''Monthly CAT Fee'' × 12 months).

[44] This column represents the approximate total CAT Fees paid each year by each Execution Venue for NMS Stocks and OTC Equity Securities (*i.e.,* ''CAT Fees Paid Annually'' = ''Monthly CAT Fee'' × 12 months).

[45] This column represents the approximate total CAT Fees paid each year by each Execution Venue for Listed Options (*i.e.,* ''CAT Fees Paid Annually'' = ''Monthly CAT Fee'' × 12 months).

As noted above, the fees set forth in the tables reflect the Operating Committee's decision to ensure comparable fees between Execution Venues and Industry Members. The fees of the top tiers for Industry Members (other than Execution Venue ATSs) are not identical to the top tier for Execution Venues, however, because the Operating Committee also determined that the fees for Execution Venue complexes should be comparable to those of Industry Member complexes. The difference in the fees reflects this decision to recognize affiliations.

The Operating Committee has calculated the schedule of effective fees for Industry Members (other than Execution Venue ATSs) and Execution Venues in the following manner. Note that the calculation of CAT Reporter fees assumes 53 Equity Execution Venues, 15 Options Execution Venues and 1,631 Industry Members (other than Execution Venue ATSs) as of January 2017.

CALCULATION OF ANNUAL TIER FEES FOR INDUSTRY MEMBERS ("IM")

Industry Member tier	Percentage of Industry Members	Percentage of Industry Member recovery	Percentage of total recovery
Tier 1	0.500	8.50	6.38
Tier 2	2.500	35.00	26.25
Tier 3	2.125	21.25	15.94
Tier 4	4.625	15.75	11.81
Tier 5	3.625	7.75	5.81
Tier 6	4.000	5.25	3.94
Tier 7	17.500	4.50	3.38
Tier 8	20.125	1.50	1.13
Tier 9	45.000	0.50	0.38
Total	100	100	75

Industry Member tier	Estimated number of Industry Members
Tier 1	8
Tier 2	41
Tier 3	35
Tier 4	75
Tier 5	59
Tier 6	65
Tier 7	285
Tier 8	328
Tier 9	735
Total	1,631

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Calculation 1.1 (Calculation of a Tier 1 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 0.5\%\ [\%\ \text{of Tier 1 IMs}] = 8\ [\text{Estimated Tier 1 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 8.50\%\ [\ \%\ \text{of Tier 1 IM Recovery}]}{8\ [\text{Estimated Tier 1 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{33{,}668}$$

Calculation 1.2 (Calculation of a Tier 2 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 2.5\%\ [\%\ \text{of Tier 2 IMs}] = 41\ [\text{Estimated Tier 2 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 35\%\ [\ \%\ \text{of Tier 2 IM Recovery}]}{41\ [\text{Estimated Tier 2 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{27{,}051}$$

Calculation 1.3 (Calculation of a Tier 3 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 2.125\%\ [\%\ \text{of Tier 3 IMs}] = 35\ [\text{Estimated Tier 3 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 21.25\%\ [\ \%\ \text{of Tier 3 IM Recovery}]}{35\ [\text{Estimated Tier 3 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{19{,}239}$$

Calculation 1.4 (Calculation of a Tier 4 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 4.625\%\ [\%\ \text{of Tier 4 IMs}] = 75\ [\text{Estimated Tier 4 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 15.75\%\ [\ \%\ \text{of Tier 4 IM Recovery}]}{75\ [\text{Estimated Tier 4 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{6{,}655}$$

Calculation 1.5 (Calculation of a Tier 5 Industry Member Annual Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 3.625\%\ [\%\ \text{of Tier 5 IMs}] = 59\ [\text{Estimated Tier 5 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 7.75\%\ [\ \%\ \text{of Tier 5 IM Recovery}]}{59\ [\text{Estimated Tier 5 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{4{,}163}$$

Calculation 1.6 (Calculation of a Tier 6 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 4\%\ [\%\ \text{of Tier 6 IMs}] = 65\ [\text{Estimated Tier 6 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 5.25\%\ [\ \%\ \text{of Tier 6 IM Recovery}]}{65\ [\text{Estimated Tier 6 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{2{,}560}$$

Calculation 1.7 (Calculation of a Tier 7 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 17.5\%\ [\%\ \text{of Tier 7 IMs}] = 285\ [\text{Estimated Tier 7 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 4.50\%\ [\ \%\ \text{of Tier 7 IM Recovery}]}{285\ [\text{Estimated Tier 7 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{501}$$

Calculation 1.8 (Calculation of a Tier 8 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 20.125\%\ [\%\ \text{of Tier 8 IMs}] = 328\ [\text{Estimated Tier 8 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 1.50\%\ [\ \%\ \text{of Tier 8 IM Recovery}]}{328\ [\text{Estimated Tier 8 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{145}$$

Calculation 1.9 (Calculation of a Tier 9 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 45\%\ [\%\ \text{of Tier 9 IMs}] = 735\ [\text{Estimated Tier 9 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 0.50\%\ [\%\ \text{of Tier 9 IM Recovery}]}{735\ [\text{Est.Tier 9 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{22}$$

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Equity Execution Venue tier	Percentage of Equity Execution Venues	Percentage of Execution Venue recovery	Percentage of total recovery
Tier 1	25.00	26.00	6.50
Tier 2	75.00	49.00	12.25
Total	100	75	18.75

Equity Execution Venue tier	Estimated number of Equity Execution Venues
Tier 1	13

Equity Execution Venue tier	Estimated number of Equity Execution Venues
Tier 2	40
Total	53

Calculation 2.1 (Calculation of a Tier 1 Equity Execution Venue Monthly Fee)52 [Estimated Tot. Equity EVs] × 25% [% of Tier 1 Equity EVs] = 13 [Estimated Tier 1 Equity EVs]

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot. Ann.CAT Costs}] \times 25\%\ [\text{EV \% of Tot.Ann.CAT Costs}] \times 26\%\ [\text{\% of Tier 1 Equity EV Recovery}]}{13\ [\text{Estimated Tier 1 Equity EVs}]}\right) \div 12\ [\text{Months per year}] =$$

$\mathbf{\$21,125}$

Calculation 2.2 (Calculation of a Tier 2 Equity Execution Venue Monthly Fee)52 [Estimated Tot. Equity EVs] × 75% [% of Tier 2 Equity EVs] = 40 [Estimated Tier 2 Equity EVs]

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot. Ann.CAT Costs}] \times 25\%\ [\text{EV \% of Tot.Ann.CAT Costs}] \times 49\%\ [\text{\% of Tier 2 Equity EV Recovery}]}{40\ [\text{Estimated Tier 2 Equity EVs}]}\right) \div 12\ [\text{Months per year}] =$$

$\mathbf{\$12,940}$

CALCULATON OF ANNUAL TIER FEES FOR OPTIONS EXECUTION VENUES (“EV”)

Options Execution Venue tier	Percentage of Options Execution Venues	Percentage of Execution Venue recovery	Percentage of total recovery
Tier 1	75.00	20.00	5.00
Tier 2	25.00	5.00	1.25
Total	100	25	6.25

Options Execution Venue tier	Estimated number of Options Execution Venues
Tier 1	11
Tier 2	4
Total	15

Calculation 3.1 (Calculation of a Tier 1 Options Execution Venue Monthly Fee)

15 [Estimated Tot. Options EVs] × 75% [% of Tier 1 Options EVs] = 11 [Estimated Tier 1 Options EVs]

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 25\%\ [\text{EV \% of Tot.Ann.CAT Costs}] \times 20\%\ [\text{\% of Tier 1 Options EV Recovery}]}{11\ [\text{Estimated Tier 1 Options EVs}]}\right) \div 12\ [\text{Months per year}] =$$

$\mathbf{\$19,205}$

Calculation 3.2 (Calculation of a Tier 2 Options Execution Venue Annual Fee)

15 [Estimated Tot. Options EVs] × 25% [% of Tier 2 Options EVs] = 4 [Estimated Tier 2 Options EVs]

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 25\%\ [\text{EV \% of Tot.Ann.CAT Costs}] \times 5\%\ [\text{\% of Tier 2 Options EV Recovery}]}{4\ [\text{Estimated Tier 2 Options EVs}]}\right) \div 12\ [\text{Months per year}] =$$

$\mathbf{\$13,204}$

TRACEABILITY OF TOTAL CAT FEES

Type	Industry Member tier	Estimated number of members	CAT fees paid annually	Total recovery
Industry Members	Tier 1	8	$404,016	$3,232,128
	Tier 2	41	324,612	13,309,092
	Tier 3	35	230,868	8,080,380
	Tier 4	75	79,860	5,989,500
	Tier 5	59	49,956	2,947,404
	Tier 6	65	30,720	1,996,800
	Tier 7	285	6,012	1,713,420
	Tier 8	328	1,740	570,720
	Tier 9	735	264	194,040
Total		1,631		38,033,484
Equity Execution Venues	Tier 1	13	253,500	3,295,500
	Tier 2	40	155,280	6,211,200
Total		53		9,506,700
Options Execution Venues	Tier 1	11	230,460	2,535,060
	Tier 2	4	158,448	633,792
Total		15		3,168,852
Total				$50,709,036
Excess [46]				$9,036

(F) Comparability of Fees

The funding principles require a funding model in which the fees charged to the CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable (where, for these comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters, whether Execution Venue and/or Industry Members). Accordingly, in creating the model, the Operating Committee sought to take account of the affiliations between or among CAT Reporters—that is, where affiliated entities may have multiple Industry Member and/or Execution Venue licenses, by maintaining relative comparability of fees among such affiliations with the most expected CAT-related activity. To do this, the Participants identified representative affiliations in the largest tier of both Execution Venues and Industry Members and compared the aggregate fees that would be paid by such firms.

While the proposed fees for Tier 1 and Tier 2 Industry Members are relatively higher than those of Tier 1 and Tier 2 Execution Venues, Execution Venue complex fees are relatively higher than those of Industry Member complexes largely due to affiliations between Execution Venues. The tables set forth below describe the largest Execution Venue and Industry Member complexes and their associated fees: [47]

EXECUTION VENUE COMPLEXES

Execution Venue complex	Listing of Equity Execution Venue tiers	Listing of Options Execution Venue tier	Total fees by EV complex
Execution Venue Complex 1	• Tier 1 (x2) • Tier 2 (x1)	• Tier 1 (x4) • Tier 2 (x2)	$1,900,962
Execution Venue Complex 2	• Tier 1 (x2)	• Tier 1 (x2) • Tier 2 (x1)	1,863,801
Execution Venue Complex 3	• Tier 1 (x2) • Tier 2 (x2)	• Tier 1 (x2)	1,278,447

INDUSTRY MEMBER COMPLEXES

Industry Member complex	Listing of Industry Member tiers	Listing of ATS tiers	Total fees by IM complex
Industry Member Complex 1	• Tier 1 (x2)	• Tier 2 (x1)	$963,300
Industry Member Complex 2	• Tier 1 (x1) • Tier 4 (x1)	• Tier 2 (x3)	949,674

[46] The amount in excess of the total CAT costs will contribute to the gradual accumulation of the target operating reserve of $11.425 million.

[47] Note that the analysis of the complexes was performed on a best efforts basis, as all affiliations between the 1631 Industry Members may not be included.

INDUSTRY MEMBER COMPLEXES—Continued

Industry Member complex	Listing of Industry Member tiers	Listing of ATS tiers	Total fees by IM complex
Industry Member Complex 3	• Tier 1 (x1) • Tier 2 (x1)	• Tier 2 (x1)	883,888
Industry Member Complex 4	• Tier 1 (x1) • Tier 2 (x1) • Tier 4 (x1)	N/A	808,472
Industry Member Complex 5	• Tier 2 (x1) • Tier 3 (x1) • Tier 4 (x1) • Tier 7 (x1)	• Tier 2 (x1)	796,595

(G) Billing Onset

Under Section 11.1(c) of the CAT NMS Plan, to fund the development and implementation of the CAT, the Company shall time the imposition and collection of all fees on Participants and Industry Members in a manner reasonably related to the timing when the Company expects to incur such development and implementation costs. The Company is currently incurring such development and implementation costs and will continue to do so prior to the commencement of CAT reporting and thereafter. For example, the Plan Processor has required up-front payments to begin building the CAT. In addition, the Company continues to incur consultant and legal expenses on an on-going basis to implement the CAT. Accordingly, the Operating Committee determined that all CAT Reporters, including both Industry Members and Execution Venues (including Participants), would begin to be invoiced as promptly as possible following the establishment of a billing mechanism. C2 will issue a Regulatory Circular to Trading Permit Holders when the billing mechanism is established, specifying the date when such invoicing of Industry Members will commence.

(H) Changes to Fee Levels and Tiers

Section 11.3(d) of the CAT NMS Plan states that ''[t]he Operating Committee shall review such fee schedule on at least an annual basis and shall make any changes to such fee schedule that it deems appropriate. The Operating Committee is authorized to review such fee schedule on a more regular basis, but shall not make any changes on more than a semi-annual basis unless, pursuant to a Supermajority Vote, the Operating Committee concludes that such change is necessary for the adequate funding of the Company.'' With such reviews, the Operating Committee will review the distribution of Industry Members and Execution Venues across tiers, and make any updates to the percentage of CAT Reporters allocated to each tier as may be necessary. In addition, the reviews will evaluate the estimated ongoing CAT costs and the level of the operating reserve. To the extent that the total CAT costs decrease, the fees would be adjusted downward, and, to the extent that the total CAT costs increase, the fees would be adjusted upward.[48] Furthermore, any surplus of the Company's revenues over its expenses is to be included within the operational reserve to offset future fees. The limitations on more frequent changes to the fee, however, are intended to provide budgeting certainty for the CAT Reporters and the Company.[49] To the extent that the Operating Committee approves changes to the number of tiers in the funding model or the fees assigned to each tier, then C2 will file such changes with the SEC pursuant to Section 19(b) of the Exchange Act, and any such changes will become effective in accordance with the requirements of Section 19(b).

(I) Initial and Periodic Tier Reassignments

The Operating Committee has determined to calculate fee tiers every three months based on market share or message traffic, as applicable, from the prior three months. For the initial tier assignments, the Company will calculate the relevant tier for each CAT Reporter using the three months of data prior to the commencement date. As with the initial tier assignment, for the tri-monthly reassignments, the Company will calculate the relevant tier using the three months of data prior to the relevant tri-monthly date. C2 notes that any movement of CAT Reporters between tiers will not change the criteria for each tier or the fee amount corresponding to each tier.

In performing the tri-monthly reassignments, C2 notes that the percentage of CAT Reporters in each assigned tier is relative. Therefore, a CAT Reporter's assigned tier will depend, not only on its own message traffic or market share, but it also will depend on the message traffic/market share across all CAT Reporters. For example, the percentage of Industry Members (other than Execution Venue ATSs) in each tier is relative such that such Industry Member's assigned tier will depend on message traffic generated across all CAT Reporters as well as the total number of CAT Reporters. The Operating Committee will inform CAT Reporters of their assigned tier every three months following the periodic tiering process, as the funding model will compare an individual CAT Reporter's activity to that of other CAT Reporters in the marketplace.

The following demonstrates a tier reassignment. In accordance with the funding model, the top 75% of Options Execution Venues in market share are categorized as Tier 1 while the bottom 25% of Options Execution Venues in market share are categorized as Tier 2. In the sample scenario below, Options Execution Venue L is initially categorized as a Tier 2 Options Execution Venue in Period A due to its market share. When market share is recalculated for Period B, the market share of Execution Venue L increases, and it is therefore subsequently reranked and reassigned to Tier 1 in Period B. Correspondingly, Options Execution Venue K, initially a Tier 1 Options Execution Venue in Period A,

[48] The CAT Fees are designed to recover the costs associated with the CAT. Accordingly, CAT Fees would not be affected by increases or decreases in other non-CAT expenses incurred by the SROs, such as any changes in costs related to the retirement of existing regulatory systems, such as OATS.

[49] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85006.

is reassigned to Tier 2 in Period B due to decreases in its market share of share volume.

Period A			Period B		
Options Execution Venue	Market share rank	Tier	Options Execution Venue	Market share rank	Tier
Options Execution Venue A	1	1	Options Execution Venue A	1	1
Options Execution Venue B	2	1	Options Execution Venue B	2	1
Options Execution Venue C	3	1	Options Execution Venue C	3	1
Options Execution Venue D	4	1	Options Execution Venue D	4	1
Options Execution Venue E	5	1	Options Execution Venue E	5	1
Options Execution Venue F	6	1	Options Execution Venue F	6	1
Options Execution Venue G	7	1	Options Execution Venue I	7	1
Options Execution Venue H	8	1	Options Execution Venue H	8	1
Options Execution Venue I	9	1	Options Execution Venue G	9	1
Options Execution Venue J	10	1	Options Execution Venue J	10	1
Options Execution Venue K	11	1	Options Execution Venue L	11	1
Options Execution Venue L	12	2	Options Execution Venue K	12	2
Options Execution Venue M	13	2	Options Execution Venue N	13	2
Options Execution Venue N	14	2	Options Execution Venue M	14	2
Options Execution Venue O	15	2	Options Execution Venue O	15	2

(3) Proposed CAT Fee Schedule

C2 proposes the Consolidated Audit Trail Funding Fees to implement the CAT Fees determined by the Operating Committee on C2's Industry Members. The proposed fee schedule has three sections, covering definitions, the fee schedule for CAT Fees, and the timing and manner of payments. Each of these sections is discussed in detail below.

(A) Definitions

Paragraph (A) of the proposed fee schedule sets forth the definitions for the proposed fee schedule. Paragraph (A)(i) states that, for purposes of the Consolidated Audit Trail Funding Fees, the terms ''CAT NMS Plan,'' ''Industry Member,'' ''NMS Stock,'' ''OTC Equity Security'', and ''Participant'' are defined as set forth in CBOE Rule 6.85 (Consolidated Audit Trail (CAT) Compliance Rule—Definitions), which is incorporated by reference into Chapter 6, Section F of the C2 Rules.

The proposed fee schedule imposes different fees on Equity ATSs and Industry Members that are not Equity ATSs. Accordingly, the proposed fee schedule defines the term ''Equity ATS.'' First, paragraph (A)(ii) defines an ''ATS'' to mean an alternative trading system as defined in Rule 300(a) of Regulation ATS under the Securities Exchange Act of 1934, as amended, that operates pursuant to Rule 301 of Regulation ATS. This is the same definition of an ATS as set forth in Section 1.1 of the CAT NMS Plan in the definition of an ''Execution Venue.'' Then, paragraph (A)(iv) defines an ''Equity ATS'' as an ATS that executes transactions in NMS Stocks and/or OTC Equity Securities.

Paragraph (A)(iii) of the proposed fee schedule defines the term ''CAT Fee'' to mean the Consolidated Audit Trail Funding Fee(s) to be paid by Industry Members as set forth in paragraph (B) in the proposed fee schedule.

Finally, Paragraph (A)(vi) defines an ''Execution Venue'' as a Participant or an ATS (excluding any such ATS that does not execute orders). This definition is the same substantive definition as set forth in Section 1.1 of the CAT NMS Plan. Paragraph (A)(v) defines an ''Equity Execution Venue'' as an Execution Venue that trades NMS Stocks and/or OTC Equity Securities.

(B) Fee Schedule

C2 proposes to impose the CAT Fees applicable to its Industry Members through paragraph (B) of the proposed fee schedule. Paragraph (B(i) of the proposed fee schedule sets forth the CAT Fees applicable to Industry Members other than Equity ATSs. Specifically, paragraph (B)(i) states that the Company will assign each Industry Member (other than an Equity ATS) to a fee tier once every quarter, where such tier assignment is calculated by ranking each Industry Member based on its total message traffic for the three months prior to the quarterly tier calculation day and assigning each Industry Member to a tier based on that ranking and predefined Industry Member percentages. The Industry Members with the highest total quarterly message traffic will be ranked in Tier 1, and the Industry Members with lowest quarterly message traffic will be ranked in Tier 9. Each quarter, each Industry Member (other than an Equity ATS) shall pay the following CAT Fee corresponding to the tier assigned by the Company for such Industry Member for that quarter:

Tier	Percentage of Industry Members	Quarterly CAT fee
1	0.500	$101,004
2	2.500	81,153
3	2.125	57,717
4	4.625	19,965
5	3.625	12,489
6	4.000	7,680
7	17.500	1,503
8	20.125	435
9	45.000	66

Paragraph (B)(ii) of the proposed fee schedule sets forth the CAT Fees applicable to Equity ATSs.[50] These are the same fees that Participants that trade NMS Stocks and/or OTC Equity Securities will pay. Specifically, paragraph (B)(ii) states that the Company will assign each Equity ATS to a fee tier once every quarter, where such tier assignment is calculated by ranking each Equity Execution Venue based on its total market share of NMS Stocks and OTC Equity Securities for the three months prior to the quarterly tier calculation day and assigning each Equity Execution Venue to a tier based on that ranking and predefined Equity Execution Venue percentages. The Equity Execution Venues with the higher total quarterly market share will be ranked in Tier 1, and the Equity Execution Venues with the lower quarterly market share will be ranked in Tier 2. Specifically, paragraph (B)(ii) states that, each quarter, each Equity

[50] Note that no fee schedule is provided for Execution Venue ATSs that execute transactions in Listed Options, as no such Execution Venue ATSs currently exist due to trading restrictions related to Listed Options.

ATS shall pay the following CAT Fee corresponding to the tier assigned by the Company for such Equity ATS for that quarter:

Tier	Percentage of Equity Execution Venues	Quarterly CAT fee
1	25.00	$63,375
2	75.00	38,820

(C) Timing and Manner of Payment

Section 11.4 of the CAT NMS Plan states that the Operating Committee shall establish a system for the collection of fees authorized under the CAT NMS Plan. The Operating Committee may include such collection responsibility as a function of the Plan Processor or another administrator. To implement the payment process to be adopted by the Operating Committee, paragraph (C)(i) of the proposed fee schedule states that the Company will provide each Industry Member with one invoice each quarter for its CAT Fees as determined pursuant to paragraph (B) of the proposed fee schedule, regardless of whether the Industry Member is a member of multiple self-regulatory organizations. Paragraph (C)(i) further states that each Industry Member will pay its CAT Fees to the Company via the centralized system for the collection of CAT Fees established by the Company in the manner prescribed by the Company. C2 will provide Industry Members with details regarding the manner of payment of CAT Fees by Regulatory Circular.

Although the exact fee collection system and processes for CAT fees has not yet been established, all CAT fees will be billed and collected centrally through the Company, via the Plan Processor or otherwise. Although each Participant will adopt its own fee schedule regarding CAT Fees, no CAT Fees or portion thereof will be collected by the individual Participants. Each Industry Member will receive from the Company one invoice for its applicable CAT fees, not separate invoices from each Participant of which it is a member. The Industry Members will pay the CAT Fees to the Company via the centralized system for the collection of CAT fees established by the Company.[51]

Section 11.4 of the CAT NMS Plan also states that Participants shall require each Industry Member to pay all applicable authorized CAT Fees within thirty days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). Section 11.4 further states that, if an Industry Member fails to pay any such fee when due, such Industry Member shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of: (i) The Prime Rate plus 300 basis points; or (ii) the maximum rate permitted by applicable law. Therefore, in accordance with Section 11.4 of the CAT NMS Plan, C2 proposes to adopt paragraph (C)(ii) of the proposed fee schedule. Paragraph (C)(ii) of the proposed fee schedule states that each Industry Member shall pay CAT Fees within thirty days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). If an Industry Member fails to pay any such fee when due, such Industry Member shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of: (i) The Prime Rate plus 300 basis points; or (ii) the maximum rate permitted by applicable law.

2. Statutory Basis

C2 believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,[52] which require, among other things, that C2 rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealers, and Section 6(b)(4) of the Act,[53] which requires that C2 rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using its facilities. As discussed above, the SEC approved the bifurcated, tiered, fixed fee funding model in the CAT NMS Plan, finding it was reasonable and that it equitably allocated fees among Participants and Industry Members. C2 believes that the proposed tiered fees adopted pursuant to the funding model approved by the SEC in the CAT NMS Plan are reasonable, equitably allocated and not unfairly discriminatory.

C2 believes that this proposal is consistent with the Act because it implements, interprets or clarifies the provisions of the Plan, and is designed to assist C2 and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [54] To the extent that this proposal implements, interprets or clarifies the Plan and applies specific requirements to Industry Members, C2 believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

C2 believes that the proposed tiered fees are reasonable. First, the total CAT Fees to be collected would be directly associated with the costs of establishing and maintaining the CAT, where such costs include Plan Processor costs and costs related to insurance, third party services and the operational reserve. The CAT Fees would not cover Participant services unrelated to the CAT. In addition, any surplus CAT Fees cannot be distributed to the individual Participants; such surpluses must be used as a reserve to offset future fees. Given the direct relationship between the fees and the CAT costs, C2 believes that the total level of the CAT Fees is reasonable.

In addition, C2 believes that the proposed CAT Fees are reasonably designed to allocate the total costs of the CAT equitably between and among the Participants and Industry Members, and are therefore not unfairly discriminatory. As discussed in detail above, the proposed tiered fees impose comparable fees on similarly situated CAT Reporters. For example, those with a larger impact on the CAT (measured via message traffic or market share) pay higher fees, whereas CAT Reporters with a smaller impact pay lower fees. Correspondingly, the tiered structure lessens the impact on smaller CAT Reporters by imposing smaller fees on those CAT Reporters with less market share or message traffic. In addition, the funding model takes into consideration affiliations between CAT Reporters, imposing comparable fees on such affiliated entities.

Moreover, C2 believes that the division of the total CAT costs between Industry Members and Execution Venues, and the division of the Execution Venue portion of total costs between Equity and Options Execution Venues, is reasonably designed to allocate CAT costs among CAT Reporters. The 75/25 division between Industry Members and Execution Venues maintains the greatest level of

[51] Section 11.4 of the CAT NMS Plan.

[52] 15 U.S.C. 78f(b)(5).

[53] 15 U.S.C. 78f(b)(4).

[54] Approval Order at 84697.

keeping in view that comparability should consider affiliations among or between CAT Reporters (*e.g.,* firms with multiple Industry Members or exchange licenses). Similarly, the 75/25 division between Equity and Options Execution Venues maintains elasticity across the funding model as well as the greatest level of fee equitability and comparability based on the current number of Equity and Options Execution Venues.

Finally, C2 believes that the proposed fees are reasonable because they would provide ease of calculation, ease of billing and other administrative functions, and predictability of a fixed fee. Such factors are crucial to estimating a reliable revenue stream for the Company and for permitting CAT Reporters to reasonably predict their payment obligations for budgeting purposes.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 6(b)(8) of the Act [55] require that C2 rules not impose any burden on competition that is not necessary or appropriate. C2 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. C2 notes that the proposed rule change implements provisions of the CAT NMS Plan approved by the Commission, and is designed to assist C2 in meeting its regulatory obligations pursuant to the Plan. Similarly, all national securities exchanges and FINRA are proposing this proposed fee schedule to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive fee filing and, therefore, it does not raise competition issues between and among the exchanges and FINRA.

Moreover, as previously described, C2 believes that the proposed rule change fairly and equitably allocates costs among CAT Reporters. In particular, the proposed fee schedule is structured to impose comparable fees on similarly situated CAT Reporters, and lessen the impact on smaller CAT Reporters. CAT Reporters with similar levels of CAT activity will pay similar fees. For example, Industry Members (other than Execution Venue ATSs) with higher levels of message traffic will pay higher fees, and those with lower levels of message traffic will pay lower fees. Similarly, Execution Venue ATSs and other Execution Venues with larger market share will pay higher fees, and those with lower levels of market share will pay lower fees. Therefore, given that there is generally a relationship between message traffic and market share to the CAT Reporter's size, smaller CAT Reporters generally pay less than larger CAT Reporters. Accordingly, C2 does not believe that the CAT Fees would have a disproportionate effect on smaller or larger CAT Reporters. In addition, ATSs and exchanges will pay the same fees based on market share. Therefore, C2 does not believe that the fees will impose any burden on the competition between ATSs and exchanges. Accordingly, C2 believes that the proposed fees will minimize the potential for adverse effects on competition between CAT Reporters in the market.

Furthermore, the tiered, fixed fee funding model limits the disincentives to providing liquidity to the market. Therefore, the proposed fees are structured to limit burdens on competitive quoting and other liquidity provision in the market.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [56] and paragraph (f) of Rule 19b–4 [57] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–C2–2017–017 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–C2–2017–017. 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–C2–2017–017, and should be submitted on or before June 22, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[58]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–11362 Filed 5–31–17; 8:45 am]

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[55] 15 U.S.C. 78f(b)(8)

[56] 15 U.S.C. 78s(b)(3)(A).

[57] 17 CFR 240.19b–4(f).

[58] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80789; File No. SR–BOX–2017–17]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing of Proposed Rule Change To Eliminate Requirements That Will Be Duplicative of CAT

May 26, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 15, 2017, BOX Options Exchange LLC (the ''Exchange'' or ''SRO'') filed with the Securities and Exchange Commission (''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 Rules 7120, 8060 and 10040 to the extent these rules collect information that is duplicative of the data collection requirements of the consolidated audit trail (''CAT'') adopted pursuant to the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'').[3] The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://boxexchange.com.*

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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth herein, or in the CAT Compliance Rule Series or in the CAT NMS Plan.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC,[4] NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. and NYSE National, Inc.[5] (collectively, the ''Participants'') filed with the Commission, pursuant to Section 11A of the Exchange Act [6] and Rule 608 of Regulation NMS thereunder,[7] CAT NMS Plan.[8] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,[9] and approved by the Commission, as modified, on November 15, 2016.[10] The Plan is designed to create, implement and maintain a CAT that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. Pursuant to Appendix C of the CAT NMS Plan, each Participant is required to conduct analyses of which of its existing trade and order data rules and systems require the collection of information that is duplicative of information collected for the CAT.[11] In addition, among other things, Section C.9 of Appendix C to the Plan, as modified by the Commission, requires each Participant to ''file with the SEC the relevant rule change filing to eliminate or modify its duplicative rules within six (6) months of the SEC's approval of the CAT NMS Plan.'' [12] The Plan notes that ''the elimination of such rules and the retirement of such systems [will] be effective at such time as CAT Data meets minimum standards of accuracy and reliability.'' [13]

After conducting its analysis of its rules in accordance with the CAT NMS Plan, SRO determined that certain audit trail information collected under the BOX Rules is intended to be collected by the CAT. Therefore, SRO believes that these rules may no longer be necessary once the CAT is operational. Accordingly, SRO submits this proposed rule change to amend Rules 7120, 8060 and 10040 once certain accuracy and reliability standards are met. Discussed below is a description of the duplicative rule requirements as well as the timeline for eliminating the duplicative rule.

(1) Duplicative COATS Requirements

The options exchanges utilize the consolidated options audit trail system (''COATS'') to collect and review data regarding options orders, quotes and transactions. The Participants have provided COATS technical specifications to the Plan Processor for the CAT for use in developing the Technical Specifications for the CAT, and the Participants are working with the Plan Processor to include the necessary COATS data elements in the CAT Technical Specifications. Accordingly, although the Technical Specifications for the CAT have not yet been finalized, SRO and the other options exchanges propose to eliminate COATS in accordance with the proposed timeline discussed below.

The proposed rule change proposes to add new Interpretive Materials to Rules 7120,- [sic] 8060 and 10040 to clarify how SRO will request data under these rules after members are reporting to the CAT. Specifically, the proposed Interpretive Materials will note that SRO will request information only if the information is not available in the CAT

[4] ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. *See* Securities Exchange Act Rel. No. 80248 (Mar. 15, 2017), 82 FR 14547 (Mar. 21, 2017); Securities Exchange Act Rel. No. 80326 (Mar. 29, 2017), 82 FR 16460 (Apr. 4, 2017); and Securities Exchange Act Rel. No. 80325 (Mar. 29, 2017), 82 FR 16445 (Apr. 4, 2017).

[5] National Stock Exchange, Inc. has been renamed NYSE National, Inc. *See* Securities Exchange Act Rel. No. 79902 (Jan. 30, 2017), 82 FR 9258 (Feb. 3, 2017).

[6] 15 U.S.C. 78k–1.

[7] 17 CFR 242.608.

[8] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

[9] Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 FR 30614 (May 17, 2016).

[10] Securities Exchange Act Rel. No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016) (''Approval Order'').

[11] Appendix C of CAT NMS Plan, Approval Order at 85010.

[12] *Id.*

[13] *Id.*

because, for example, the transactions in question occurred before the firm was reporting information to the CAT or involved securities that are not reportable to the CAT. In essence, under the new Interpretive Materials, SRO will make requests under these rules if and only if the information is not otherwise available through the CAT.

(2) The EBS Rule

The EBS Rule is SRO's rule regarding the automated submission of specific trading data to SRO upon request using the Electronic Blue Sheet (''EBS'') system. Once broker-dealer reporting to the CAT has begun, the CAT will contain the data the Participants would otherwise have requested via the EBS system for purposes of NMS Securities and OTC Equity Securities. Consequently, SRO will not need to use the EBS system or request information pursuant to the EBS Rule for NMS Securities for time periods after CAT reporting has begun if the appropriate accuracy and reliability thresholds are achieved, including an acceptable accuracy rate for customer and account information. However, the EBS Rule cannot be completely eliminated immediately upon the CAT achieving the appropriate thresholds because SRO staff may still need to request information pursuant to the EBS Rule for trading activity occurring before a member was reporting to the CAT.[14]

The proposed rule change proposes to add new Interpretive Material to Rule 10040 to clarify how SRO will request data under these rules after members are reporting to the CAT. Specifically, the proposed Interpretive Material will note that SRO will request information only if the information is not available in the CAT because, for example, the transactions in question occurred before the firm was reporting information to the CAT or involved securities that are not reportable to the CAT. In essence, under the new Interpretive Material, SRO will make requests under these rules if and only if the information is not otherwise available through the CAT.

(3) Timeline for Elimination of Duplicative Rule

The CAT NMS Plan states that the elimination of rules that are duplicative of the requirements of the CAT and the retirement of the related systems should be effective at such time as CAT Data meets minimum standards of accuracy and reliability.[15] As discussed in more detail below, SRO and the other options exchanges believe that COATS and EBS may be retired at a date after all Industry Members are reporting to the CAT when the proposed error rate thresholds have been met, and SRO has determined that its usage of the CAT Data has not revealed material issues that have not been corrected, confirmed that the CAT includes all data necessary to allow SRO to continue to meet its surveillance obligations, and confirmed that the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan.

SRO believes COATS and EBS should not be retired until all Participants and Industry Members that report data to COATS and EBS are reporting comparable data to the CAT. In this way, SRO will continue to have access to the necessary data to perform its regulatory duties.

The CAT NMS Plan requires that a rule filing to eliminate a duplicative rule address whether ''the availability of certain data from Small Industry Members two years after the Effective Date would facilitate a more expeditious retirement of duplicative systems.'' [16] SRO believes COATS and EBS should not be retired until all Participants and Industry Members that report data to COATS are reporting comparable data to the CAT. While the early submission of options data to the CAT by Small Industry Members could expedite the retirement of COATS, SRO believes that it premature to consider such a change and that additional analysis would be necessary to determine whether such early reporting by Small Industry Members would be feasible.

The CAT NMS Plan requires that this rule filing address ''whether individual Industry Members can be exempted from reporting to duplicative systems once their CAT reporting meets specified accuracy and reliability standards, including, but not limited to, ways in which establishing cross-system regulatory functionality or integrating data from existing systems and the CAT would facilitate such Individual Industry Member exemptions.'' [17] SRO believes that a single cut-over from COATS and EBS to CAT is highly preferable to a firm-by-firm approach and is not proposing to exempt members from the COATS and EBS requirements on a firm-by-firm basis. SRO and the other options exchanges believe that providing such individual exemptions to Industry Members would be inefficient, more costly, and less reliable than the single cut-over. Providing individual exemptions would require the options exchanges to create, for a brief temporary period, a cross-system regulatory function and to integrate data from COATS and EBS and the CAT to avoid creating any regulatory gaps as a result of such exemptions. Such a function would be costly to create and would give rise to a greater likelihood of data errors or other issues. Given the limited time in which such exemptions would be necessary, SRO and the other options exchanges do not believe that such exemptions would be an appropriate use of limited resources.

The CAT NMS Plan also requires that a rule filing to eliminate a duplicative rule to provide ''specific accuracy and reliability standards that will determine when duplicative systems will be retired, including, but not limited to, whether the attainment of a certain Error Rate should determine when a system duplicative of the CAT can be retired.'' [18] SRO believes that it is critical that the CAT Data be sufficiently accurate and reliable for SRO to perform the regulatory functions that it now performs via COATS and EBS. Accordingly, SRO believes that the CAT Data should meet specific quantitative error rates, as well as certain qualitative requirements.

SRO and the other options exchanges believe that, before COATS may be retired, the CAT would need to achieve a sustained error rate for a period of at least 180 days of 5% or lower measured on a pre-correction or as-submitted basis, and 2% or lower on a post-correction basis (measured at T+5).[19] SRO proposes to measure the 5% pre-correction and 2% post-correction thresholds by averaging the error rate across the period, not require a 5% pre-correction and 2% post-correction maximum each day for 180 consecutive days. SRO believes that measuring each of the thresholds over the course of 180 days will ensure that the CAT consistently meets minimum accuracy and reliability thresholds while also ensuring that single-day measurements do not unduly affect the overall measurements. SRO proposes to measure the appropriate error rates in the aggregate, rather than firm-by-firm. In addition, SRO proposes to measure the error rates for options only, not

[14] Firms are required to maintain the trade information for pre-CAT transactions in equities and options pursuant to applicable rules, such as books and records retention requirements, for the relevant time period, which is generally three or six years depending upon the record. *See* 17 CFR 240.17a–3(a), 240.17a–4.

[15] *Id.* [sic].

[16] *Id.*

[17] *Id.*

[18] *Id.*

[19] The Plan requires that the Plan Processor must ensure that regulators have access to corrected and linked order and Customer data by 8:00 a.m. Eastern Time on T+5. *See* CAT NMS Plan, at C–15.

equity securities, as only options are subject to COATS. The 2% and 5% error rates are in line with the proposed retirement threshold for FINRA's Order Audit Trail System (''OATS'').

In addition to these minimum error rates before COATS can be retired, SRO believes that during the minimum 180-day period during which the thresholds are calculated, SRO's use of the data in the CAT must confirm that (i) usage over that time period has not revealed material issues that have not been corrected, (ii) the CAT includes all data necessary to allow SRO to continue to meet its surveillance obligations, and (iii) the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan. SRO believes this time period to use the CAT Data is necessary to reveal any errors that may manifest themselves only after surveillance patterns and other queries have been run and to confirm that the Plan Processor is meeting its obligations and performing its functions adequately.

If the Commission approves the proposed rule change, SRO will announce the date for the retirement of COATS and the implementation date of the proposed rule change in a Regulatory Circular that will be published once the options exchanges determine that the thresholds for accuracy and reliability described above have been met and that the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan.

2. Statutory Basis

SRO believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Exchange Act,[20] which require, among other things, that the SRO rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealer. SRO believes that this proposal is consistent with the Exchange Act because it fulfills the obligation in the CAT NMS Plan for SRO to submit a proposed rule change to eliminate or modify duplicative rules. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [21] As this proposal implements the Plan, SRO believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Exchange Act.

Moreover, the purpose of the proposed rule change is to clarify how SRO will treat rules that require the submission of duplicative data to the exchange. The elimination of such duplicative requirements will reduce unnecessary costs and other compliance burdens for SRO and its members, and therefore, will enhance the efficiency of the securities markets. Furthermore, SRO believes that the approach set forth in the proposed rule change strikes the appropriate balance between ensuring that SRO is able to continue to fulfill its statutory obligation to protect investors and the public interest by ensuring its surveillance of market activity remains accurate and effective while also establishing a reasonable timeframe for elimination or modification of its rules that will be rendered duplicative after implementation of the CAT.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 6(b)(8) of the Exchange Act [22] requires that SRO rules not impose any burden on competition that is not necessary or appropriate. SRO 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 Exchange Act. SRO notes that the proposed rule change implements the requirements of the CAT NMS Plan approved by the Commission regarding the elimination of rules and systems that are duplicative the CAT, and is designed to assist SRO in meeting its regulatory obligations pursuant to the Plan. Similarly, all options exchanges are proposing the elimination of COATS and EBS and their rules related to COATS and EBS to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive rule filing and, therefore, it does not raise competition issues between and among the options exchanges and/or their members.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

[20] 15 U.S.C. 78f(b)(5).

[21] Approval Order at 84697.

[22] 15 U.S.C. 78f(b)(8).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BOX–2017–17 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–BOX–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, on business days between the hours of 10:00 a.m. and 3:00 p.m., located at 100 F Street NE.,

Washington, DC 20549. 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–BOX–2017–17 and should be submitted on or before June 22, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–11365 Filed 5–31–17; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15140 and #15141; MISSISSIPPI Disaster #MS–00101]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Mississippi

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Mississippi (FEMA–4314–DR), dated 05/22/2017.

Incident: Severe Storms, Tornadoes, Straight-line Winds, and Flooding.

Incident Period: 04/30/2017.

DATES: Effective 05/22/2017.

Physical Loan Application Deadline Date: 07/21/2017.

Economic Injury (EIDL) Loan Application Deadline Date: 02/22/2018.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 05/22/2017, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Adams, Calhoun, Carroll, Claiborne, Holmes, Jefferson, Montgomery, Webster, Yazoo.

The Interest Rates are:

	Percent
For Physical Damage:	
Non–Profit Organizations With Credit Available Elsewhere ...	2.500
Non–Profit Organizations Without Credit Available Elsewhere	2.500
For Economic Injury:	
Non–Profit Organizations Without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 151406 and for economic injury is 151416.

(Catalog of Federal Domestic Assistance Number 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2017–11176 Filed 5–31–17; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 10014]

U.S. National Commission for UNESCO Notice of New Date for Teleconference Meeting

The U.S. National Commission for UNESCO conference call that was announced to occur on Friday, June 9, 2017 from 11:00 a.m. until 12:00 p.m. Eastern Daylight Time, has been rescheduled to Monday, June 19 from 11:00 a.m. to 12:00 p.m. Eastern Daylight Time. This will be a single issue, technical teleconference meeting to consider the recommendations of the Commission's National Committee for the Intergovernmental Oceanographic Commission (IOC). There will be no other items on the agenda. The Commission will accept brief oral comments during a portion of this conference call. The public comment period will be limited to approximately 10 minutes in total, with two minutes allowed per speaker. For more information, or to arrange to participate in the conference call, individuals must make arrangements with the Executive Director of the National Commission by June 16, 2017.

The National Commission may be contacted via email at *DCUNESCO@state.gov* or telephone (202) 663–2407.

Paul Mungai,

Acting Executive Director, U.S. National Commission for UNESCO, Department of State.

[FR Doc. 2017–11265 Filed 5–31–17; 8:45 am]

BILLING CODE 4710–19–P

DEPARTMENT OF STATE

[Public Notice: 10013]

Notice of Environmental Impact Statement; Withdrawal

AGENCY: Department of State.

ACTION: Notice of withdrawal of intent to prepare an environmental impact statement.

SUMMARY: The U.S. Department of State (Department) is withdrawing the April 15, 2016, **Federal Register** Notice, which announced its intent to prepare an Environmental Impact Statement (EIS), consistent with the National Environmental Policy Act (NEPA) of 1969 (as implemented by the Council on Environmental Quality regulations found at 40 CFR 1500–1508), to evaluate potential impacts from the construction, connection, operation, and maintenance of a proposed new 20-inch diameter pipeline and associated infrastructure in North Dakota that would export crude oil from the United States to Canada. On May 16, 2017, the applicant, Upland Pipeline, LLC, requested that the Department pause its review of the company's application for a Presidential permit until further notice.

DATES: The withdrawal of the Notice of Intent published April 15, 2016 at 81 FR 22359 is effective on the date of this publication in the **Federal Register**.

ADDRESSES: Upland Project Manager, Office of Environmental Quality and Transboundary Issues, Room 2726, U.S. Department of State, 2201 C Street NW., Washington, DC 20520.

FOR FURTHER INFORMATION CONTACT: Jill Reilly at the address listed in **ADDRESSES**, or by email at *UplandReview@state.gov.*

Barton J. Putney,

Director, Office of Environmental Quality and Transboundary Issues, Department of State.

[FR Doc. 2017–11264 Filed 5–31–17; 8:45 am]

BILLING CODE 4710–19–P

[23] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Safety, Awareness, Feedback, and Evaluation (SAFE) Program

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew a previously approved information collection. Executive Order 12862 Setting Customer Service Standards, and most recently updated in Executive Order 13571, requires the Federal Government to provide the ''highest quality service possible to the American people.'' Under the order, the ''standard of quality for services provided to the public shall be: Customer service equal to the best in business.'' The FAA Flight Standards Service designed the SAFE Program to continuously promote and improve overall aviation safety.

DATES: Written comments should be submitted by July 3, 2017.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Ronda Thompson by email at: *Ronda.Thompson@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0759.

Title: Safety, Awareness, Feedback, and Evaluation (SAFE) Program.

Form Numbers: None.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 14, 2017 (82 FR 13707). In response to Executive Order 12862, and most recently updated in Executive Order 13571, the FAA Flight Standards Service designed the SAFE Program to continuously promote and improve overall aviation safety. The program goals are accomplished by periodically surveying stakeholder groups to measure the effectiveness of FAA regulatory processes and products and collect feedback on the quality of provided services. The survey outcomes form the basis of program improvements to ensure stakeholders are effectively served. The outcomes and planned improvements are shared with stakeholder groups.

Respondents: Approximately 1590 respondents annually.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 20 minutes.

Estimated Total Annual Burden: 531 hours.

Issued in Washington, DC, on May 24, 2017.

Ronda L Thompson,

FAA Information Collection Clearance Officer, Performance, Policy & Records Management Branch, ASP–110.

[FR Doc. 2017–11376 Filed 5–31–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2017–39]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of the FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number involved and must be received on or before June 21, 2017.

ADDRESSES: Send comments identified by docket number FAA–2017–0414–0002 using any of the following methods:

- *Federal eRulemaking 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: 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 of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

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 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: Lynette Mitterer, ANM–113, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98057–3356, email *Lynette.Mitterer@faa.gov,* phone (425) 227–1047; or Alphonso Pendergrass, ARM–200, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, email *alphonso.pendergrass@faa.gov,* phone (202) 267–4713.

This notice is published pursuant to 14 CFR 11.85.

Issued in Renton, Washington, on May 25, 2017.

Victor Wicklund,

Manager, Transport Standards Staff.

Petition for Exemption

Docket No.: FAA–2017–0414–0002.

Petitioner: Delta Air Lines, Inc.

Section of 14 CFR Affected: §§ 25.813(e), 121.310(f)(5), and 121.310(f)(6).

Description of Relief Sought: Allow Boeing Model 777–200 and 777–200LR airplanes to operate with doors installed in partitions separating passenger compartments, and doors installed between occupiable passenger seats and emergency exits during takeoff and landing for up to 28 ''mini-suites.''

[FR Doc. 2017–11279 Filed 5–31–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Queens County, NY

AGENCY: Federal Highway Administration (FHWA), U.S. DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed construction project known as the Van Wyck Expressway Capacity & Access Improvements to John F. Kennedy (JFK) Airport, in Queens County, New York.

FOR FURTHER INFORMATION CONTACT: Harold Fink, Deputy Chief Engineer, New York State Department of Transportation, Hunters Point Plaza 47–40 21st Street, Long Island City, New York 11101, Telephone: (718) 482–4683; or Peter W. Osborn, Division Administrator, Federal Highway Administration, New York Division, Leo W. O'Brien Federal Building, 7th Floor, Clinton Avenue and North Pearl Street, Albany, New York 12207, Telephone: (518) 431–4127.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the New York State Department of Transportation (NYSDOT), will prepare an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act (NEPA) on a proposal to provide increased capacity on the Van Wyck Expressway (I–678) between the Kew Gardens Interchange and JFK Airport.

The Van Wyck Expressway is the major transportation corridor providing access to and from JFK Airport. JFK Airport is a major international gateway to the United States that handles 58.9 million passengers with over 400,000 aircraft operations annually. The Van Wyck Expressway also serves as the major route for commercial truck traffic to get to and from the airport. The project is needed to provide increased capacity on the Van Wyck Expressway to and from JFK Airport; improve operations and geometry of ramps within the identified project limits; and address structural deficiencies on the bridges within the project limits.

The purpose of the project is to provide increased capacity on the Van Wyck Expressway between the Kew Gardens Interchange and JFK Airport to improve vehicular access to and from the airport. In addition, the project will address the operational, geometric, and structural deficiencies on the Van Wyck Expressway between the Kew Gardens Interchange and JFK Airport.

A reasonable range of alternatives is currently being developed and will be refined during the NEPA scoping process in consideration of agency and public comments received.

Letters describing the proposed action and soliciting comments will be sent to Cooperating and Participating Agencies. Public and agency outreach will include a formal public scoping meeting, a public hearing, and meetings with Cooperating and Participating Agencies. Public notice will be given of the date, time, and location of the scoping meeting and hearing. To assist in determining the scope of issues to be addressed and identifying the significant issues related to the proposed action, the general public will have the opportunity to submit written comments at the scoping meeting and during a scoping comment period. The draft EIS will be available for public and agency review and comment prior to the public hearing.

Comments or questions concerning this proposed action should be directed to the NYSDOT and FHWA at the addresses provided above.

Issued on: May 24, 2017.

Peter W. Osborn,

Division Administrator, Albany, New York.

[FR Doc. 2017–11303 Filed 5–31–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by the California Department of Transportation (Caltrans), pursuant to 23 U.S.C. 327.

SUMMARY: The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans, that are final within the meaning of 23 U.S.C. 139(*l*)(1). The actions relate to a proposed highway project, located on State Route 175 near the city of Middletown, in the County of Lake, State of California. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before October 30, 2017. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For Caltrans: Liza Walker, Senior Environmental Planner, California Department of Transportation—District 3, 703 B Street, Marysville, California 95901, during normal business hours from 8:00 a.m. to 5:00 p.m., telephone (530) 741–4139 or email *liza.walker@dot.ca.gov.*

SUPPLEMENTARY INFORMATION: Effective July 1, 2007, the Federal Highway Administration (FHWA) assigned, and the California Department of Transportation (Caltrans) assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that the Caltrans, has taken final agency actions subject to 23 U.S.C. 139(*l*)(1) by issuing licenses, permits, and approvals for the following highway project in the State of California: Safety improvement project located on State Route (SR) 175 in Lake County near the town of Middletown, between post miles R25.0 to 27.5. The project proposes to widen shoulders, improve the existing curvatures of the roadway and the clear recovery zone (CRZ), reconstruct driveways and intersections, and install shoulder/centerline rumble strips along the edge of the traveled way (ETW). The total length of the project is 2.5 miles. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Assessment (FEA) for the project, approved on, 5/8/17 in the FHWA Finding of No Significant Impact (FONSI) issued on 5/8/17 and in other

documents in the FHWA project records. The FEA, FONSI, and other project records are available by contacting Caltrans at the addresses provided above. This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. Council on Environmental Quality Regulations
2. National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 *et seq.*
3. Federal-Aid Highway Act of 1970, 23 U.S.C. 109
4. MAP–21, the Moving Ahead for Progress in the 21st Century Act (Pub. L. 112–141)
5. Clean Air Act Amendments of 1990 (CAAA)
6. Clean Water Act of 1977 and 1987
7. Federal Water Pollution Control Act of 1972 (see Clean Water Act of 1977 & 1987)
8. Federal Land Policy and Management Act of 1976 (Paleontological Resources)
9. Noise Control Act of 1972
10. Safe Drinking Water Act of 1944, as amended
11. Endangered Species Act of 1973
12. Executive Order 11990, Protection of Wetlands
13. Executive Order 13112, Invasive Species
14. Executive Order 13186, Migratory Birds
15. Fish and Wildlife Coordination Act of 1934, as amended
16. Migratory Bird Treaty Act
17. Water Bank Act Wetlands Mitigation Banks, ISTEA 1991, Sections 1006–1007
18. Wildflowers, Surface Transportation and Uniform Relocation Act of 1987 Section 130
19. Coastal Zone Management Act of 1972
20. Coastal Zone Management Act Reauthorization Amendments of 1990
21. Executive Order 11988, Floodplain Management
22. Department of Transportation (DOT) Executive Order 5650.2—Floodplain Management and Protection (April 23, 1979)
23. Rivers and Harbors Appropriation Act of 1899, Sections 9 and 10
24. Title VI of the Civil Rights Act of 1964, as amended
25. Executive Order 12898, Federal Actions to Address Environmental Justice and Low-Income Populations

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1).

Issued on: May 24, 2017.

Shawn Oliver,

Senior Transportation Engineer, Federal Highway Administration, Sacramento, California.

[FR Doc. 2017–11304 Filed 5–31–17; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF THE TREASURY

Multiemployer Pension Plan Application To Reduce Benefits

AGENCY: Department of the Treasury.

ACTION: Notice of availability; Request for comments.

SUMMARY: The Board of Trustees of the New York State Teamsters Conference Pension and Retirement Fund (NYS Teamsters Pension Fund), a multiemployer pension plan, has submitted an application to reduce benefits under the plan in accordance with the Multiemployer Pension Reform Act of 2014. The purpose of this notice is to announce that the application submitted by the Board of Trustees of the NYS Teamsters Pension Fund has been published on the Treasury Web site, and to request public comments on the application from interested parties, including participants and beneficiaries, employee organizations, and contributing employers of the NYS Teamsters Pension Fund.

DATES: Comments must be received by July 17, 2017.

ADDRESSES: You may submit comments electronically through the Federal eRulemaking Portal at *http://www.regulations.gov,* in accordance with the instructions on that site. Electronic submissions through *www.regulations.gov* are encouraged.

Comments may also be mailed to the Department of the Treasury, MPRA Office, 1500 Pennsylvania Avenue NW., Room 1224, Washington, DC 20220. Attn: Eric Berger. Comments sent via facsimile and email will not be accepted.

Additional Instructions. All comments received, including attachments and other supporting materials, will be made available to the public. Do not include any personally identifiable information (such as Social Security number, name, address, or other contact information) or any other information in your comment or supporting materials that you do not want publicly disclosed. Treasury will make comments available for public inspection and copying on *www.regulations.gov* or upon request. Comments posted on the Internet can be retrieved by most Internet search engines.

FOR FURTHER INFORMATION CONTACT: For information regarding the application from the NYS Teamsters Pension Fund, please contact Treasury at (202) 622–1534 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The Multiemployer Pension Reform Act of 2014 (MPRA) amended the Internal Revenue Code to permit a multiemployer plan that is projected to have insufficient funds to reduce pension benefits payable to participants and beneficiaries if certain conditions are satisfied. In order to reduce benefits, the plan sponsor is required to submit an application to the Secretary of the Treasury, which Treasury, in consultation with the Pension Benefit Guaranty Corporation (PBGC) and the Department of Labor, is required to approve or deny.

On May 15, 2017, the Board of Trustees of the NYS Teamsters Pension Fund submitted an application for approval to reduce benefits under the plan. As required by MPRA, that application has been published on Treasury's Web site at *https://auth.treasury.gov/services/Pages/Plan-Applications.aspx.* Treasury is publishing this notice in the **Federal Register**, in consultation with the PBGC and the Department of Labor, to solicit public comments on all aspects of the NYS Teamsters Pension Fund application.

Comments are requested from interested parties, including participants and beneficiaries, employee organizations, and contributing employers of the NYS Teamsters Pension Fund. Consideration will be given to any comments that are timely received by Treasury.

Dated: May 25, 2017.

Thomas West,

Tax Legislative Counsel, Office of Tax Policy.

[FR Doc. 2017–11246 Filed 5–31–17; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0747]

Agency Information Collection Activity Under OMB Review: Application for Disability Compensation and Related Compensation Benefits

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the

information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 3, 2017.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0747'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–5870 or email *cynthia.harvey-pryor@va.gov.* Please refer to ''OMB Control No. 2900–0747'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: Public Law 110–389, Section 221(a).

Title: Application for Disability Compensation and Related Compensation Benefits (VA Form 21–526EZ).

OMB Control Number: 2900–0747.

Type of Review: Revision of a currently approved collection.

Abstract: VA Form 21–526EZ is used to collect the information needed to process a fully developed claim for disability compensation and related compensation benefits. This form is required as part of the FDC Program Transformation Initiative.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 82 FR 51, on March 17, 2017, pages 14276 and 14277.

Affected Public: Individuals or Households.

Estimated Annual Burden: 14,505.

Estimated Average Burden per Respondent: 25 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 34,813.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2017–11302 Filed 5–31–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0474]

Agency Information Collection Activity Under OMB Review: Create Payment Request for the VA Funding

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 3, 2017.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov*, or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0474'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–5870 or email *cynthia.harvey-pryor@va.gov. Please refer to ''OMB Control No. 2900–0474'' in any correspondence.*

SUPPLEMENTARY INFORMATION:

Authority: Public Law 104–13; 44 U.S.C. 3501–21.

Title: Create Payment Request for the VA Funding Fee Payment System (VA Form 26–8986).

OMB Control Number: 2900–0474.

Type of Review: Revision of an approved collection.

Abstract: Information is needed to exempt a veteran from paying a funding fee. A funding fee must be paid to VA before a loan can be guaranteed. The funding fee is payable on all VA-guaranteed loans, *i.e.,* Assumptions, Manufactured Housing, Refinances, and Real Estate purchase and construction loans. The funding fee is not required from veterans in receipt of compensation for service connected disability or veterans in receipt of compensation for service connected disability of veterans who, but for receipt of retirement pay, would be entitled to receive compensation for their service connected disability. Loans made to the unmarried surviving spouses of veterans (who have died in service or from service connected disability) are exempted from payment of the funding fee, regardless of whether the spouse has his/her own eligibility, provided that the spouse has used his/her eligibility to obtain a VA-guaranteed loan. For a loan to be eligible for guaranty, lenders must provide a copy of the Funding Fee Receipt or evidence the veteran is exempt from the requirement of paying the funding fee. The receipt is computer generated and mailed to the lender ID number address that was entered into an Automated Clearing House (ACH) service.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 82 FR 43 on March 7, 2017, pages 12919–12920.

Affected Public: Business or other for profit.

Estimated Annual Burden: 13,333 hours.

Estimated Average Burden per Respondent: 2 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 400,000.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2017–11300 Filed 5–31–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0212]

Agency Information Collection Activity: Veterans Mortgage Life Insurance Statement

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an

opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed from veterans who have received Specially Adapted Housing Grants to decline Veterans Mortgage Life Insurance (VMLI) or to provide information upon which the insurance premium can be based.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before July 31, 2017.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administrations (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0212'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or FAX (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506 (c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Public Law 104–13; 44 U.S.C. 3501–21.

Title: Veterans Mortgage Life Insurance Statement.

OMB Control Number: 2900–0212.

Type of Review: Reinstatement with change of a previously approved collection.

Abstract: This form is used by Veterans who have received Specially Adapted Housing Grants to decline VMLI. The information on the form is required by law, 38 U.S.C. Section 806.

Affected Public: Individuals or households.

Estimated Annual Burden: 250 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 1000.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2017–11299 Filed 5–31–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0786]

Agency Information Collection Activity: Vocational Rehabilitation and Employment (VR&E) Longitudinal Study Survey

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before July 31, 2017.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Ave. NW., Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0786'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor at (202) 461–5870.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Public Law 110–389, Sec 334.

Title: Vocational Rehabilitation and Employment (VR&E) Longitudinal Study Survey.

OMB Control Number: 2900–0786.

Type of Review: Extension of a currently approved collection.

Abstract: As part of Public Law 110–389, Vocational Rehabilitation & Employment (VR&E) VetSuccess Program is conducting a Longitudinal Study of veterans participating in VR&E. This study will take place over the next 20 years.

Affected Public: Individuals and households.

Estimated Annual Burden: 2,333 hours.

Estimated Average Burden per Respondent: 20 minutes.

Frequency of Response: Annually over the course of 20 years.

Estimated Number of Respondents: 7,000.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2017–11301 Filed 5–31–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0404]

Agency Information Collection Activity Under OMB Review: Veteran's Application for Increased Compensation Based on Unemployability

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 3, 2017.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0404'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–5870 or email *cynthia.harvey-pryor@va.gov.* Please refer to ''OMB Control No. 2900–0404'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: U.S.C. 38 1163.

Title: Veteran's Application for Increased Compensation Based on Unemployability (VA Form 21–8940).

OMB Control Number: 2900–0404.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21–8940 is used by veterans to apply for increased VA disability compensation based on the inability to secure or follow a substantially gainful occupation due to service connected disabilities. Without the information, entitlement to individual unemployability benefits could not be determined.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 82 FR 43 on March 7, 2017, page 12913.

Affected Public: Individuals or Households.

Estimated Annual Burden: 18,000.

Estimated Average Burden per Respondent: 45 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 24,000.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2017–11297 Filed 5–31–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0047]

Agency Information Collection Activity: Financial Statement

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before July 3, 2017.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0047'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–5870 or email *cynthia.harvey-pryor@va.gov.* Please refer to ''OMB Control No. 2900–0047'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: Public Law 104–13; 44 U.S.C. 3501–3521.

Title: Financial Statement.

OMB Control Number: 2900–0047.

Type of Review: Extension of a currently approved collection.

Abstract: The major use of the form is to determine a borrower's financial condition in connection with efforts to reinstate a seriously defaulted, guaranteed, insured, or portfolio loan. In addition, the form is used in determining the financial feasibility of a veteran or service member to obtain a home with the assistance of a Specially Adapted Housing Grant under 38 U.S.C., Chapter 21. Also, VA Form 26–6807 may be used to establish eligibility of homeowners for aid under the Homeowners Assistance Program, Public Law 89–754, which provides assistance by reducing losses incident to the disposal of homes when military installations at which the homeowners were employed or serving are ordered closed in whole or in part. Finally, the form is used in release of liability and substitution of entitlement cases. Under the provisions of 38 U.S.C. 3714, the Department of Veterans Affairs (VA) may release original veteran obligors from personal liability arising from the original guaranty of their home loans, or the making of a direct loan, provided purchasers/assumers meet the necessary requirements, among which is qualifying from a credit standpoint. Substitution of entitlement is authorized by 38 U.S.C. 3702(b)(2) and prospective veteran-assumers must also meet the creditworthiness requirements.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at Vol. 82, No. 51 on March 17, 2017, page 14278.

Affected Public: Individuals and households.

Estimated Annual Burden: 2,250 hours.

Estimated Average Burden per Respondent: 45 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 3,000.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Enterprise Records Service, Office of Quality and Compliance, Department of Veterans Affairs.

[FR Doc. 2017–11298 Filed 5–31–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0697]

Agency Information Collection Under OMB Review: Approval of Licensing or Certification Test and Organization or Entity

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 3, 2017.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov*, or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0697'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–5870 or email *cynthia.harvey-pryor@va.gov.* Please refer to ''OMB Control No. 2900–0697'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: U.S. Code 38 Section 3689.

Title: Approval of Licensing or Certification Test and Organization or Entity.

OMB Control Number: 2900–0697.

Type of Review: Reinstatement of a previously approved collection.

Abstract: SAAs and VA will use the information to decide whether the licensing and certification tests, and the organizations offering them, should be approved for use under the education programs VA administers. VA did not develop an official form for this information collection since section 3689 of title 38, United States Code permitted VA to delegate the approval functions to the State Approving Agencies; and from the inception of this information collection, VA has given the State Approving Agencies the authority to approve licensing and certification tests and organizations. Consequently, the State Approving Agencies have developed their own forms to gather information they will need per their respective state laws to decide whether the licensing and certification tests and the organizations offering them should be approved. In the case of an organization seeking approval directly from VA, any information VA receives concerning the request for approval is forwarded directly to the appropriate State Approving Agency. Since SAAs have approval authority, education institutions and licensing and certification organizations supply information to the SAAs for approval in a manner specified by the SAA.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 82 FR 51 on March 17, 2017, pages 14277–14278.

Affected Public: Individuals or Households.

Estimated Annual Burden: 817 hours.

Estimated Average Burden per Respondent: 3 hours.

Frequency of Response: Annually.

Estimated Number of Respondents: 2451 respondents.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2017–11296 Filed 5–31–17; 8:45 am]

BILLING CODE 8320–01–P

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CFR PARTS AFFECTED DURING JUNE

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List May 19, 2017

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TABLE OF EFFECTIVE DATES AND TIME PERIODS—JUNE 2017

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

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