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Contents

Federal Register

Vol. 90, No. 188

Wednesday, October 1, 2025

Agricultural Marketing Service
PROPOSED RULES
Changes to Administrative Requirements:
Walnuts Grown in California, 47248–47251
Decreased Assessment Rate:
Grapes Grown in a Designated Area of Southeastern California, 47243–47245
Sweet Onions Grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon, 47245–47248
Increased Assessment Rate:
Oranges, Grapefruit, Tangerines, and Pummelos Grown in Florida, 47240–47242

Agriculture Department
See Agricultural Marketing Service

Bureau of the Fiscal Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Accounts Receivable Forms for Debt Repayment, 47500–47501
FHA New Account Request, Transition Request, and Transfer Request, 47500
Reclamation—Electronic Funds Transfer, Federal Recurring Payment, 47499–47500

Civil Rights Commission
NOTICES
Hearings, Meetings, Proceedings, etc.:
Maryland Advisory Committee, 47291

Coast Guard
RULES
Drawbridge Operations:
Canaveral Barge Canal, Port Canaveral, FL, 47232–47234
Safety Zone:
Lower Mississippi River, Mile Marker 96.8 to 97.5 Above Head of Passes, New Orleans, LA—Gretna Heritage Festival, 47234–47235

Commerce Department
See Economic Analysis Bureau
See International Trade Administration
See National Oceanic and Atmospheric Administration
See National Telecommunications and Information Administration

Economic Analysis Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Direct Investment Surveys: Quarterly Survey of U.S. Direct Investment Abroad—Transactions of U.S. Reporter With Foreign Affiliate, 47291–47292

Employment and Training Administration
NOTICES
Labor Surplus Area Classification, 47340–47341

Energy Department
See Federal Energy Regulatory Commission

Environmental Protection Agency
RULES
Pesticide Tolerance; Exemptions, Petitions, Revocations, etc.:
Amicarbazone, 47235–47239
PROPOSED RULES
National Emission Standards for Hazardous Air Pollutants:
Secondary Lead Smelting Technology Review, 47268–47286

Federal Aviation Administration
PROPOSED RULES
Airworthiness Directives:
ATR—GIE Avions de Transport Regional Airplanes, 47251–47254
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Unmanned Aircraft Systems Support Center Case Management System, 47494–47495

Federal Election Commission
NOTICES
Meetings; Sunshine Act, 47306–47307

Federal Energy Regulatory Commission
NOTICES
Application:
Eagle Creek Reusens Hydro, LLC; Reasonable Period of Time for Water Quality Certification, 47306
Combined Filings, 47302–47305
Environmental Impact Statements; Availability, etc.:
Black Canyon Hydro, LLC; Seminoe Pumped Storage Project and Public Comment Sessions, 47305–47306
Request for Extension of Time:
Venture Global Plaquemines LNG, LLC, 47302–47303

Federal Reserve System
NOTICES
Change in Bank Control:
Acquisitions of Shares of a Bank or Bank Holding Company, 47307

Federal Transit Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Fixed Guideway Capital Investment Grants Program Section 5309, 47495

Fish and Wildlife Service
NOTICES
Permits; Applications, Issuances, etc.:
Endangered and Threatened Species; Recovery, 47320–47325
Incidental Take; General Conservation Plan for the Alabama Beach Mouse; Categorical Exclusion; Baldwin County, AL, 47325–47326

Food and Drug Administration
RULES
Listing of Color Additives Exempt From Certification:
Gardenia (Genipin), 47229

NOTICES
Application:
Yong Sheng Jiao; Termination of Debarment; Denial, 47312
Final Debarment Order:
Jason Oppenheimer, 47310–47311

Foreign Assets Control Office
RULES
Publication of an Iran-Related Determination, 47229–47230
Publication of Iranian Transactions and Sanctions Regulations Web General License, 47230–47231
Publication of Russian Harmful Foreign Activities Sanctions Regulations Web General License 104A, 47230

General Services Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Acquisition Regulation; Federal Supply Schedule Pricing Disclosures and Sales Reporting, 47307–47308
Acquisition Regulation; Transactional Data Reporting, 47308–47310

Health and Human Services Department
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration

Health Resources and Services Administration
NOTICES
HRSA-Supported Women's Preventive Services Guidelines Relating to Screening for Cervical Cancer, 47313–47314

Homeland Security Department
See Coast Guard
See U.S. Citizenship and Immigration Services

Interior Department
See Fish and Wildlife Service
See National Park Service

International Trade Administration
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Advance Notification of Sunset Review, 47296
Opportunity to Request Administrative Review and Join Annual Inquiry Service List, 47292–47295
Steel Concrete Reinforcing Bar From the Republic of Turkiye, 47295–47296

International Trade Commission
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Hexamine From Germany, India, and Saudi Arabia, 47327–47328
Investigations; Determinations, Modifications, and Rulings, etc.:
Certain Rolled-Edge Rigid Plastic Food Trays, 47333–47334
Commodity Matchbooks From India; Institution of Five-Year Reviews, 47330–47333
Monosodium Glutamate From China and Indonesia, 47334–47337
Prestressed Concrete Steel Wire Strand From Brazil, India, Japan, Mexico, South Korea, and Thailand, 47337–47340
Tetrahydrofurfuryl Alcohol From China, 47328–47330

Labor Department
See Employment and Training Administration
See Labor Statistics Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Displaced Worker, Job Tenure, and Occupational Mobility Supplement to CPS, 47342–47343
High-Voltage Continuous Mining Machines Standards for Underground Coal Mines, 47342
National Longitudinal Survey of Youth 2027 Pre-Test, 47341–47342
Notice of Termination, Peace Corps Volunteer Authorization for Examination and/or Treatment, 47343

Labor Statistics Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 47343–47346

Millennium Challenge Corporation
NOTICES
Hearings, Meetings, Proceedings, etc., 47346

National Aeronautics and Space Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Property in the Custody of Award Recipients and Property Management System Analysis, 47346–47347

National Credit Union Administration
NOTICES
Funding Opportunity:
2025 Community Development Revolving Loan Fund, 47347–47350

National Institutes of Health
NOTICES
Hearings, Meetings, Proceedings, etc.:
Center for Scientific Review, 47314
Eunice Kennedy Shriver National Institute of Child Health and Human Development, 47316
Fogarty International Center, 47314–47316
Office of the Secretary, 47315

National Oceanic and Atmospheric Administration
NOTICES
Hearings, Meetings, Proceedings, etc.:
Council Coordination Committee, 47300
Mid-Atlantic Fishery Management Council, 47297–47298
Pacific Fishery Management Council, 47297
South Atlantic Fishery Management Council, 47297
Permits; Applications, Issuances, etc.:
Endangered Species; File No. 20528, 47300–47301
Taking or Importing of Marine Mammals:
Port Everglades Harbor Navigation Improvement Project, Broward County, FL, 47298–47299

National Park Service
NOTICES
Repatriation of Cultural Items:
California State University Monterey Bay, Seaside, CA, 47326–47327

National Science Foundation
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 47350–47353

National Telecommunications and Information Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Space Launch Frequency Coordination Portal, 47301–47302

Nuclear Regulatory Commission
NOTICES
Exemption:
Constellation Energy Generation, LLC; Dresden Nuclear Power Station, Unit Nos. 2 and 3, 47357–47360
Hearings, Meetings, Proceedings, etc.:
Advisory Committee on Reactor Safeguards, 47353–47355
Licenses; Exemptions, Applications, Amendments, etc.:
NextEra Energy Point Beach, LLC; Point Beach Nuclear Plant, Units 1 and 2, 47355–47357

Personnel Management Office
NOTICES
Privacy Act; Systems of Records, 47360–47363

Postal Regulatory Commission
NOTICES
New Postal Products, 47363–47365

Postal Service
NOTICES
Product Change:
Priority Mail Express, Priority Mail, and USPS Ground Advantage Negotiated Service Agreements; Priority Mail and USPS Ground Advantage Negotiated Service Agreements; Priority Mail, 47365

Securities and Exchange Commission
PROPOSED RULES
Concept Release on Residential Mortgage-Backed Securities Disclosures and Enhancements to Asset-Backed Securities Registration, 47254–47266
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 47437, 47455–47456
Application:
DFA Investment Dimensions Group Inc., Dimensional Investment Group Inc., Dimensional ETF Trust and Dimensional Fund Advisors LP, 47412–47418
Deregistration Under the Investment Company Act, 47491–47492
Self-Regulatory Organizations; Proposed Rule Changes:
Cboe BZX Exchange, Inc., 47365–47367, 47390–47399
Fixed Income Clearing Corp., 47437–47441
Nasdaq BX, Inc., 47428–47437
Nasdaq GEMX, LLC, 47444–47453
Nasdaq ISE, LLC, 47456–47470
Nasdaq MRX, LLC, 47373–47383
Nasdaq PHLX LLC, 47401–47411, 47441–47443
New York Stock Exchange LLC, 47371–47373
NYSE American LLC, 47399–47401
NYSE Arca, Inc., 47367–47371
NYSE National, Inc., 47453–47455
NYSE Texas, Inc., 47486–47489
The Nasdaq Stock Market LLC, 47411–47412, 47418–47428
The Options Clearing Corp., 47383–47390, 47470–47486, 47489–47491

State Department
NOTICES
Culturally Significant Objects Imported for Exhibition:
Arts of Islamic Lands: Masterpieces From The al-Sabah Collection, Kuwait, Part II, 47493
Rodin's Egypt, 47493
Determination:
Foreign Missions Act, 47492–47494

Substance Abuse and Mental Health Services Administration
NOTICES
List of Certified Laboratories and Instrumented Initial Testing Facilities That Meet Minimum Standards To Engage in Urine Drug Testing, 47317–47318

Transportation Department
See Federal Aviation Administration
See Federal Transit Administration
PROPOSED RULES
Procedures for Transportation Workplace Drug and Alcohol Testing Programs, 47286–47290
NOTICES
Privacy Act; Systems of Records, 47496–47499

Treasury Department
See Bureau of the Fiscal Service
See Foreign Assets Control Office
See United States Mint
PROPOSED RULES
GENIUS Act Implementation, 47251

U.S. Citizenship and Immigration Services
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Certain Biographic and Employment Identifiers on Immigration Forms, 47318–47320

United States Mint
NOTICES
Hearings, Meetings, Proceedings, etc.:
Citizens Coinage Advisory Committee, 47501

Veterans Affairs Department
PROPOSED RULES
Eliminating the Requirement for Laparoscopy To Establish Service Connection for Endometriosis, 47266–47268

Reader Aids

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

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CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR

Proposed Rules:

905.....47240
925.....47243
956.....47245
984.....47248

12 CFR

Proposed Rules:

Ch. XV 47251

14 CFR

Proposed Rules:

39.....47251

17 CFR

Proposed Rules:

229.....47254
230.....47254
239.....47254
240.....47254
249.....47254

21 CFR

73.....47229

31 CFR

Ch. V.....47230
562.....47229
587.....47230

Proposed Rules:

Subtitle A 47251
Subtitle B 47251

33 CFR

117.....47232
165.....47234

38 CFR

Proposed Rules:

4.....47266

40 CFR

180.....47235

Proposed Rules:

63.....47268

49 CFR

Proposed Rules:

40.....47286

Rules and Regulations

Federal Register
Vol. 90, No. 188
Wednesday, October 1, 2025

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

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

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 73

[Docket No. FDA–2021–C–0522]

Listing of Color Additives Exempt From Certification; Gardenia (Genipin) Blue; Confirmation of Effective Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Final amendment; order; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA or we) is confirming the effective date of August 29, 2025, for the order that appeared in the **Federal Register** of July 15, 2025. The order amends the color additive regulations to provide for the safe use of gardenia (genipin) blue as a color additive, at levels consistent with good manufacturing practice (GMP), in sport drinks, flavored or enhanced non-carbonated water, fruit drinks and ades, ready-to-drink teas, hard candy, and soft candy.

DATES: The effective date of August 29, 2025, for the order published in the **Federal Register** of July 15, 2025 (90 FR 31586), is confirmed.

ADDRESSES: For access to the docket to read background documents or comments received, go to *https://www.regulations.gov* and insert the docket number found in brackets in the heading of this final order into the ''Search'' box and follow the prompts, and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Stephen DiFranco, Human Foods Program, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–2710; or Keronica Richardson, Office of Policy, Regulations, and Information, Human Foods Program, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–2378.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 15, 2025 (90 FR 31586), we amended the color additive regulations to add § 73.168 (21 CFR 73.168) ''Gardenia (genipin) blue,'' to provide for the safe use of gardenia (genipin) blue at levels consistent with GMP in sport drinks, flavored or enhanced non-carbonated water, fruit drinks and ades, ready-to-drink teas, hard candy, and soft candy. In the **Federal Register** of August 6, 2025 (90 FR 37793), we published a correction to the order clarifying the appropriate specification for methanol and amending the codified language of the regulation.

We gave interested persons until August 14, 2025, to file objections or requests for a hearing (90 FR 31586 at 31587). We received no objections or requests for a hearing on the order. Therefore, we find that the effective date of the order that published in the **Federal Register** of July 15, 2025, should be confirmed.

List of Subjects in 21 CFR Part 73

Color additives, Cosmetics, Drugs, Foods, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 379e) and under authority delegated to the Commissioner of Food and Drugs, we are giving notice that no objections or requests for a hearing were filed in response to the July 15, 2025, order. Accordingly, the amendments issued thereby became effective August 29, 2025.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2025–19166 Filed 9–30–25; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 562

Publication of an Iran-Related Determination.

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Publication of a determination.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing a sector determination pursuant to a January 10, 2020 Executive Order. The determination was previously issued on OFAC's website.

DATES: The determination was issued on October 8, 2020. See **SUPPLEMENTARY INFORMATION** for additional relevant dates.

FOR FURTHER INFORMATION CONTACT: OFAC: Assistant Director for Regulatory Affairs, 202–622–4855; or *https://ofac.treasury.gov/contact-ofac.*

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document and additional information concerning OFAC are available on OFAC's website: *https://ofac.treasury.gov/.*

Background

On January 10, 2020, the President, invoking the authority of, *inter alia,* the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), issued Executive Order (E.O.) 13902 of January 10, 2020, ''Imposing Sanctions With Respect to Additional Sectors of Iran'' (85 FR 2003, January 14, 2020). Among other prohibitions, section 1(a)(i) of E.O. 13902 blocks, with certain exceptions, all property and interests in property that are in the United States, that come within the United States, or that are or come within the possession or control of any U.S. person of, any person determined by the Secretary of the Treasury, in consultation with the Secretary of State to operate in the construction, mining, manufacturing, or textiles sectors of the Iranian economy, or any other sector of the Iranian economy as may be determined by the Secretary of the Treasury, in consultation with the Secretary of State.

On October 8, 2020, the Secretary of the Treasury, in consultation with the Department of State, determined that section 1(a)(i) of E.O. 13902 shall apply to the financial sector of the Iranian economy. This determination took effect on October 8, 2020. The text of the determination is provided below.

Determination Pursuant to Section 1(a)(i) of Executive Order 13902

Section 1(a)(i) of Executive Order 13902 of January 10, 2020 (''Imposing Sanctions With Respect to Additional Sectors of Iran'') (E.O. 13902) imposes economic sanctions on any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, to operate in such sectors of the Iranian economy as may be determined, pursuant to section 1(a)(i) of the order, by the Secretary of the Treasury, in consultation with the Secretary of State.

To further deny funding to the Iranian regime's nuclear program, missile development, terrorism and terrorist proxy networks, and malign regional influence, in response to its extraordinary threat to the national security and foreign policy of the United States described in E.O. 13902, and in consultation with the Secretary of State, I hereby determine that section 1(a)(i) shall apply to the financial sector of the Iranian economy. Any person I or my designee subsequently determine, in consultation with the Secretary of State, operates in this sector shall be subject to sanctions pursuant to section 1(a)(i).

October 8, 2020.

Steven T. Mnuchin,

Secretary, U.S. Department of the Treasury.

Bradley T. Smith,

Director, Office of Foreign Assets Control.

[FR Doc. 2025–19123 Filed 9–30–25; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 587

Publication of Russian Harmful Foreign Activities Sanctions Regulations Web General License 104A

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Publication of a web general license.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing a general license (GL) issued pursuant to the Russian Harmful Foreign Activities Sanctions Regulations: GL 104A, which was previously made available on OFAC's website.

DATES: GL 104A was issued on August 27, 2025. See **SUPPLEMENTARY INFORMATION** for additional relevant dates.

FOR FURTHER INFORMATION CONTACT: OFAC: Assistant Director for Regulatory Affairs, 202–622–4855; or *https://ofac.treasury.gov/contact-ofac.*

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document and additional information concerning OFAC are available on OFAC's website: *https://ofac.treasury.gov/.*

Background

On August 27, 2025, OFAC issued GL 104A to authorize certain transactions otherwise prohibited by the Russian Harmful Foreign Activities Sanctions Regulations, 31 CFR part 587. This GL was made available on OFAC's website (*https://ofac.treasury.gov*) when it was issued. GL 104A replaced and superseded GL 104. GL 104A has an expiration date of September 1, 2026. The text of this GL is provided below.

OFFICE OF FOREIGN ASSETS CONTROL

Russian Harmful Foreign Activities Sanctions Regulations

31 CFR Part 587

GENERAL LICENSE NO. 104A

Authorizing Transactions Related to Imports of Certain Diamonds Prohibited by Executive Order 14068

(a) Except as provided in paragraph (b) of this general license, all transactions prohibited by the determination of February 8, 2024 made pursuant to section 1(a)(i)(B) of Executive Order (E.O.) 14068 (''Prohibitions Related to Imports of Certain Categories of Diamonds'') that are ordinarily incident and necessary to the importation and entry into the United States, including importation for admission into a foreign trade zone located in the United States, of the following categories of diamonds are authorized through 12:01 a.m. eastern daylight time, September 1, 2026, provided that the diamonds were physically located outside of the Russian Federation before, and were not exported or re-exported from the Russian Federation since:

(1) March 1, 2024 for non-industrial diamonds with a weight of 1.0 carat or greater; or

(2) September 1, 2024 for non-industrial diamonds with a weight of 0.5 carats or greater.

Note 1 to paragraph (a). The importation and entry into the United States, including importation for admission into a foreign trade zone located in the United States, of non-industrial diamonds of Russian Federation origin remains prohibited pursuant to section 1(a)(i)(A) of E.O. 14068.

(b) This general license does not authorize any transactions otherwise prohibited by the Russian Harmful Foreign Activities Sanctions Regulations, 31 CFR part 587 (RuHSR), including transactions involving any person blocked pursuant to the RuHSR, unless separately authorized.

(c) Effective August 27, 2025, General License No. 104, dated August 23, 2024, is replaced and superseded in its entirety by this General License No. 104A.

Note 2 to General License No. 104A. Nothing in this general license relieves any person from compliance with any other Federal laws or requirements of other Federal agencies.

Bradley T. Smith,

Director, Office of Foreign Assets Control,

Dated: August 27, 2025.

Bradley T. Smith,

Director, Office of Foreign Assets Control.

[FR Doc. 2025–19124 Filed 9–30–25; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Chapter V

Publication of Iranian Transactions and Sanctions Regulations Web General License

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Publication of a web general license.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing a general license (GL) issued in the Iranian sanctions program: GL R. This GL was previously made available on OFAC's website upon its issuance.

DATES: GL R was issued on July 30, 2025. See **SUPPLEMENTARY INFORMATION** for additional relevant dates.

FOR FURTHER INFORMATION CONTACT: OFAC: Assistant Director for Regulatory Affairs, 202–622–4855; or *https://ofac.treasury.gov/contact-ofac.*

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document and additional information concerning OFAC are available on OFAC's website: *https://ofac.treasury.gov/.*

Background

On July 30, 2025, OFAC issued GL R to authorize certain transactions otherwise prohibited by Executive Order 13902 of January 10, 2020 (''Imposing Sanctions With Respect to Additional Sectors of Iran,'' 85 FR 2003,

January 14, 2020). GL R was made available on OFAC's website (*https://ofac.treasury.gov*) when it was issued. The text of this GL is provided below.

OFFICE OF FOREIGN ASSETS CONTROL

Executive Order 13902 of January 10, 2020

Imposing Sanctions With Respect to Additional Sectors of Iran

GENERAL LICENSE R

Authorizing Limited Safety and Environmental Transactions and the Offloading of Cargo Involving Certain Persons or Vessels Blocked on July 30, 2025

(a) Except as provided in paragraph (b) of this general license, all transactions prohibited by Executive Order (E.O.) 13902 that are ordinarily incident and necessary to one or more of the following activities involving the blocked vessels or blocked persons listed in the Annex to this general license, and any entity in which those blocked persons own, directly or indirectly, individually or in the aggregate, a 50 percent or greater interest, are authorized through 12:01 a.m. eastern daylight time, October 1, 2025, provided that any payment to a blocked person must be made into a blocked interest-bearing account located in the United States:

(1) The safe docking and anchoring in, and departure from, any port, excluding ports located in Iran or the Russian Federation, or under the control of the Government of Iran or the Government of the Russian Federation, of the blocked vessels listed in the Annex to this general license (the ''Blocked Vessels'');

(2) The preservation of the health or safety of the crew of any of the Blocked Vessels;

(3) Emergency repairs of any of the Blocked Vessels or environmental mitigation or protection activities relating to any of the Blocked Vessels; or

(4) The delivery and offloading of cargo involving the Blocked Vessels, provided that the cargo was loaded on or before July 30, 2025 and that the delivery and offloading of cargo does not occur at any port located in Iran or the Russian Federation or under the control of the Government of Iran or the Government of the Russian Federation.

Note 1 to paragraph (a). The authorization in paragraph (a) of this general license includes services such as vessel management, crewing, bunkering, piloting, registration, flagging, insurance, classification, and salvage.

(b) This general license does not authorize:

(1) The entry into any new commercial contracts involving the property or interests in property of any blocked persons, including the blocked persons described in paragraph (a) of this general license, except as authorized by paragraph (a); or

(2) Any transactions or activities prohibited by E.O. 13902, except as authorized by paragraph (a) of this general license, or any transaction or activity prohibited by any other E.O. or any part of 31 CFR chapter V, including any transaction or activity involving Iran, the Government of Iran, or Iranian-origin goods or services that is prohibited by the Iranian Transactions and Sanctions Regulations (31 CFR part 560).

Lawrence M. Scheinert,

Acting Deputy Director, Office of Foreign Assets Control,

Dated: July 30, 2025.

Annex—Blocked Persons and Vessels Described in Paragraph (a) of General License R

List of Blocked Persons and Blocked Vessels Described in Paragraph (a) of General License R as of July 30, 2025:

Blocked person	Blocked vessel name	IMO No.
Marvise SMC DMCC	ALE	9303754
Marvise SMC DMCC	BERTIE	9241487
Marvise SMC DMCC	BIGLI	9307047
Marvise SMC DMCC	HAKUNA MATATA	9354167
Marvise SMC DMCC	LIDIA	9330501
Marvise SMC DMCC	MOANA	9292151
Marvise SMC DMCC	PINOCCHIO	9400112
Marvise SMC DMCC	PUMBA	9302566
Marvise SMC DMCC	RANTANPLAN	9307023
Marvise SMC DMCC	SIMBA	9719862
Marvise SMC DMCC	STAR	9436484
Marvise SMC DMCC	TEX	9246322
Marvise SMC DMCC	TIMON	9415844
Marvise SMC DMCC	YOGI	9307009
Marvise SMC DMCC	ZAGOR	9313242
Reel Shipping L.L.C	ACE	9228538
Reel Shipping L.L.C	AEOLUS	9088524
Reel Shipping L.L.C	CERUS	9259408
Reel Shipping L.L.C	DHANU	9122473
Reel Shipping L.L.C	GAUJA	9348493
Reel Shipping L.L.C	ROB	9236652
Reel Shipping L.L.C	TB ANPING	9237084

Bradley T. Smith,

Director, Office of Foreign Assets Control.

[FR Doc. 2025–19120 Filed 9–30–25; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2025–0780]

RIN 1625–AA09

Drawbridge Operation Regulation; Canaveral Barge Canal, Port Canaveral, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary Interim Rule with request for comments.

SUMMARY: The Coast Guard is temporarily changing the operating schedule that governs the SR 401 Drawbridges across the Canaveral Barge Canal, mile 5.5, at Port Canaveral, FL. This action is necessary to allow the bridge owner to complete the rehabilitation of the bridges. We invite your comments on this temporary interim rule.

DATES: This temporary interim rule is effective without actual notice from October 1, 2025 through January 31, 2026. For purposes of enforcement, actual notice will be used from September 28, 2025 until October 1, 2025.

Comments and related material must reach the Coast Guard on or before October 31, 2025.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov*. Type the docket number USCG–2025–0780 in the ''SEARCH'' box and click ''SEARCH''. In the Document Type column, select ''Supporting & Related Material''.

You may submit comments identified by docket number USCG–2025–0780 at *https://www.regulations.gov*.

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments. This notice of proposed rulemaking with its plain-language, 100-word-or-less proposed rule summary will be available in this same docket.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary interim rule, call or email Ms. Jennifer Zercher, Bridge Management Specialist, Coast Guard Southeast District; telephone 571–607–5951, email *Jennifer.N.Zercher@uscg.mil*.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
Pub. L. Public Law
§ Section
U.S.C. United States Code
FL Florida
TD Temporary Deviation
FDOT Florida Department of Transportation

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary interim rule under the authority in 5 U.S.C. 553(b). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. This bridge is unable to provide full openings without a 4-hour advance notice and will remain unable to provide full openings without a 4-hour advance notice until rehabilitation work can be completed. The Coast Guard must continue its Temporary Deviation from the normal drawbridge operating schedule until the rehabilitation of the bridge is complete.

On April 2, 2025, the Coast Guard issued a Temporary Deviation (TD) which allowed the bridge owner, FDOT, to deviate from the current operating schedule in 33 CFR 117.273(b) to conduct a major mechanical and structural rehabilitation of the bridges. Additional mechanical issues were found during the course of construction and require repairs which will cause the project to run past the end date of September 28, 2025, of the TD. The bridges cannot be brought back to normal operating condition until the rehabilitation of the bridges is complete and tested. Therefore, there is insufficient time to provide a reasonable comment period and then consider those comments before issuing the temporary deviation.

However, we are soliciting comments on this rulemaking during the first 30 days while this rule is in effect. If the Coast Guard determines that changes to the temporary interim rule are necessary, we will publish a temporary final rule or other appropriate document.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective in less than 30 days after publication in the **Federal Register**. For reasons presented above, delaying the effective date of this rule would be impracticable and contrary to the public interest because the bridges are unable to operate normally and will not be fully functional until the rehabilitation work is completed.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this temporary interim rule under authority in 33 U.S.C. 499. The Coast Guard is temporarily changing the operating schedule 33 CFR 117.273(b), that governs the SR 401 Drawbridges, across the Canaveral Barge Canal, mile, 5.5, at Port Canaveral, FL. The SR 401 Drawbridges consist of three independent bascule drawbridges, each with a vertical clearance of 25 feet at mean high water in the closed position and 90 feet of horizontal clearance between the fenders in the fully open to navigation position.

The authorized Temporary Deviation states the drawbridges are allowed to provide single-leaf openings and a full opening will be provided with a 4-hour advance notice. FDOT, the bridge owner, requested the Temporary Deviation remain effective until January 31, 2026.

IV. Discussion of the Temporary Interim Rule

The Coast Guard is issuing this temporary interim rule to allow the bridge owner of the SR 401 Drawbridges across the Canaveral Barge Canal, mile 5.5, Port Canaveral, FL, to operate single-leaf openings with a 4-hour notice for a full opening until January 31, 2026. The temporary interim rule is necessary to accommodate the rehabilitation of the drawbridges. The exceptions to the 4-hour notice rule are as follows. From 6:30 a.m. to 8 a.m. and 3:30 p.m. to 5:15 p.m. Monday through Friday except Federal holidays and from 11 a.m. to 2 p.m. on Saturdays and Sundays, the drawspans need not be opened for the passage of vessels. Also, from 10 p.m. to 6 a.m., the drawspans will open on signal if at least a 3-hour advance notice is given. Lastly, the drawspans will open as soon as possible for the passage of public vessels of the United States and tugs with tows.

V. Regulatory Analyses

We developed this temporary interim rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive Orders.

A. Impact on Small Entities

The regulatory flexibility analysis provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, do not

apply to rules not subject to notice and comment. As the Coast Guard has, for good cause, waived the notice and comment requirement that would otherwise apply to this rulemaking, the Regulatory Flexibility Act's flexibility analysis provisions do not apply here.

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

Small businesses may send comments to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards by calling 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

B. Collection of Information

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

C. Federalism and Indian Tribal Government

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

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

D. Unfunded Mandates Reform Act

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

E. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning Policy COMDTINST 5090.1 (series) which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f). The Coast Guard has determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule promulgates the operating regulations or procedures for drawbridges and is categorically excluded from further review, under paragraph L49, of Chapter 3, Table 3–1 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

Neither a Record of Environmental Consideration nor a Memorandum for the Record are required for this rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this temporary interim rule.

VI. Public Participation and Request for Comments

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

Submitting comments. We encourage you to submit comments at *https://www.regulations.gov*. To do so, go to *https://www.regulations.gov,* type USCG–2025–0780 in the search box and click ''Search.'' Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select ''Supporting & Related Material'' in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the *https://www.regulations.gov* Frequently Asked Questions web page. Also, if you go to the online docket and sign up for email alerts through the ''Subscribe'' option, you will be notified when comments/updates are posted, or a final rule is published.

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

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; and Department of Homeland Security Delegation No. 00170.1. Revision No. 01.3.

■ 2. Section 117.273 is amended by:

■ a. Staying paragraph (b).

■ b. Adding paragraph (c) to read as follows:

§ 117.273 Canaveral Barge Canal.

* * * * *

(c) The drawspans of the SR 401 Drawbridges, mile 5.5 at Port Canaveral, shall provide single-leaf openings on signal; a full opening shall be provided with a 4-hour advance notice; except that,

(1) From 6:30 a.m. to 8 a.m. and 3:30 p.m. to 5:15 p.m. Monday through Friday except Federal holidays and from 11 a.m. to 2 p.m. on Saturdays and Sundays, the drawspans need not be opened for the passage of vessels.

(2) From 10 p.m. to 6 a.m., the drawspans shall open on signal if at least a 3-hour advance notice is given.

(3) The drawspans must open as soon as possible for the passage of public vessels of the United States and tugs with tows.

Dated: September 26, 2025.

Adam A. Chamie,

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

[FR Doc. 2025–19114 Filed 9–30–25; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2025–0842]

RIN 1625–AA87

Security Zone; Lower Mississippi River, Mile Marker 96.8 to 97.5 Above Head of Passes, New Orleans, LA—Gretna Heritage Festival

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone for all navigable waters within 350 yards of the right descending Bank (RDB) of the Lower Mississippi River (LMR) Mile Marker (MM) 96.8 to MM 97.5, Above Head of Passes (AHP), New Orleans, LA. This security zone is necessary to provide security and protection for events taking place on or adjacent to the LMR for Gretna Heritage Festival. No person or vessel may enter this security zone unless authorized by the Captain of the Port, New Orleans (COTP) or a designated representative.

DATES: This rule is effective from 3 p.m. on October 3, 2025, through 10 p.m. on October 5, 2025.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2025–0842 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email Lieutenant Commander Jacob Gamble, Sector New Orleans, U.S. Coast Guard; 504–269–7251, *Jacob.S.Gamble@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

AHP Above Head of Passes
CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
LMR Lower Mississippi River
MM Mile Marker
NPRM Notice of proposed rulemaking
RDB Right Descending Bank
§ Section
U.S.C. United States Code

II. Background and Authority

The Coast Guard received notice that the annual Gretna Fest will occur from October 3, 2025 through October 5, 2025. The event will be held along the Mississippi River in the vicinity of a permanently established security zone from MM 94 to MM 97, 33 CFR 165.846. However, for this particular event, the security zone area must be extended beyond the boundary of the permanent zone, to MM 97.5. Therefore, the COTP is issuing this rule under the authority in 46 U.S.C. 70051 and 70124, which is needed to protect personnel, vessels, and the marine environment in the navigable waters within the security zone.

The Coast Guard is issuing this temporary rule without prior notice and comment. As is authorized by 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and contrary to the public interest. This temporary security zone must be established by October 3, 2025 and there is insufficient time to solicit and respond to public comments.

For the same reasons, the Coast Guard finds that under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the FR.

III. Discussion of the Rule

This rule establishes a temporary security zone starting 3 p.m. on October 3, 2025, through 10 p.m. on October 5, 2025. The security zone will cover all navigable waters within 350 yards of the RDB of the LMR MM 96.8 to MM 97.5, AHP, New Orleans, LA. The temporary security zone is intended to protect personnel, vessels, and the marine environment in these navigable waters during the event. No vessels or persons will be permitted to enter the security zone without obtaining permission from the COTP or the COTP's designated representative.

IV. Regulatory Analyses

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

A. Impact on Small Entities

The regulatory flexibility analysis provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, do not apply to rules that are not subject to notice and comment. Because the Coast Guard has, for good cause, waived the notice and comment requirement that would otherwise apply to this rulemaking, the Regulatory Flexibility Act's flexibility analysis provisions do not apply here.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), if this rule will affect your small business, organization, or governmental jurisdiction and you have questions contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Small businesses may send comments to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards by calling 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

B. Collection of Information

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

C. Federalism and Indian Tribal Governments

We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

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

D. Unfunded Mandates Reform Act

As required by The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Coast Guard certifies that this rule will not result in an annual expenditure of $100,000,000 or more (adjusted for inflation) by a State, local, or tribal government, in the aggregate, or by the private sector.

E. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast

Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment.

This rule establishes a temporary security. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.4.

■ 2. Add § 33 CFR 165.T08–0842 to read as follows:

§ 165.T08–0842 Security Zone; Lower Mississippi River, Mile Marker 96.8 to 97.5 Above Head of Passes, New Orleans, LA.

(a) Location. The following area is a security zone: All navigable waters within 350 yards of the right descending bank (RDB) of the Lower Mississippi River from mile marker (MM) 96.8 to MM 97.5, NAD83 datum, Above Head of Passes in New Orleans, LA.

(b) Definitions. As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Sector New Orleans (COTP) in the enforcement of the security zone.

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

(2) To seek permission to enter, contact the COTP or a designated representative by telephone at (504) 365–2545 or VHF–FM Channel 16 or 67. Those in the security zone must transit at their slowest speed and comply with all lawful orders or directions given to them by the COTP or a designated representative.

(d) Enforcement Period. This section will be enforced from 3 p.m. on October 3, 2025, through 10 p.m. on October 5, 2025.

Dated: September 26, 2025.

M.A. Burnham,

Captain, U.S. Coast Guard, Acting Captain of the Port Sector New Orleans.

[FR Doc. 2025–19115 Filed 9–30–25; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2024–0330; FRL–12992–01–OCSPP]

Amicarbazone; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of amicarbazone (CASRN 129909–90–6) in or on sugarcane, cane; and sugarcane, molasses. Under the Federal Food, Drug, and Cosmetic Act (FFDCA), UPL Delaware, Inc. submitted a petition to EPA requesting that EPA establish a maximum permissible level for residues of this pesticide in or on the identified commodities.

DATES: This regulation is effective October 1, 2025. Objections and requests for hearings must be received on or before December 1, 2025 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2024–0330, is available at *https://www.regulations.gov.* Additional information about dockets generally, along with instructions for visiting the docket in person, is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Charles Smith, Director, Registration Division (7505T), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (202) 566–1030; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. What is EPA's authority for taking this action?

EPA is issuing this rulemaking under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. FFDCA section 408(b)(2)(A)(i) allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' FFDCA section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings but does not include occupational exposure. FFDCA section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . .''

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2024–0330 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received

by the Hearing Clerk on or before December 1, 2025. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

The EPA's Office of Administrative Law Judges (OALJ), in which the Hearing Clerk is housed, urges parties to file and serve documents by electronic means only, notwithstanding any other particular requirements set forth in other procedural rules governing those proceedings. *See* ''Revised Order Urging Electronic Filing and Service,'' dated June 22, 2023, which can be found at *https://www.epa.gov/system/files/documents/2023-06/2023-06-22%20-%20revised%20order%20urging%20electronic%20filing%20and%20service.pdf.* Although the EPA's regulations require submission via U.S. Mail or hand delivery, the EPA intends to treat submissions filed via electronic means as properly filed submissions; therefore, the EPA believes the preference for submission via electronic means will not be prejudicial. When submitting documents to the OALJ electronically, a person should utilize the OALJ e-filing system at *https://yosemite.epa.gov/oa/eab/eab-alj_upload.nsf.*

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute. If you wish to include CBI in your request, please follow the applicable instructions at *https://www.epa.gov/dockets/commenting-epa-dockets#rules* and clearly mark the information that you claim to be CBI. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice.

II. Petitioned-For Tolerance

In the **Federal Register** of July 3, 2025 (90 FR 29515) (FRL–12474–05–OCSPP), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 4E9122) by UPL Delaware, Inc., 630 Freedom Business Center, Suite 402, King of Prussia, PA 19406. The petition requested that 40 CFR 180.615 be amended by establishing tolerances for residues of amicarbazone, [4-amino-N-tert-butyl-4,5-dihydro-3-isopropyl-5-oxo-1H-1,2,4-triazole-1-carboxamide], including its metabolites and degradates, in or on imported sugarcane, cane at 0.2 parts per million (ppm) and imported sugarcane, molasses at 0.5 ppm. That document referenced a summary of the petition prepared by UPL Delaware, Inc., the registrant, which is available in the docket, *https://www.regulations.gov.* There were no comments received in response to the notice of filing.

III. Final Tolerance Action

A. Aggregate Risk Assessment and Determination of Safety

Consistent with FFDCA section 408(b)(2)(D), and the factors specified therein, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for Amicarbazone including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with Amicarbazone is summarized in this unit.

B. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

In subchronic/chronic animal studies, amicarbazone caused decreased body weight and liver effects. Changes in thyroid hormones and thyroid vacuolization were also seen, although mechanistic studies indicated that these changes were secondary to liver effects. Mice were more sensitive to the effects of amicarbazone than dogs and rats, which were equally sensitive. Minimal progression of toxicity was observed between subchronic and chronic exposure to amicarbazone, which is consistent with the rapid metabolism seen in the absorption, distribution, metabolism, and elimination (ADME) studies. Clinical signs of neurotoxicity (eyelid ptosis, decreased approach response, and red staining of the nasal area) were seen following acute exposure. Evidence of neurotoxicity was not seen in the subchronic or developmental neurotoxicity studies or any other study in the database. There was no evidence of quantitative or qualitative susceptibility in the rat and rabbit developmental, rat developmental neurotoxicity, and rat reproductive toxicity studies. There was no evidence of systemic toxicity following dermal exposure. Amicarbazone is classified as ''Not likely to be carcinogenic to humans'' based on the lack of evidence for carcinogenicity in mice and rats and the lack of concern for mutagenicity. Evidence of immunotoxicity (decreased number of spleen cells per spleen, suppressed antibody response, and decreased spleen weight) was observed in the immunotoxicity study, but at doses higher than those that caused decreased body weight or liver effects in other studies.

Specific information on the studies received and the nature of the adverse effects caused by amicarbazone as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *https://www.regulations.gov* in the document titled ''*Amicarbazone. Human Health Risk Assessment for the Proposed Tolerance on Sugarcane Without a U.S. Registration*'' (hereafter referred to as the ''*Amicarbazone Human Health Assessment*'') on pages 24–30 in docket ID number EPA–HQ–OPP–2024–0330.

C. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the NOAEL and the LOAEL. Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *https://www.epa.gov/pesticides/factsheets/riskassess.htm.*

A summary of the toxicological endpoints for amicarbazone used for human risk assessment is discussed in section 4.3 (Toxicity Endpoint and Point of Departure Selections) of the

Amicarbazone Human Health Assessment.

D. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to amicarbazone, EPA considered exposure under the petitioned-for tolerances as well as all existing amicarbazone tolerances in 40 CFR 180.615. EPA assessed dietary exposures from amicarbazone in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. Such effects were identified for amicarbazone.

In estimating acute dietary exposure, EPA used the Dietary Exposure Evaluation Model software with the Food Commodity Intake Database (DEEM–FCID) Version 4.02. This software uses 2005–2010 food consumption data from the U.S. Department of Agriculture's (USDA's) National Health and Nutrition Examination Survey, What We Eat in America, (NHANES/WWEIA). As to residue levels in food, EPA assumed 100 percent crop treated and used tolerance-level residues adjusted for metabolite factors. Processing factors were reduced to 1X for several processed commodities based on processing data showing that the raw agricultural commodity tolerances are adequate to cover residues in processed commodities.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 2005–2010 CSFII. As to residue levels in food, assumed 100 percent crop treated and used tolerance-level residues adjusted for metabolite factors. Processing factors were reduced to 1X for several processed commodities based on processing data showing that the raw agricultural commodity tolerances are adequate to cover residues in processed commodities.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that amicarbazone does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and PCT information.* EPA did not use anticipated residue and/or PCT information in the dietary assessment for amicarbazone. Tolerance level residues adjusted for metabolite factors and 100 PCT were assumed for all food commodities.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for amicarbazone in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of amicarbazone. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *https://www.epa.gov/oppefed1/models/water/index.htm.*

Based on the Pesticide in Water Calculator (PWC), the estimated drinking water concentrations (EDWCs) of amicarbazone for acute exposures are estimated to be 223 parts per billion (ppb) for ground water. The chronic exposures are estimated to be 149 ppb for ground water. The groundwater numbers were used because they are higher than the surface water numbers. Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

While there are no proposed residential uses for these tolerances, Amicarbazone is currently registered for the following uses that could result in residential exposures: residential lawns, golf courses, sod farms, commercial turf sites, parks, recreation areas, and school grounds. EPA assessed residential exposure using the following assumptions: Residential handler exposure is not expected. There is expected to be residential post-application exposure. There is no POD for the dermal route of exposure; therefore, dermal exposures have not been estimated. The post application exposure to children 1 to less than 2 years old, reflecting hand-to-mouth exposures resulting from outdoor (turf) applications, was used in the aggregate assessment. Food is the only route of exposure resulting from the petitioned-for tolerances. However, EPA's risk assessment considers all relevant exposure pathways. Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *https://www.epa.gov/pesticides/trac/science/trac6a05.pdf.*

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to amicarbazone and any other substances and amicarbazone does not appear to produce a toxic metabolite produced by other substances. For the purposes of this action, therefore, EPA has not assumed that amicarbazone has a common mechanism of toxicity with other substances. In 2016, EPA's Office of Pesticide Programs released a guidance document titled, *Pesticide Cumulative Risk Assessment: Framework for Screening Analysis https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/pesticide-cumulative-risk-assessment-framework.* This document provides guidance on how to screen groups of pesticides for cumulative evaluation using a two-step approach beginning with the evaluation of available toxicological information and if necessary, followed by a risk-based screening approach. This framework supplements the existing guidance documents for establishing common mechanism groups (CMGs) and conducting cumulative risk assessments. During registration review, the Agency will utilize this framework to determine if the available toxicological data for amicarbazone suggests a candidate CMG may be established with other pesticides. If a CMG is established, a screening-level toxicology and exposure analysis may be conducted to provide an initial screen for multiple pesticide exposure.

E. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* There was no evidence of quantitative or qualitative susceptibility in the rat

and rabbit developmental, rat developmental neurotoxicity, and rat reproductive toxicity studies. There was no evidence of systemic toxicity following dermal exposure. Evidence of immunotoxicity (decreased number of spleen cells per spleen, suppressed antibody response, and decreased spleen weight) was observed in the immunotoxicity study, but at doses higher than those that caused decreased body weight or liver effects in other studies.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for amicarbazone is complete.

ii. Acute neurotoxicity was observed in the database. A clear NOAEL was established for the acute neurotoxic effects, and the endpoints and PODs selected for risk assessment are protective of the clinical signs observed in the acute neurotoxicity study.

iii. No evidence of increased quantitative or qualitative susceptibility was seen in rat and rabbit developmental toxicity, rat reproduction, or rat developmental neurotoxicity studies. All effects in the young were observed in the presence of comparable maternal toxicity. Delayed skeletal development and incomplete ossification were observed in the rat and rabbit developmental studies, respectively, at doses where dams had decreased body weight. In the reproduction study, decreased pup weight was seen at the same doses as decreased body weight in the dams. The endpoints selected for risk assessment are protective of all effects observed in these studies.

iv. There is no residual uncertainty with respect to the exposure assessments conducted for amicarbazone. The dietary exposure estimates in this assessment rely on conservative estimates of all residues of concern from both the food and drinking water exposure pathways. The aggregate assessment, which includes children's exposures to residues on treated turf, is expected to be conservative due to the use of default turf transferable residue (TTR) data, whereas the greatest herbicidal effectiveness is achieved when it is watered in.

F. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to amicarbazone will occupy 45% of the aPAD for all infants less than 1 year old, the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to amicarbazone from food and water will utilize 61% of the cPAD for all infants less than 1 year old, the population group receiving the greatest exposure. Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic residential exposure to residues of amicarbazone is not expected.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Amicarbazone is currently registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to amicarbazone.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs of 400 for children 1–2 years old, the only population group of concern. Because EPA's level of concern for amicarbazone is an MOE of 100 or below, this MOE is not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

An intermediate-term adverse effect was identified; however, amicarbazone is not registered for any use patterns that would result in intermediate-term residential exposure. Intermediate-term risk is assessed based on intermediate-term residential exposure plus chronic dietary exposure. Because there is no intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess intermediate-term risk), no further assessment of intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating intermediate-term risk for amicarbazone.

5. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, amicarbazone is not expected to pose a cancer risk to humans.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to amicarbazone residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (LC–MS/MS) is available to enforce the tolerance expression.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4).

The Codex has not established a MRL for amicarbazone in or on sugarcane.

V. Conclusion

Therefore, tolerances are established for residues of amicarbazone in or on sugarcane, cane at 0.2 ppm; and sugarcane, molasses at 0.5 ppm.

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at *https://www.epa.gov/regulations/and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review

This action is exempt from review under Executive Order 12866 (58 FR 51735, October 4, 1993), because it establishes or modifies a pesticide tolerance or a tolerance exemption under FFDCA section 408 in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of

actions from review under Executive Order 12866.

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

Executive Order 14192 (90 FR 9065, February 6, 2025) does not apply because actions that establish a tolerance under FFDCA section 408 are exempted from review under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA 44 U.S.C. 3501 *et seq.,* because it does not contain any information collection activities.

D. Regulatory Flexibility Act (RFA)

Since tolerance actions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the RFA, 5 U.S.C. 601 *et seq.,* do not apply to this action.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more (in 1995 dollars and adjusted annually for inflation) 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 on the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because 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.

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

This action does not have Tribal implications as specified in Executive Order 13175 (65 FR 67249, November 9, 2000), because it will not have substantial direct effects on Tribal governments, on the relationship between the Federal Government and the Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

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

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because tolerance actions like this one are exempt from review under Executive Order 12866. However, EPA's 2021 Policy on Children's Health applies to this action.

This rule finalizes tolerance actions under the FFDCA, which requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . .'' (FFDCA 408(b)(2)(C)). The Agency's consideration is documented in the pesticide-specific registration review documents, located in each chemical docket at *https://www.regulations.gov.*

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This action is not subject to Executive Order 13211 (66 FR 28355) (May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer Advancement Act (NTTAA)

This action does not involve technical standards that would require Agency consideration under NTTAA section 12(d), 15 U.S.C. 272.

K. Congressional Review Act (CRA)

This action is subject to the CRA, 5 U.S.C. 801 *et seq.,* and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 24, 2025.

Charles Smith,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.615, amend the table in paragraph (a) by:

■ a. Adding a table heading;

■ b. Adding in alphabetical order entries for ''Sugarcane, cane'' and ''Sugarcane, molasses''; and

■ c. Adding footnote 1.

The additions read as follows:

§ 180.615 Amicarbazone; tolerances for residues.

(a) * * *

TABLE 1 TO PARAGRAPH (a)

Commodity	Parts per million
* * * * *	
Sugarcane, cane [1]	0.2
Sugarcane, molasses [1]	0.5
* * * * *	

[1] There are no current U.S. registrations

* * * * *

[FR Doc. 2025–19144 Filed 9–30–25; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 90, No. 188
Wednesday, October 1, 2025

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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Doc. No. AMS–SC–24–0071]

Oranges, Grapefruit, Tangerines, and Pummelos Grown in Florida; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement a recommendation from the Citrus Administrative Committee (Committee) to increase the assessment rate established for the 2024–2025 and subsequent fiscal periods from $0.02 to $0.025 per ⅘-bushel carton or equivalent for oranges, grapefruit, tangerines and pummelos grown in Florida. The proposed assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by October 31, 2025.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments can be sent to the Docket Clerk, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237. Comments can also be sent to the Docket Clerk electronically by email: *MarketingOrderComment@usda.gov* or via the internet: *https://www.regulations.gov.* Comments should reference the document number, the date, and the page number of this issue of the **Federal Register**. Comments submitted in response to this proposed rule will be included in the record, will be made available to the public, and can be viewed at: *https://www.regulations.gov.* Please be advised that the identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Jennie M. Varela, Marketing Specialist, or Christian D. Nissen, Chief, Southeast Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; telephone: (863) 324–3375, fax: (863) 291–8614, or email: *Jennie.Varela@usda.gov* or *Christian.Nissen@usda.gov.*

Small businesses may request information on complying with this regulation by contacting Antoinette Carter, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–8085, or email: *Antoinette.Carter@usda.gov.*

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, proposes to amend regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This proposed rule is issued under Marketing Order No. 905, as amended (7 CFR part 905), regulating the handling of oranges, grapefruit, tangerines, and pummelos grown in Florida. Part 905 (referred to as ''the Order'') is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The Committee locally administers the Order and is comprised of growers of fresh citrus operating within the area of production, and one public member.

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

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

This proposed rule has been reviewed under Executive Order 12988, ''Civil Justice Reform.'' Under the Order now in effect, Florida citrus handlers are subject to assessments. Funds to administer the Order are derived from such assessments. It is intended that the proposed assessment rate would be applicable to all assessable Florida citrus for the 2024–2025 fiscal period, and continue until amended, suspended, or terminated.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the U.S. Department of Agriculture (USDA) a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This proposed rule would increase the assessment rate for Florida citrus handled under the Order from $0.02 to $0.025 per ⅘-bushel carton or equivalent, for the 2024–2025 and subsequent fiscal periods.

Sections 905.40 and 905.41 of the Order authorize the Committee, with the approval of AMS, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are familiar with the

Committee's needs and with the costs of goods and services in their local area and, thus, can formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting, and all directly affected persons have an opportunity to participate and provide input.

For the 2023–2024 and subsequent fiscal periods, the Committee recommended, and AMS approved, an assessment rate of $0.02 per 4/5-bushel carton of citrus or equivalent. That rate continues in effect from fiscal period to fiscal period until modified, suspended, or terminated by AMS upon recommendation and information submitted by the Committee or other information available to AMS.

The Committee met on September 23, 2024, and unanimously recommended 2024–2025 fiscal period expenditures of $119,624 and an increased assessment rate of $0.025 per 4/5-bushel carton of citrus or equivalent handled for the 2024–2025 fiscal period and subsequent fiscal periods. In comparison, budgeted expenditures for the 2023–2024 fiscal year were $124,624. The proposed assessment rate of $0.025 is $0.005 higher than the rate currently in effect. The Committee recommended increasing the assessment rate to reduce the burden on its financial reserve, which had been strained during the previous two seasons after unexpected, decreased shipment volumes. Following Hurricanes Helene and Milton, the Committee met again on November 14, 2024, and reaffirmed its recommendation for an assessment rate increase to help respond to damage incurred by both weather events. The Committee estimates shipments of approximately 4,500,000 4/5-bushel cartons of citrus or equivalent for the 2024–2025 fiscal period, which is 1,145,904 fewer cartons than was handled for the 2023–2024 fiscal period.

The major expenditures recommended by the Committee for the 2024–2025 fiscal period include management, auditing, and compliance travel expenses—the same as budgeted for the 2023–2024 fiscal period.

The Committee derived the recommended assessment rate by considering anticipated expenses, an estimated 4,500,000 4/5-bushel cartons or equivalent of assessable Florida citrus, and the amount of funds available in the authorized reserve. At the current assessment rate of $0.02, the expected 4,500,000 4/5-bushel cartons or equivalent of the assessable Florida citrus would generate $90,000 in assessment revenue (4,500,000 cartons multiplied by the $0.02 assessment rate), which would require the use of $29,624 of reserves to cover the anticipated expenditures of $119,624 for the 2024–2025 fiscal period. By increasing the assessment rate by $0.005 to $0.025, assessment revenue would generate $112,500 (4,500,000 cartons multiplied by the $0.025 assessment rate) for the 2024–2025 fiscal period and would only require $7,124 in reserves to cover expenditures. Income derived from handler assessments, along with reserve funds and interest income, would be sufficient to meet the Committee's recommended budgeted expenditures of $119,624 for the 2024–2025 fiscal period. Funds available in the reserve (approximately $146,000) are expected to be kept within the maximum permitted by the Order (approximately two fiscal periods' expenses as authorized in § 905.42).

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by AMS upon recommendation and information submitted by the Committee or other available information. Although this assessment rate would be in effect for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or AMS. Committee meetings are open to the public and interested persons may express their views at these meetings. AMS will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 2024–2025 fiscal period budget, and those for subsequent fiscal periods, will be reviewed and, as appropriate, approved by AMS.

Initial Regulatory Flexibility Analysis

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

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are 12 handlers of Florida citrus who are subject to regulation under the Order and approximately 500 citrus producers in the regulated area. At the time this analysis was prepared, the Small Business Administration (SBA) defined small agricultural producers as those having annual receipts equal to or less than $4.0 million for orange producers (North American Industry Classification System (NAICS) code 111310), and $4.25 million for other citrus producers (including grapefruit) (NAICS code 111320). Small agricultural service firms, including handlers, are defined as those whose annual receipts are equal to or less than $34.0 million (NAICS 115114) (13 CFR 121.201).

According to the data from the National Agricultural Statistic Service (NASS), the average free on board (FOB) price for fresh Florida oranges for the 2023–2024 season was approximately $18.15 per carton with total shipments of 3,504,000 cartons for a total value of $63,597,600. The average FOB price for fresh Florida grapefruit for the 2023–2024 season was $22.75 per carton with total fresh shipments of 1,201,000 cartons for a total value of $54,645,000. Based on this information, the majority of fresh citrus handlers have average annual receipts less than $34,000,000 ($63,597,600 plus $54,645,500 equals $118,243,100 divided by 12 handlers equals $9,853,591.67).

In addition, based on the NASS data, the on-tree price for growers for the 2023–2024 season was estimated at a weighted average price of $4.51 per carton. Fresh oranges make up a small segment of the citrus industry. The on-tree price for fresh oranges was $7.93 per carton with shipments of 3,504,000 cartons for a value of $27,786,720, while oranges for processing were $4.14 per carton with shipments of 32,416,000 cartons for a total value of $134,040,160.

Conversely, the grapefruit market is predominantly fresh. The on-tree price for fresh grapefruit was $13.44 per carton during the same period with shipments of 2,402,000 for a total value of $32,282,880. NASS could not estimate an on-tree price for processing. Based on grower prices, shipment data, and the total number of Florida growers, the average annual grower revenue, even including oranges for processing, is well below $4,000,000 ($27,786,720 in fresh orange shipments plus $134,040,160 in processed orange shipments, plus $32,282,880 in fresh grapefruit shipments equals $194,109,760 divided by 500 growers equals $388,219). Thus, the majority of

Florida citrus handlers and growers may be classified as small entities.

This proposed rule would increase the assessment rate for the 2024–2025 fiscal year and subsequent fiscal years from $0.02 to $0.025 per 4/5-bushel carton of citrus or equivalent. The Committee recommended 2024–2025 expenditures of $119,624 and an assessment rate of $0.025 per 4/5-bushel carton. The proposed assessment rate of $0.025 is $0.005 more than the current assessment rate. The quantity of assessable Florida citrus for the 2024–2025 season is estimated at 4,500,000 4/5-bushel cartons or equivalent. The $0.025 rate should provide $112,500 in assessment income (4,500,000 cartons multiplied by $0.025 assessment rate). Income derived from handler assessments along with reserve funds and interest income, should provide sufficient funds to cover budget expenses.

The major expenditures recommended by the Committee for the 2023–2024 fiscal year include management, auditing, and compliance travel expenses—the same as budgeted for the 2023–2024 fiscal period.

The Committee recommended increasing the assessment rate to minimize the use of reserves after drawing down these funds over the past two seasons due to shipment volumes and assessment being lower than expected. The Committee estimates shipments of approximately 4,500,000 4/5-bushel cartons of citrus or equivalent for the 2024–2025 fiscal year which is 1,145,904 fewer cartons than was handled for the 2023–2024 fiscal year. At the current assessment rate of $0.02, the expected 4,500,000 4/5-bushel cartons or equivalent of the assessable Florida citrus would generate $90,000 (4,500,000 cartons multiplied by $0.02 assessment rate), which would require the use of close to $30,000 of reserves to cover the anticipated expenditures of $119,624 for the 2024–2025 fiscal period. By increasing the assessment rate by $0.005 to $0.025, assessment income would generate $112,500 (4,500,000 cartons multiplied by $0.025 assessment rate) for the 2024–2025 fiscal year and require the use of less reserve funds to cover expenditures. The increased assessment amount, along with reserve funds and interest income, should provide sufficient funds to meet anticipated expenses for the 2024–2025 fiscal period.

Prior to arriving at this budget and assessment rate, the Committee considered alternatives, including raising the assessment rate to $0.03 per carton to replenish reserves. However, Committee members determined that because annual expenditures were relatively stable, it was not crucial to add to reserves at this time and the alternative was rejected. The Committee also considered maintaining the current assessment rate of $0.02 per carton. However, the Committee members did not want to make another large draw on reserves to meet 2024–2025 expenses after doing so in previous seasons. Consequently, this alternative was rejected.

A review of historical and preliminary information pertaining to the 2024–2025 fiscal period indicates the average grower price should be approximately $7.43 4/5-bushel carton of citrus or equivalent. Therefore, the estimated assessment revenue for the 2024–2025 fiscal period as a percentage of total grower revenue would be about 0.34 percent ($0.025 divided by $7.43 multiplied by 100).

This proposed rule would increase the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, these costs are expected to be offset by the benefits derived by the operations of the Order.

The Committee's meetings are widely publicized throughout the Florida citrus industry and all interested persons are invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the September 23, 2024, and November 14, 2024, meetings were public meetings and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory impacts of this action on small businesses.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0189 Fruit Crops. No changes to those requirements would be necessary based on this proposed rule. Should any changes become necessary, they would be submitted to OMB for approval.

This proposed rule would not impose any additional reporting or recordkeeping requirements on either small or large Florida citrus handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

AMS has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

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

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

A 30-day comment period is provided to allow interested persons to comment on this proposed rule. All written comments timely received will be considered before a final determination is made on this rule.

List of Subjects in 7 CFR Part 905

Grapefruit, Marketing agreements, Oranges, Pummelos, Reporting and recordkeeping requirements, Tangerines.

For the reasons set forth in the preamble, the Agricultural Marketing Service proposes to amend 7 CFR part 905 as follows:

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND PUMMELOS GROWN IN FLORIDA

■ 1. The authority citation for 7 CFR part 905 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 905.235 is revised to read as follows:

§ 905.235 Assessment rate.

On and after August 1, 2024, an assessment rate of $0.025 per 4/5-bushel carton or equivalent is established for Florida citrus covered under the Order.

Erin Morris,

Administrator, Agricultural Marketing Service.

[FR Doc. 2025–19220 Filed 9–30–25; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 925

[Doc. No. AMS–SC–24–0075]

Grapes Grown in a Designated Area of Southeastern California; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement a recommendation from the California Desert Grape Administrative Committee (Committee) to decrease the assessment rate established for the 2025 and subsequent fiscal periods from $0.040 to $0.030 per 18-pound lug of grapes grown in a designated area of southeastern California. The proposed assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by October 31, 2025.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments can be sent to the Docket Clerk, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237. Comments can also be sent to the Docket Clerk electronically by email: *MarketingOrderComment@usda.gov* or via the internet at: *https://www.regulations.gov*. Comments should reference the document number and the date and page number of this issue of the **Federal Register**. Comments submitted in response to this proposed rule will be included in the record, will be made available to the public, and can be viewed at: *https://www.regulations.gov*. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT:

Bianca Bertrand, Marketing Specialist, or Abigail Maharaj, Chief, West Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; telephone: (559) 487–5901; or email: *BiancaM.Bertrand@usda.gov* or *Abigail.Maharaj@usda.gov*.

Small businesses may request information on complying with this regulation by contacting Antoinette Carter, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–8085; or email: *Antoinette.Carter@usda.gov*.

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, proposes to amend regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This proposed rule is issued under Marketing Order No. 925, as amended (7 CFR part 925), regulating the handling of grapes grown in a designated area of southeastern California. Part 925 (referred to as the ''Order'') is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The Committee locally administers the Order and is comprised of producers and handlers of grapes operating within the area of production, and a public member.

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

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

This proposed rule has been reviewed under Executive Order 12988, ''Civil Justice Reform.'' Under the Order now in effect, California grape handlers are subject to assessments. Funds to administer the Order are derived from such assessments. It is intended that the assessment rate would be applicable to all assessable grapes for the 2025 fiscal period, and continue until amended, suspended, or terminated.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order, is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This proposed rule would decrease the assessment rate for California grapes handled under the Order from $0.040 to $0.030 per 18-pound lug for the 2025 and subsequent fiscal periods.

Sections 925.40, and 925.41 of the Order authorize the Committee, with the approval of AMS, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are familiar with the Committee's needs and with the costs of goods and services in their local area and can formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting, and all directly affected persons have an opportunity to participate and provide input.

For the 2021 and subsequent fiscal periods, the Committee recommended, and AMS approved, an assessment rate of $0.040 per 18-pound lug of California grapes within the production area. That rate continues in effect from fiscal period to fiscal period until modified, suspended, or terminated by AMS upon recommendation and information submitted by the Committee or other information available to AMS.

The Committee met on November 12, 2024, and unanimously recommended 2025 fiscal period expenditures of $88,600 and an assessment rate of $0.030 per 18-pound lug of California grapes handled for the 2025 and subsequent fiscal periods. In comparison, last fiscal period's budgeted expenditures were $77,000. The proposed assessment rate of $0.030 per 18-pound lug is $0.010 lower than

the rate currently in effect. The Committee recommended decreasing the assessment rate to draw down its reserve funds to within a level authorized under the Order. The Committee projects 2,000,000 18-pound lugs of assessable California grapes for the 2025 fiscal period, the same amount that the Committee initially projected for the 2024 fiscal period.

The major category of budgeted expenditures recommended by the Committee for the 2025 fiscal period include management and administrative services, office expenses, and a financial audit, consistent with budgeted expenditures for the 2024 fiscal period.

The Committee derived the recommended assessment rate by reviewing anticipated expenses, the estimated volume of assessable grapes, and the amount of funds available in the authorized reserve. The estimated 2,000,000 18-pound lugs of assessable California grapes would generate $60,000 in assessment revenue at the proposed rate (2,000,000 18-pound lugs multiplied by the $0.030 assessment rate). The income generated from handler assessments, along with approximately $28,600 in reserve funds, would be sufficient to meet the Committee's estimated program expenditures of $88,600. Funds available in the financial reserve (currently about $110,000) would be kept within the maximum permitted by the Order (not to exceed approximately one fiscal period's expenses, as authorized in § 925.42).

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by AMS upon recommendation and information submitted by the Committee or other available information. Although this assessment rate would be in effect for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or AMS. Committee meetings are open to the public and interested persons may express their views at these meetings. AMS will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 2025 fiscal period budget, and those for subsequent fiscal periods, will be reviewed and as appropriate, approved by AMS.

Initial Regulatory Flexibility Analysis

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

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately six handlers of California grapes subject to regulation under the Order and approximately six producers (separate from handlers) of California grapes in the production area. At the time this analysis was prepared, the Small Business Administration (SBA) defined small agricultural service firms as those having annual receipts equal to or less than $34,000,000 (North American Industry Classification System (NAICS) code 115114, Postharvest Crop Activities), and small agricultural producers of grapes are defined as those having annual receipts equal to or less than $4,000,000 (NAICS code 111332, Grape Vineyards) (13 CFR 121.201).

USDA's National Agricultural Statistics Service (NASS) reported a 2023 season average California grape producer price of $1,850 per ton, equivalent to $16.65 per 18-pound container ([$1,850 per ton divided by 2,000 pounds] multiplied by 18 equals $16.65). The Committee reported a 2023 grape shipment quantity of 2,549,484 18-pound lugs. Multiplying 2,549,484 by the $16.65 average producer price yields an estimated annual crop value per producer of $7.075 million. Assuming a normal distribution, the majority of California grape producers subject to the order have estimated annual receipts of well over $4,000,000 and may be classified as large entities according to the SBA definition (NAICS code 111332, Grape Vineyards).

In addition, USDA Market News reported an average terminal market price of $38.53 per 18-pound container for the 2024 calendar year (annual average of the weekly low-high price range midpoint, 18-pound container bagged, California origin, various varieties, non-organic, all U.S. terminal markets, all grades and sizes). With approximately 2,549,484 18-pound lugs handled, the total value would be $98,221,221 (2,549,484 multiplied by $38.53). With six grape handlers within the production area, the 2024 average revenue per handler is estimated to be $16,370,203 ($98,221,221 divided by 6), which is below the $34 million SBA size threshold (NAICS code 115114, Postharvest Crop Activities) for handlers. Thus, most of the six California grape handlers subject to the order may be classified as small entities.

This proposed rule would decrease the assessment rate collected from handlers for the 2025 and subsequent fiscal periods from $0.040 to $0.030 per 18-pound lug of assessable California grapes ($0.010 lower, or 25% decrease). The Committee unanimously recommended 2025 fiscal period expenditures of $88,600 and an assessment rate of $0.030 per 18-pound lug of California grapes. The Committee expects the industry to handle 2,000,000 18-pound lugs of assessable California grapes during the 2025 fiscal period. Thus, the $0.030 per 18-pound lug rate should provide roughly $60,000 in assessment income (2,000,000 18-pound lugs multiplied by $0.030 per 18-pound lug). Income derived from handler assessments along with reserve funds should be sufficient to meet budgeted expenditures for the 2025 fiscal period.

The major category of budgeted expenditures recommended by the Committee for the 2025 fiscal period include management and administrative services, office expenses, and a financial audit, consistent with budgeted expenditures for the 2024 fiscal period.

The Committee recommended decreasing the assessment rate to utilize funds from its reserve to meet necessary expenses for the 2025 fiscal period, and ensure the reserve is maintained at a level in compliance with order requirements.

Prior to arriving at this budget and assessment rate recommendation, the Committee discussed various alternatives, including reducing the assessment rate more and/or less than the rate proposed herein. However, the Committee determined that the recommended assessment rate would achieve its goals of both adequately funding Committee operations and reducing the reserve to an appropriate level. Consequently, those alternatives were rejected.

A review of historical and preliminary information pertaining to the 2025 fiscal period indicates the average producer price for the 2025 fiscal period should be approximately $13.11 per 18-pound lug of California grapes. Therefore, the estimated assessment revenue for the 2025 fiscal period as a percentage of total producer revenue would be about

0.23 percent ($0.030 per 18-pound lug assessment rate divided by $13.11 and multiplied by 100).

This proposed action would decrease the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, these costs are expected to be offset by the benefits derived by the operation of the Order.

The Committee's meetings are widely publicized throughout the California grape industry and all interested persons are invited to attend the meetings and participate in Committee deliberations on all issues. Like all Committee meetings, the November 12, 2024, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and information collection impacts of this action on small businesses.

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

This proposed rule would not impose any additional reporting or recordkeeping requirements on either small or large California grape handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

AMS has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

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

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

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. All written comments timely received will be considered before a final determination is made on this proposed rule.

List of Subjects in 7 CFR Part 925

Grapes, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Agricultural Marketing Service proposes to amend 7 CFR part 925 as follows:

PART 925—GRAPES GROWN IN A DESIGNATED AREA OFSOUTHEASTERN CALIFORNIA

■ 1. The authority citation for 7 CFR part 925 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Revise § 925.215 to read as follows:

§ 925.215 Assessment rate.

On and after January 1, 2025, an assessment rate of $0.030 per 18-pound lug is established for grapes grown in a designated area of southeastern California.

Erin Morris,

Administrator, Agricultural Marketing Service.

[FR Doc. 2025–19203 Filed 9–30–25; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 956

[Doc. No. AMS–SC–24–0080]

Sweet Onions Grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement a recommendation from the Walla Walla Sweet Onion Marketing Committee (Committee) to decrease the assessment rate established for the 2025 and subsequent fiscal periods from $0.20 to $0.17 per 50-pound bag or equivalent for sweet onions grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon. The proposed assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by October 31, 2025.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments can be sent to the Docket Clerk, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237. Comments can also be sent to the Docket Clerk electronically by email: *MarketingOrderComment@usda.gov* or via the internet at: *https://www.regulations.gov.* Comments should reference the document number and the date and page number of this issue of the **Federal Register**. Comments submitted in response to this proposed rule will be included in the record and will be made available to the public and can be viewed at: *https://www.regulations.gov.* Please be advised that the identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Virginia Tjemsland, Marketing Specialist, or Barry Broadbent, Chief, Northwest Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; telephone: (503) 326–2724; or email: *Virginia.L.Tjemsland@usda.gov* or *Barry.Broadbent@usda.gov.*

Small businesses may request information on complying with this regulation by contacting Antoinette Carter, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–8085; or email: *Antoinette.Carter@usda.gov.*

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, proposes to amend regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This proposed rule is issued under Marketing Agreement and Order No. 956, both as amended (7 CFR part 956), regulating the handling of sweet onions grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon. Part 956 (referred to as the ''Order'') is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The Committee locally administers the

Order and is comprised of producers and handlers of Walla Walla sweet onions operating within the area of production, as well as a public member.

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

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

This proposed rule has been reviewed under Executive Order 12988, ''Civil Justice Reform.'' Under the Order now in effect, Walla Walla sweet onion handlers are subject to assessments. Funds to administer the Order are derived from such assessments. It is intended that the assessment rate would be applicable to all assessable Walla Walla sweet onions for the 2025 fiscal period, and continue until amended, suspended, or terminated.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608(c)(15)(A) of the Act, any handler subject to an order may file with U.S. Department of Agriculture (USDA) a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This proposed rule would decrease the assessment rate for Walla Walla sweet onions handled under the Order from $0.20 per 50-pound bag or equivalent, the rate that was established for the 2023 and subsequent fiscal periods, to $0.17 per 50-pound bag or equivalent for the 2025 and subsequent fiscal periods.

Sections 956.41 and 956.42 of the Order authorize the Committee, with the approval of AMS, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are familiar with the Committee's needs and with the costs of goods and services in their local area and are able to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting, and all directly affected persons have an opportunity to participate and provide input.

For the 2023 and subsequent fiscal periods, the Committee recommended, and AMS approved, an assessment rate of $0.20 per 50-pound bag or equivalent of Walla Walla sweet onions. That rate continues in effect from fiscal period to fiscal period until modified, suspended, or terminated by AMS upon recommendation and information submitted by the Committee or other information available to AMS.

The Committee met on December 4, 2024, and unanimously recommended with a vote of six in favor and none opposed, 2025 fiscal period expenditures of $58,374 and an assessment rate of $0.17 per 50-pound bag or equivalent of Walla Walla sweet onions handled for the 2025 and subsequent fiscal periods. In comparison, last year's budgeted expenditures were $56,330. The proposed assessment rate of $0.17 per 50-pound bag or equivalent is $0.03 lower than the rate currently in effect. The Committee recommended decreasing the assessment rate to reduce its reserve funds to within a level authorized under the Order. The Committee projects 222,950 50-pound bags or equivalent of assessable Walla Walla sweet onions for the 2025 fiscal period, which is 20,800 50-pound bags or equivalent less than was projected for the 2024 fiscal period.

The major expenditures recommended by the Committee for the 2025 fiscal period include administrative, promotion, research, and travel expenses as well as a contingency emergency fund. This is consistent with budgeted expenditures for the 2024 fiscal period except there was no budgeted contingency fund.

The Committee derived the recommended assessment rate by considering anticipated crop year expenses, expected volume of assessable Walla Walla sweet onions, and the amount of funds available in the authorized reserve. The expected 222,950 50-pound bags or equivalent of Walla Walla sweet onions from the 2025 crop is expected to generate $37,902 in assessment revenue at the proposed assessment rate (222,950 50-pound bags or equivalent multiplied by the $0.17 assessment rate). The income generated from handler assessments, along with $20,472 in reserve funds, would be sufficient to meet the Committee's estimated program expenditures of $58,374 for the 2025 fiscal period. Funds available in the financial reserve (projected to be about $91,694 at the start of the 2025 fiscal period) would be kept within the maximum permitted by the Order (not to exceed two fiscal period's budgeted expenses, as authorized in § 956.44).

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by AMS upon recommendation and information submitted by the Committee or other available information. Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or AMS. Committee meetings are open to the public and interested persons may express their views at these meetings. AMS would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 2025 fiscal period budget, and those for subsequent fiscal periods, will be reviewed and, as appropriate, approved by AMS.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS has considered the economic impact of this proposed

rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 12 producers of Walla Walla sweet onions in the production area and 8 handlers subject to regulation under the Order. Small agricultural producers of Walla Walla sweet onions are defined by the Small Business Administration (SBA) as those having annual receipts of less than $3,750,000 (North American Industry Classification System (NAICS) code 111219, Other Vegetable (except Potato) and Melon Farming) and small agricultural service firms are defined as those whose annual receipts are less than $34,000,000 (NAICS code 115114, Postharvest Crop Activities) (13 CFR 121.201).

According to the USDA National Agricultural Statistics Service (NASS), the average annual producer price received for dry onions sold in Washington between 2020 and 2023 ranged from $9.13 to $26.20 per hundredweight. The average over those years was approximately $17.98 per hundredweight, or $8.99 per 50-pound bag or equivalent. Total production of Walla Walla sweet onions for the 2024 season was reported by the Committee to be 283,136 50-pound bags or equivalent. Using the average price from 2020–2023, the most recent years for which there is NASS data, the total 2024 crop value of Walla Walla sweet onions could therefore be estimated to be $2,545,393 (283,136 50-pound bags or equivalent multiplied by $8.99 per 50-pound equivalent). Dividing the estimated crop value by the estimated number of producers (12) yields an estimated average receipt per producer of $212,116 ($2,545,393 divided by 12), which is well below the SBA small agricultural producer threshold of $3,750,000 in annual receipts.

According to USDA Market News data, the terminal market price for Walla Walla sweet onions in the most recent season for which data is available (2021) was $34.96 per 40-pound carton. Multiplying this figure by 1.25 to adjust for a 50-pound bag or equivalent yields an average 2021 terminal market price of $43.70 per 50-pound bag or equivalent. Multiplying the 2024 Walla Walla sweet onion production of 283,136 50-pound bags or equivalent by the estimated average price per 50-pound bag or equivalent of $43.70 equals $12,373,043 ($34.96 times 1.25 times 283,136). Dividing this figure by the 8 regulated handlers yields estimated average annual handler receipts of $1,546,630 ($12,373,043 divided by 8 handlers), which is below the SBA threshold for small agricultural service firms of $34,000,000 in annual receipts. Therefore, using the above data, all of the producers and handlers of Walla Walla sweet onions would likely be classified as small entities according to the SBA definition.

This proposal would decrease the assessment rate collected from handlers for the 2025 and subsequent fiscal periods from $0.20 to $0.17 per 50-pound bag or equivalent of Walla Walla sweet onions. The Committee unanimously recommended 2025 fiscal period expenditures of $58,374 and an assessment rate of $0.17 per 50-pound bag or equivalent of Walla Walla sweet onions. The proposed assessment rate of $0.17 is $.03 lower than the current rate. The Committee expects the industry to handle 222,950 50-pound bags or equivalent of Walla Walla sweet onions during the 2025 fiscal period. Thus, the $0.17 per 50-pound bag or equivalent rate should provide $37,902 in assessment income (222,950 50-pound bags or equivalent multiplied by $0.17). The Committee also expects to use $20,472 from its financial reserve to cover remaining expenses. Income derived from handler assessments, along with reserve funds, should be adequate to meet budgeted expenditures for the 2025 fiscal period.

The major expenditures recommended by the Committee for the 2025 fiscal period include administrative, promotion, research, and travel expenses, as well as a contingency emergency fund. This is consistent with expenditures for the 2024 fiscal period except there was no budgeted contingency fund.

In recent years, the Committee has added to its reserve funds by collecting assessment revenue in excess of budgeted expenditures. The Committee recommended decreasing the assessment rate to refrain from holding excessive funds in its reserve. The Committee will still adequately fund 2025 budgeted expenses from assessment revenue and utilizing funds from its reserve. This action is expected to lower and maintain the Committee's reserve balance at a level that the Committee believes is appropriate and is compliant with the provisions of the Order.

Prior to arriving at this budget and the assessment rate recommendation, the Committee discussed various alternatives, including maintaining the current assessment rate of $0.20 per 50-pound bag or equivalent as well as decreasing the assessment rate by different amounts. However, the Committee determined that the recommended assessment rate would be able to fund most of its budgeted expenses, with the balance coming from its financial reserve, and avoid increasing reserves to an inappropriate level. The assessment rate of $0.17 per 50-pound bag or equivalent of Walla Walla sweet onions was derived by considering anticipated expenses, the projected volume of assessable Walla Walla sweet onions, the projected monetary balance held in reserve, and additional pertinent factors.

A review of NASS information indicates that the average producer price for the 2020–2023 crop years was $8.99 per 50-pound bag or equivalent. Further, the Committee reported the quantity of assessable Walla Walla sweet onions harvested in the 2024 fiscal period was 283,136 50-pound bags or equivalent, which yields estimated total producer revenue for 2024 of approximately $2,545,392 ($8.99 per 50-pound bag or equivalent multiplied by 283,136). Therefore, utilizing the assessment rate of $0.17 per 50-pound bag or equivalent, assessment revenue for the 2024 fiscal period, as a percentage of total producer revenue, would be approximately 1.89 percent ($0.17 multiplied by 283,136 per 50-pound bags or equivalent divided by $2,545,392 and multiplied by 100).

This proposed action would decrease the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the Order.

The Committee's meetings are widely publicized throughout the production area. The Walla Walla sweet onion industry and all interested persons are invited to attend the meetings and participate in Committee deliberations on all issues. Like all Committee meetings, the December 4, 2024, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and information collection impacts of this action on small businesses.

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C.

chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0178, Vegetable and Specialty Crops. No changes in those requirements would be necessary as a result of this proposed rule. Should any changes become necessary, they would be submitted to OMB for approval.

This proposed rule would not impose any additional reporting or recordkeeping requirements on either small or large Walla Walla sweet onion handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

AMS has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

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

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

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. All written comments timely received will be considered before a final determination is made on this rulemaking.

List of Subjects in 7 CFR Part 956

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, AMS proposed to amend 7 CFR part 956 as follows:

PART 956—SWEET ONIONS GROWN IN THE WALLA WALLA VALLEY OF SOUTHEAST WASHINGTON AND NORTHEAST OREGON.

■ 1. The authority citation for part 956 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 956.202 is revised to read as follows:

§ 956.202 Assessment rate.

On and after January 1, 2025, an assessment rate of $0.17 per 50-pound bag or equivalent is established for Walla Walla sweet onions.

Erin Morris,

Administrator, Agricultural Marketing Service.

[FR Doc. 2025–19151 Filed 9–30–25; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 984

[Doc. No. AMS–SC–24–0076]

Walnuts Grown in California; Changes to Administrative Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement a recommendation from the California Walnut Board (Board) to make changes to the administrative requirements prescribed under the Federal marketing order for walnuts grown in California (Order). This proposed rule would provide a schedule for required handler assessment payments, establish interest and late payment charges on overdue assessments owed, and modify the existing reporting requirements for handler acquisitions of walnuts.

DATES: Comments must be received by October 31, 2025.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments can be sent to the Docket Clerk, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237. Comments can also be submitted to the Docket Clerk electronically by email: *MarketingOrderComment@usda.gov* or via the internet at: *https://www.regulations.gov.* Comments should reference the document number and the date and page number of this issue of the **Federal Register**. Comments submitted in response to this proposed rule will be included in the record and will be made available to the public and can be viewed at: *https://www.regulations.gov.* Please be advised that the identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT:

Jeffery Rymer, Marketing Specialist, or Abigail Maharaj, Chief, West Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; telephone: (559) 487–5905; or email: *JefferyM.Rymer@usda.gov* or *Abigail.Maharaj@usda.gov.*

Small businesses may request information on complying with this regulation by contacting Antoinette Carter, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–8085; or email: *Antoinette.Carter@usda.gov.*

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, proposes to amend regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This proposed rule is issued under Marketing Order No. 984, as amended (7 CFR part 984), regulating the handling of walnuts grown in California. Part 984 (referred to as the Order) is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The Board locally administers the Order and is comprised of growers and handlers of California walnuts operating within the area of production, and a public member.

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

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

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

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(15)(A) of the Act (7 U.S.C. 608c(15)(A)), any handler subject to an order may file with the USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This proposed rule would provide a defined payment schedule for required handler assessment payments. Additionally, the proposal would establish interest and late payment charges on overdue handler assessments owed under the Order. Lastly, the proposed action would modify the reporting requirements for walnut acquisitions. These proposed changes were unanimously approved, in two separate votes, with eight in favor and none opposed, during Board meetings held on August 8, and November 6, 2024.

Section 984.69(a) of the Order provides that each handler shall pay the Board, on demand, his or her pro rata share of the Boards authorized expenses. Currently, each handler's assessment obligation is invoiced throughout the marketing year based upon the quantity of walnuts the handler has acquired and reported to the Board by January 15 of each year on the Order's CWB Form #1. However, the schedule of when assessments are invoiced, and payments are due, is not yet specified in the Order's regulations.

Further, § 984.69(c) of the Order provides the authority to establish late payment charges and interest charges on assessments that are not paid within the time period specified by the Board. While such late payment penalties are authorized under the Order, specific late payment charges and interest rate charges on past due assessments have not yet been established in the Order's regulations.

Additionally, § 984.73 of the Order provides the authority to require handlers to submit reports of their walnut receipts. Under that authority, § 984.473, ''Report of walnut receipts,'' was established to require handlers to report walnut acquisitions, on or before January 15 of each marketing year, on forms supplied by the Board. Currently, under that section of the Order, handlers are only required to submit one report each marketing year, with no provision providing instruction for reporting walnuts that may be acquired after January 15.

This proposed rule would modify the Order's current administrative requirements to enhance the efficient collection of assessments from handlers, strengthening the Board's oversight of the program operations and administration of the Order. The Board believes that the changes and additions proposed herein would serve to augment the Order's administrative requirements and incentivize compliance.

Specifically, this proposed rule would add a new § 984.348, ''Payment of assessments,'' to the Order's requirements to establish the payment schedule for handler assessments. Each handler would pay assessments, based on the quantity of walnut receipts reported by the handler pursuant to § 984.473, in three equal installments invoiced by the Board, on January 31, April 30, and July 31 of each marketing year. This specific payment schedule, as proposed, is based on industry practice. Based on Board discussions, establishing this proposed schedule in the Order itself would help to stabilize and smooth revenue streams. Such stability would help the Board's operability by reducing uncertainty about when assessments are due and provide handlers with clear expectations and timeframe. This proposed schedule is not clear in the Order or provided for in its administrative regulations.

In addition, through the authority provided by § 984.69(c) of the Order, this proposed rule would also establish late payment penalties and interest charges for handler assessment payments under a new § 984.349, ''Late payment and interest charges.'' This, in conjunction with the establishment of the payment schedule, would help the Board address the issue of handler confusion with late payment submissions. A late payment charge of ten percent (10%) would be imposed on any assessment payment that has not been received within sixty (60) days of the invoice date on the handler's assessment statement. Further, assessment payments not received within sixty (60) days after the invoice date would also be subject to an ongoing one and one-half percent (1.5%) per month interest charge, accruing monthly until the total balance due, including any late payment charge, is paid. The inclusion of a late payment penalty and interest charges provision as proposed would establish a clear calculation for the Board to apply to a handler's account when in arrears. This proposal would also provide an incentive for handlers to comply with the proposed payment installment schedule.

Finally, this proposed action would modify the reporting requirements in § 984.473, ''Report of walnut receipts'' which requires handlers to report walnut acquisitions on or before January 15 of each marketing year on forms supplied by the Board. This proposed rule would add provisions for reporting walnuts that are acquired after the January 15 reporting deadline. Although the occurrence of walnuts arriving to handlers after January 15 is not common, when it does occur, it creates confusion concerning how the reporting requirements and assessment collections are applied to those late arriving walnuts. As such, the Board proposed a simple solution: each handler acquiring walnuts from growers after submission of his or her initial report of walnut receipts would also be required to file a revised report of walnut receipts by the 15th of the month following such receipt. Handlers must pay assessments on such receipts upon demand, as requested by the Board, following receipt of the revised report.

The proposed changes collectively aim to reinforce the integrity of the walnut marketing order, promote compliance, and reduce reliance on legal remedies for collection. By fostering transparency, timely reporting, and punctual payments, these measures are expected to facilitate the orderly marketing of California walnuts and enhance the continued effectiveness of the program for the benefit of industry stakeholders.

Initial Regulatory Flexibility Analysis

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

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 68 handlers subject to regulation under the Order and approximately 4,500 growers of California walnuts in the production area. At the time this analysis was prepared, the Small Business Administration (SBA) defined small agricultural service firms as those having annual receipts of less than $34,000,000 (North American Industry Classification System (NAICS) code 115114, Postharvest Crop Activities), and small agricultural producers of walnuts as those having annual receipts of less than $3,750,000 (NAICS code 111335, Tree Nut Farming) (13 CFR 121.201).

Data from USDA's National Agricultural Statistics Service (NASS), indicate a three-year average value of utilized inshell walnut production of $737.1 million for the most recent seasons for which data is available (2022 through 2024 crop years). Dividing that figure by the number of walnut growers (4,500) yields an average annual crop value per grower of approximately $163,787. This figure is well below the SBA small agricultural producer threshold of $3,750,000 in annual sales. Assuming a normal distribution, this provides evidence that a large majority of walnut growers would likely be considered small agricultural producers according to the SBA definition. Additionally, data from NASS's 2022 Agricultural Census show that 96 percent of California farms growing walnuts at the time had walnut sales of less than $1 million.

Further, based on information from the Board, approximately 78 percent of California's walnut handlers shipped assessable walnuts valued under $34 million during the 2023–2024 marketing year and would, therefore, be considered small handlers according to the SBA definition. Considering the above-mentioned information, it is reasonable to conclude that a substantial majority of both walnut growers and handlers would be considered small business entities according to current SBA definitions.

This proposed rule would provide a defined payment schedule for required handler assessment payments, establish interest and late payment charges on overdue handler assessments, and modify the reporting requirements for walnut acquisitions. These changes were recommended by the Board to enhance the efficiency of the Board's administrative function. Authority for this proposed action is provided in §§ 984.69 and 984.73 of the Order.

The Board discussed alternatives to the recommendations contained in this rule, including different options for the reporting of walnut acquisitions, the timing of assessment payment installments, various late payment penalty rates, and the appropriate interest rate charged on unpaid assessments. The Board also considered making no changes and maintaining the Order's status quo. However, the Board recognized the financial and administrative inefficiencies inherent in the existing administrative provisions and believed that taking no action would have been imprudent. Further, the Board determined that the late penalty charge and the interest rate as proposed herein would serve to incentivize compliance with the Order's provisions without being excessive and difficult.

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0178, Vegetable and Specialty Crops. This proposed rule would require changes to the Board's existing CWB Form #1. Further, this proposed action may result in additional report submissions from some handlers. However, the changes proposed are minor and the currently approved burden for the form would only be minimally increased by the proposed changes. The revised form has been submitted to OMB for approval.

This proposed rule may impose some additional reporting or recordkeeping requirements on either small or large California walnut handlers. However, the Board anticipates that the requirement to submit supplemental acquisition reports for walnuts that are acquired after the submission of the handler's initial CWB Form #1 report would only impact a small percentage of the total number of handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

AMS has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

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

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

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. All written comments timely received will be considered before a final determination is made on this rule.

List of Subjects in 7 CFR Part 984

Marketing agreements, Nuts, Reporting, and recordkeeping requirements.

For the reasons set forth in the preamble, the Agricultural Marketing Service proposes to amend 7 CFR part 984 as follows:

PART 984—WALNUTS GROWN IN CALIFORNIA

■ 1. The authority citation for part 984 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Add § 984.348 to subpart B to read as follows:

§ 984.348 Payment of assessments.

(a) Each handler shall pay assessments on walnut receipts reported by the handler pursuant to § 984.473(a) in three installments, invoiced by the Board, on January 31, April 30, and July 31 of each marketing year.

(b) Each handler shall pay assessments on walnut receipts reported by the handler pursuant to § 984.473(b), as requested by the Board, on demand.

■ 3. Add § 984.349 to subpart B to read as follows:

§ 984.349 Late payment and interest charges.

(a) The Board shall impose a late payment charge of ten percent (10%) on any handler whose assessment payment has not been received within sixty (60) days of the invoice date shown on the handler's assessment statement.

(b) Payments not received more than sixty (60) days after the invoice date shown on the handler's assessment statement shall be subject to a one and one-half percent (1.5%) interest charge per month. Interest shall be applied to the total outstanding assessment balance, including any late payment charge, at the end of each subsequent thirty (30) day period until final payment is made.

■ 4. Revise § 984.473 to read as follows:

§ 984.473 Report of walnut receipts.

(a) Each handler shall file a report of his or her walnut receipts from growers on or before January 15 of each marketing year on forms supplied by the Board.

(b) Each handler acquiring walnuts from growers after submission of their initial report of walnut receipts pursuant to paragraph (a) of this section shall file a revised report of walnut receipts by the 15th of the month following such receipt on forms supplied by the Board.

Erin Morris,

Administrator, Agricultural Marketing Service.

[FR Doc. 2025–19224 Filed 9–30–25; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF THE TREASURY

12 CFR Chapter XV, 31 CFR Subtitles A and B

[TREAS–DO–2025–0037]

RIN 1505–ZA10

GENIUS Act Implementation

AGENCY: Department of the Treasury.

ACTION: Advance notice of proposed rulemaking; extension of comment period.

SUMMARY: The Department of the Treasury (Treasury) is extending by 15 days the comment period on its advance notice of proposed rulemaking (ANPRM) soliciting public comment on questions relating to the implementation of the Guiding and Establishing National Innovation for U.S. Stablecoins (GENIUS) Act. The comment period will now close on November 4, 2025.

DATES: The comment period for the proposed rule published September 19, 2025, at 90 FR 45159, is extended. Comments on the ANPRM must be received on or before November 4, 2025.

ADDRESSES: Written comments may be submitted through one of two methods:

- *Electronic Submission:* Comments may be submitted electronically through the Federal Government eRulemaking portal at *https://www.regulations.gov.*
- *Mail:* Send to U.S. Department of the Treasury, Attention: Office of General Counsel, 1500 Pennsylvania Avenue NW, Washington, DC 20220.

We encourage comments to be submitted via *https://www.regulations.gov.* All comments should be captioned with ''GENIUS Act Implementation Comments.'' Please include your name, organizational affiliation, address, email address, and telephone number in your comment. All comments received, including attachments and other supporting materials, will be part of the public record and subject to public disclosure. Do not submit any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: Shane Shannon, Counselor to the General Counsel; Christina Lee, Senior Counsel; Degi Altantuya, Frank Colleluori, Brendan Costello, Matan Neuman, Carol Rodrigues, and David Wertime, Attorney-Advisors, Office of the General Counsel, *OGC_GeniusAct@Treasury.gov,* 202–622–0480, Department of the Treasury, 1500 Pennsylvania Ave. NW, Washington, DC 20220.

SUPPLEMENTARY INFORMATION: On September 19, 2025, Treasury published in the **Federal Register** the ANPRM to solicit public comment on questions relating to the implementation of the GENIUS Act. 90 FR 45159. Comments on the ANPRM were originally due on October 20, 2025.

Treasury has received a number of requests to extend the comment period to allow interested parties additional time to review and comment on the ANPRM. Treasury is therefore extending the comment period on the ANPRM by 15 days, to November 4, 2025.

Rachel Miller,

Executive Secretary, U.S. Department of the Treasury.

[FR Doc. 2025–19093 Filed 9–30–25; 8:45 am]

BILLING CODE 4810–AK–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2025–3425; Project Identifier MCAI–2025–00190–T]

RIN 2120–AA64

Airworthiness Directives; ATR—GIE Avions de Transport Régional Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain ATR—GIE Avions de Transport Régional Model ATR72 airplanes. This proposed AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. This proposed AD would require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by November 15, 2025.

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

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

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2025–3425; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For European Union Aviation Safety Agency (EASA) material identified in this proposed AD, contact

EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*. You may find this material on the EASA website at *ad.easa.europa.eu*. It is also available at *regulations.gov* under Docket No. FAA–2025–3425.

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

FOR FURTHER INFORMATION CONTACT: Fatin Saumik, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7350; email: *9-AVS-AIR-BACO-COS@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments using a method listed under the **ADDRESSES** section. Include ''Docket No. FAA–2025–3425; Project Identifier MCAI–2025–00190–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Fatin Saumik, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7350; email: *9-AVS-AIR-BACO-COS@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2025–0046, dated February 19, 2025 (EASA AD 2025–0046) (also referred to as the MCAI), to correct an unsafe condition for all ATR—GIE Avions de Transport Régional Model ATR72 airplanes. Airplanes with an original airworthiness certificate or original export certificate of airworthiness issued after November 22, 2024, must comply with the airworthiness limitations specified as part of the approved type design and referenced on the type certificate data sheet; this proposed AD therefore does not include those airplanes in the applicability. The MCAI states that new or more restrictive airworthiness limitations have been developed.

EASA AD 2025–0046 specifies that it requires a task (limitation) already in ATR 72 Time Limitations Document, Revision 22, dated October 16, 2023, that is required by EASA AD 2024–0053 (which corresponds to FAA AD 2024–24–06, Amendment 39–22896 (89 FR 97502, December 9, 2024) (AD 2024–24–06)), and that incorporation of EASA AD 2025–0046 invalidates (terminates) prior instructions for that task. Therefore, this proposed AD would terminate the limitations required by paragraph (j) of AD 2024–24–06 for the tasks identified in the material referenced in EASA AD 2025–0046 only.

The FAA is proposing this AD to address the potential of ignition sources inside fuel tanks. The unsafe condition, if not addressed, could result in a fuel tank explosion and consequent loss of the airplane. You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2025–3425.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed EASA AD 2025–0046, which specifies new or more restrictive airworthiness limitations for airplane structures and safe life limits. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

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

Proposed AD Requirements in This NPRM

This proposed AD would require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, which are specified in EASA AD 2025–0046 described previously, as incorporated by reference. Any differences with EASA AD 2025–0046 are identified as exceptions in the regulatory text of this proposed AD.

This proposed AD would require revisions to certain operator maintenance documents to include new actions (*e.g.,* inspections) and Critical Design Configuration Control Limitations (CDCCLs). Compliance with these actions and CDCCLs is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance (AMOC) according to paragraph (k)(1) of this proposed AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2025–0046 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2025–0046 through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed

AD. Using common terms that are the same as the heading of a particular section in EASA AD 2025–0046 does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in EASA AD 2025–0046. Material required by EASA AD 2025–0046 for compliance will be available at *regulations.gov* by searching for and locating Docket No. FAA–2025–3425 after the FAA final rule is published.

Airworthiness Limitation ADs Using the New Process

The FAA's process of incorporating by reference MCAI ADs as the primary source of information for compliance with corresponding FAA ADs has been limited to certain MCAI ADs (primarily those with service bulletins as the primary source of information for accomplishing the actions required by the FAA AD). However, the FAA is now expanding the process to include MCAI ADs that require a change to airworthiness limitation documents, such as airworthiness limitation sections.

For these ADs that incorporate by reference an MCAI AD that changes airworthiness limitations, the FAA requirements are unchanged. Operators must revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in the new airworthiness limitation document. The airworthiness limitations must be followed according to 14 CFR 91.403(c) and 91.409(e).

The previous format of the airworthiness limitation ADs included a paragraph that specified that no alternative actions (*e.g.,* inspections), intervals, or CDCCLs may be used unless the actions, intervals, and CDCCLs are approved as an AMOC in accordance with the procedures specified in the AMOC paragraph under ''Additional AD Provisions.'' This new format includes a ''Provisions for Alternative Actions, Intervals, and CDCCLs'' paragraph that does not specifically refer to AMOCs, but operators may still request an AMOC to use an alternative action, interval, or CDCCL.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 34 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

ATR—GIE Avions de Transport Régional: Docket No. FAA–2025–3425; Project Identifier MCAI–2025–00190–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by November 15, 2025.

(b) Affected ADs

This AD affects AD 2024–24–06, Amendment 39–22896 (89 FR 97502, December 9, 2024) (AD 2024–24–06).

(c) Applicability

This AD applies to ATR—GIE Avions de Transport Régional Model ATR72–101, –102, –201, –202, –211, –212, and –212A airplanes, certificated in any category, with an original airworthiness certificate or original export certificate of airworthiness issued on or before November 22, 2024.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address the potential of ignition sources inside fuel tanks. The unsafe condition, if not addressed, could result in a fuel tank explosion and consequent loss of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2025–0046, dated February 19, 2025 (EASA AD 2025–0046).

(h) Exceptions to EASA AD 2025–0046

(1) This AD does not adopt the requirements specified in paragraphs (1) and (2) of EASA AD 2025–0046.

(2) Paragraph (3) of EASA AD 2025–0046 specifies revising ''the approved AMP,'' within 12 months after its effective date, but

this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after the effective date of this AD.

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2025–0046 is at the applicable ''limitations'' as incorporated by the requirements of paragraph (3) of EASA AD 2025–0046, or within 90 days after the effective date of this AD, whichever occurs later.

(4) This AD does not adopt the provisions specified in paragraph (4) of EASA AD 2025–0046.

(5) This AD does not adopt the ''Remarks'' section of EASA AD 2025–0046.

(i) Provisions for Alternative Actions, Intervals, and Critical Design Configuration Control Limitations (CDCCLs)

After the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections), intervals, and CDCCLs are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2025–0046.

(j) Terminating Action for Certain Tasks Required by AD 2024–24–06

Accomplishing the actions required by this AD terminates the corresponding requirements of AD 2024–24–06 for the tasks identified in the material referenced in EASA AD 2025–0046 only.

(k) Additional AD Provisions

The following provisions also apply to this AD:

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

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

(l) Additional Information

For more information about this AD, contact Fatin Saumik, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7350; email: *9-AVS-AIR-BACO-COS@faa.gov*.

(m) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2025–0046, dated February 19, 2025.

(ii) [Reserved]

(3) For EASA material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*. You may find this material on the EASA website at *ad.easa.europa.eu*.

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

(5) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit *www.archives.gov/federal-register/cfr/ibr-locations* or email *fr.inspection@nara.gov*.

Issued on September 29, 2025.

Steven W. Thompson,

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

[FR Doc. 2025–19128 Filed 9–30–25; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 229, 230, 239, 240, and 249

[Release Nos. 33–11391; 34–104102; File No. S7–2025–04]

RIN 3235–AN52

Concept Release on Residential Mortgage-Backed Securities Disclosures and Enhancements to Asset-Backed Securities Registration

AGENCY: Securities and Exchange Commission.

ACTION: Concept release; request for comments.

SUMMARY: The Securities and Exchange Commission (''Commission'') is publishing this concept release to solicit comments on whether to amend the asset-level disclosure requirements for residential mortgage-backed securities in Item 1125 of Regulation AB and whether to revise generally the definition of ''asset-backed security'' and/or other definitions in Item 1101 of Regulation AB. The Commission is considering these steps to expand issuer and investor access to the registered asset-backed securities markets and facilitate enhanced capital formation and liquidity while maintaining appropriate investor protections.

DATES: Comments should be received on or before December 1, 2025.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/comments/s7-2025-04/s7-2025-04*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number S7–2025–04 on the subject line.

Paper Comments

- Send paper comments to Vanessa A. Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number S7–2025–04. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method of submission. The Commission will post all comments on the Commission's website (*https://www.sec.gov/comments/s7-2025-04/s7-2025-04*). Do not include personally identifiable information in submissions; you should submit only information that you wish to make available publicly. The Commission may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection.

FOR FURTHER INFORMATION CONTACT: Arthur Sandel, Special Counsel, or Kayla Roberts, Acting Chief, in the Office of Structured Finance, Division of Corporation Finance, at (202) 551–3850, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

Table of Contents

I. Introduction
II. Asset-Level Disclosures for Residential Mortgage-Backed Securities
  A. Background
  B. Recent Developments
  C. Potential Changes to RMBS Asset-Level Disclosure Requirements
  D. Request for Comment
III. Disclosure of Certain Sensitive RMBS Asset-Level Data
  A. Background
  B. Potential Regulatory Response
  C. Request for Comment
IV. Definition of Asset-Backed Security Generally
  A. Background
  B. Potential Changes to Regulation AB Definitions

C. Request for Comment
V. General Request for Comment
VI. Regulatory Planning and Review
VII. Conclusion

I. Introduction

Securitization serves a vital role in the U.S. capital markets and the U.S. economy. As a method of financing in which financial assets are pooled and converted into instruments that may be offered and sold in the capital markets, securitization helps provide entities, such as banks, operating companies, and other non-depository financial institutions, with access to lower-cost capital to make loans to borrowers or otherwise finance operations.[1] This process, in turn, promotes necessary market liquidity and facilitates capital formation in critical economic sectors, such as housing and consumer lending. For investors, asset-backed securities (''ABS'') may offer attractive yields and an opportunity to diversify fixed-income portfolios with a range of credit quality. A more liquid registered ABS market should further increase opportunities for capital formation while also reducing borrowing costs for assets routinely financed by U.S. households, corporations, and small businesses, such as automobiles and residential and commercial real estate.

From its origins in the earliest mortgage-backed securities transactions of the 1970s, the modern ABS market gained traction in the 1980s and 1990s and, since then, the Commission has adopted a series of disclosure rules and forms to establish comprehensive registration and ongoing reporting requirements. In 2004, the Commission adopted Regulation AB,[2] establishing for the first time a comprehensive registration, disclosure, and ongoing reporting regime for ABS under the Securities Act of 1933 [3] (the ''Securities Act'') and the Securities Exchange Act of 1934 [4] (the ''Exchange Act'').[5] As we discuss in more detail in section IV.A below, the availability of this tailored regime was intentionally limited only to the types of securitizations that meet the definition of ABS in Item 1101(c) of Regulation AB.[6]

Following the financial crisis of 2007–2009 (the ''Financial Crisis''), Congress enacted the Dodd-Frank Wall Street Reform and Consumer Protection Act (the ''Dodd-Frank Act'').[7] The Dodd-Frank Act added a new statutory definition of ''asset-backed security'' [8] and included mandates for the Commission to adopt rules and regulations intended to address concerns in the securitization market including, in relevant part, a lack of transparency about the assets underlying ABS.[9] In 2014, the Commission adopted significant revisions to its registration, disclosure, and reporting regime for ABS, including amendments to Regulation AB (colloquially, ''Regulation AB II''), in part to implement several of these Dodd-Frank Act mandates.[10] As discussed in sections II and III below, one such amendment adopted by the Commission in Regulation AB II was the new requirement that ABS issuers disclose asset-level data for all assets underlying registered residential mortgage-backed securities (''RMBS'') and certain other asset classes.[11]

In developing these specialized registration and reporting requirements, the Commission and its staff have regularly engaged with securitization market participants to identify areas for regulatory enhancements or modifications to address the changing needs of the market while supporting capital formation and investor protection. Market trends and developments since the adoption of Regulation AB II (such as new and expanding asset classes) have prompted us to assess whether the current framework for registration and reporting is serving the needs of the current ABS market.[12] Because, as discussed in more detail in section II.A below, a robust registered ABS market offers benefits such as increased transparency and protections, greater liquidity, and potentially lower costs of capital, this assessment includes consideration of whether there are any regulatory impediments to issuer and investor access to the registered ABS market.

As part of this assessment, the Commission is considering and seeks public input on whether certain modifications may be warranted with respect to the current asset-level disclosure requirements for RMBS under Item 1125 of Regulation AB, including whether and how to address potential disclosure of certain sensitive RMBS asset-level data. In sections II and III, we review the background of the existing asset-level disclosure requirements and discuss certain challenges reported by RMBS market participants, including some of their recent efforts to identify potential solutions to these challenges. Related to these considerations, we also discuss certain RMBS asset-level data points that raise privacy and confidentiality concerns for consumers and request feedback regarding whether we should reconsider our current approach to address such concerns. We set forth our objectives to reduce costs and regulatory obstacles to registration of RMBS offerings with the goal of facilitating public offerings of RMBS and increasing liquidity in the registered RMBS market. We seek input on potential solutions that balance the interests of all RMBS market participants, including investors.

The Commission is also considering whether to revise generally the definition of ''asset-backed security'' in Item 1101(c) of Regulation AB and/or certain other definitions in Regulation AB.[13] In section IV, we review the background of the asset-backed securities definition and discuss certain challenges that may be impacting the registered ABS market. We seek public input regarding potential changes that

[1] *See, e.g.,* Steven L. Schwarcz, *Securitization Ten Years after the Financial Crisis: An Overview,* 37 Rev. of Banking and Fin. L. 757, 759 (2018), *available at https://www.bu.edu/rbfl/files/2018/12/Schwarcz-757.pdf* (''Because financial assets can be easier to understand and value, if not safer, than the business and risks associated with operating a company, securitization offers companies an efficient and usually lower-cost funding source.''). *See also,* Aron M. Zuckerman, *Securitization Reform: A Coasean Cost Analysis,* 1 Harv. Bus. L. Rev. 303, 306 (2011), *available at https://journals.law.harvard.edu/hblr//wp-content/uploads/sites/87/2014/09/Zuckerman-Securitization_Reform.pdf* (''The chief benefit for banks from securitization is lower funding costs for making residential housing loans.'').

[2] 17 CFR 229.1100 *et seq.*

[3] 15 U.S.C. 77a *et seq.*

[4] 15 U.S.C. 78a *et seq.*

[5] *Asset-Backed Securities,* Release No. 33–8518 (Dec. 22, 2004) [70 FR 1506] (Jan. 7, 2005) (''2004 Regulation AB Adopting Release'').

[6] 17 CFR 229.1101(c). *See* section III.A.2 of the 2004 Regulation AB Adopting Release.

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

[8] Section 3(a)(79) of the Exchange Act [15 U.S.C. 78c(a)(79)]. *See* section IV.A below for a more detailed discussion about the commonalities and distinctions between the definitions in Regulation AB and the Exchange Act.

[9] *See, e.g.,* Public Law 111–203, 942(b), 124 Stat. 1376, 1897.

[10] *Asset-Backed Securities Disclosure and Registration,* Release No. 33–9638 (Sept. 4, 2014) [79 FR 57184] (Sept. 24, 2014) (''2014 Regulation AB II Adopting Release'').

[11] *See* section III.A of the 2014 Regulation AB II Adopting Release and the Appendix to Schedule AL (Item 1125 of Regulation AB) [17 CFR 229.1125]. The asset-level requirements adopted by the Commission partially implemented the statutory mandate in Securities Act section 7(c), as added by section 942(b) of the Dodd-Frank Act, which requires, in relevant part, that the Commission adopt regulations requiring an issuer of an ABS to disclose, for each tranche or class of security, information about the underlying assets, including asset-level data, if such data is necessary for investors to independently perform due diligence.

[12] *See infra* sections IV.A and IV.B.

[13] 17 CFR 229.1101(c).

may facilitate expanded access to the registered ABS market.[14]

While we ask a number of general and specific questions throughout this release regarding each of these topics, we also welcome comments on any other aspects of the ABS registration and reporting regime. Interested persons are also invited to comment on whether certain specific approaches, alternative approaches, or a combination of approaches would address the items identified in this release.

II. Asset-Level Disclosures for Residential Mortgage-Backed Securities

A. Background

As discussed in section I above, in 2014, the Commission adopted significant amendments to Regulation AB and other rules governing the public offering, disclosure, and reporting regime for ABS.[15] Among the revisions, the Commission adopted Item 1125 of Regulation AB and the Appendix to Item 1125 (''Schedule AL'') [16] to implement the mandate in Securities Act section 7(c).[17] Schedule AL requires standardized asset-level disclosures for registered ABS where the underlying assets consist of residential mortgages, commercial mortgages, auto loans, auto leases, debt securities, or resecuritizations of ABS that include these asset types.[18] The Commission determined that the asset-level information required by Schedule AL would provide investors with access to more robust and standardized information necessary for investors to independently perform due diligence.[19] While the specific data requirements vary by asset class, Schedule AL generally requires information about the credit quality of obligors, the collateral related to each asset, and the performance of those assets. The information must be provided in a tagged data format using eXtensible Markup Language (''XML'') and must be filed at the time of the offering of the ABS and in ongoing reports filed with the Commission.[20]

With respect to RMBS, Item 1 of Schedule AL requires disclosure of up to 270 data points for each underlying mortgage.[21] Of these 270 RMBS data points, 165 are required to be provided only upon the occurrence of specific events or when certain specified conditions exist.[22] For example, if an underlying mortgage is a fixed-rate mortgage, the data points related to adjustable-rate mortgages need not be included in the Schedule AL data file with respect to such fixed-rate mortgage.[23]

In determining which RMBS data points to adopt, the Commission considered various industry and regulatory standards developed for collection and/or presentation of asset-level data about residential mortgages, as well as suggestions from commenters.[24] Though there were many efforts by market participants to identify responses to the issues arising from the lack of transparency that was brought to light by the Financial Crisis and re-establish confidence in the market, only one issuer has publicly issued private-label RMBS (*i.e.,* RMBS not issued by the Agencies) since 2009,[25] and there have been no registered private-label RMBS offerings since June 2013 (pre-dating the adoption of Regulation AB II by more than a year).[26] Rather, RMBS securitizations have been concentrated in the Agencies,[27] which are exempt from the Commission's registration and reporting requirements under the Securities Act and the Exchange Act.[28] All private-label RMBS offerings since June 2013 have been unregistered, with nearly all occurring in the Rule 144A market,[29] despite investment criteria restrictions that limit the amount of Rule 144A ABS that many institutional investors can hold.[30] By contrast, as shown in Table 1, below, there has been an active registered market for ABS

[14] *See infra* section IV.

[15] *See supra* section I and note 10.

[16] 17 CFR 229.1125.

[17] 15 U.S.C. 77g(c). Securities Act section 7(c) was added by Dodd-Frank Act section 942(b) and requires, in relevant part, that the Commission adopt regulations requiring an ABS issuer to disclose, for each tranche or class of security, information regarding the assets backing that security, including asset-level or loan-level data, if such data is necessary for investors to independently perform due diligence and that the Commission set standards for the format of such disclosures to facilitate the comparison of such data across securities in similar types of asset classes.

[18] *See* 2014 Regulation AB II Adopting Release at 57196. Prior to the adoption of Schedule AL, ABS issuers were required to provide aggregated information about the composition and characteristics of the underlying asset pool, tailored to the asset type and asset pool involved for the particular offering, but there was no mandatory regulatory requirement that asset-level data be provided.

[19] *See id.* at 57196 (noting that such information provides a more complete picture of the composition and characteristics of the pool assets and their performance) and 57201 (reiterating the Commission's belief that the asset-level information would provide investors and other market participants with access to standardized information to analyze the risk and return characteristics of ABS offerings).

[20] 17 CFR 229.1111(h) and 17 CFR 229.1125.

[21] *See* 2014 Regulation AB II Adopting Release at 57210.

[22] *See id.* at 57211.

[23] *See id.* at 57211 n. 265.

[24] For example, the Commission considered standard definitions of mortgage related terms and XML formats developed by the Mortgage Industry Standards Maintenance Organization (''MISMO'') (The MISMO standards have been mapped to the relevant data in Schedule AL, *available at http://www.mismo.org/standards-and-resources/additional-tools-and-resources/document-mappings/schedule-al-reg-ab-ii-mapping*); information reported by sellers to the Federal National Mortgage Association (''Fannie Mae'') and the Federal Home Loan Mortgage Corporation (''Freddie Mac''); information published by Fannie Mae, Freddie Mac, and the Government National Mortgage Association (''Ginnie Mae'' and, together with Fannie Mae and Freddie Mac, the ''Agencies''); data delivered to banking regulators, as well as the ''RMBS Disclosure and Reporting Package,'' published in 2009 by the American Securitization Forum (''ASF''). ASF was a securitization trade association that represented issuers, investors, financial intermediaries, and other market participants. This reporting package was developed by its membership following the Financial Crisis as part of its Project on Residential Securitization Transparency and Reporting (''Project RESTART'') to establish standardized definitions for RMBS asset-level information and a format for presenting this data to investors. *See* 2014 Regulation AB II Adopting Release at 57210–12. *See also* Chairman Jay Clayton, Asset-Level Disclosure Requirements for Residential Mortgage-Backed Securities (Oct. 30, 2019) (the ''2019 Chairman's Statement'') at n.6, *available at https://www.sec.gov/newsroom/speeches-statements/clayton-rmbs-asset-disclosure.*

[25] By contrast, prior to the Financial Crisis, there were 52 issuers issuing registered private-label RMBS in 2004 at the time Regulation AB was adopted. *See* Regulation AB II Adopting Release at 57192.

[26] There was a precipitous decline in registered RMBS issuance during the Financial Crisis. For example, in 2008, there was $12.2 billion in issuance, $0 in 2009, and only $200 million in 2010. From 2011–2013 there was a slight rebound, with $4 billion in registered RMBS issuance in 2013, before ceasing entirely starting in the third quarter of 2013. *See* AB Alert Debt Database.

[27] *See, e.g.,* Fannie Mae Financial Supplement Q4 and Full Year 2024 (Feb. 14, 2025) at 14, *available at https://www.fanniemae.com/media/54816/display* (showing that 92% of single-family mortgage-related securities issuances in 2024 were conducted by the Agencies while 8% were private-label securities issuances).

[28] Securities issued or guaranteed by the Agencies are, like government securities, exempt from the registration and reporting requirements of the Securities Act and the Exchange Act. *See* 12 U.S.C. 1455(g) and 1723c. They are, however, subject to other regulatory reporting requirements.

[29] *See* Diana Knyazeva, *Asset-Backed Securities Markets: Issuance and Structure* (Apr. 2025) at 5, *available at https://www.sec.gov/files/dera-abs-mkt-2504.pdf* and Table 1, below.

[30] *See, e.g.,* letter from American Bankers Association, Housing Policy Council, Mortgage Bankers Association, and Securities Industry and Financial Markets Association (May 19, 2020) (the ''Associations'') at 3, in response to the 2019 Chairman's Statement, *available at https://www.sec.gov/comments/rmbs/cll8-7214372-216890.pdf* (''While Rule 144A offerings provide an excellent option for some issuers and investors, 144A offerings limit the pool of investors available to purchase exempt securities, which leaves private capital that could be deployed to support residential housing through RMBS purchases, such as that of some institutional investors, on the sidelines.''); *SFA Trains Sights on Regulation AB,* Asset-Backed Alert at 2 (Apr. 17, 2025), *available at https://my.greenstreet.com/news/all/publications?reportId=17258* (stating that issuers support the Structured Finance Association's efforts to change asset-level disclosure requirements for RMBS because they want to widen the pool of available investors to include those limited to buying only registered RMBS).

backed by other consumer lending assets, such as automobile loans and leases and credit card receivables, over the same period of time.

Table 1. ABS Issuance by Consumer Loan Type (USD Billion)*

	Automobile				Credit Card				Private-Label RMBS			
Year	Registered	144A	Private Placement	Total	Registered	144A	Private Placement	Total	Registered	144A	Private Placement	Total
2014	62.6	19.7	0.0	82.3	43.1	2.2	0.0	45.2	0.0	37.0	0.0	37.0
2015	62.0	22.4	0.0	84.4	24.0	3.4	0.0	27.4	0.0	57.4	0.0	57.4
2016	56.3	23.5	0.0	79.8	26.7	7.8	0.0	34.5	0.0	38.9	0.0	38.9
2017	56.4	34.4	0.6	91.4	42.3	5.1	0.0	47.4	0.0	65.9	0.3	66.2
2018	65.4	33.3	5.1	103.8	27.7	8.5	0.5	36.6	0.0	90.9	0.0	90.9
2019	70.2	36.0	2.3	108.5	17.6	7.8	0.0	25.3	0.0	114.6	1.1	115.7
2020	66.4	28.5	6.0	100.9	2.0	1.8	0.7	4.5	0.0	101.1	2.1	103.2
2021	80.7	41.4	0.0	122.0	11.5	6.3	0.0	17.8	0.0	186.2	1.0	187.2
2022	71.9	28.8	0.0	100.7	24.8	7.8	0.0	32.6	0.0	133.1	1.5	134.6
2023	80.0	53.7	0.0	133.7	17.1	7.7	0.0	24.8	0.0	72.0	1.5	73.5
2024	88.6	60.1	0.0	148.7	13.0	7.5	0.0	20.4	0.0	142.9	2.5	145.4

*Source: AB Alert. This Table reports the volume of issuance in "other ABS" backed by credit card receivables, automobile loans and leases, and residential mortgages, and excludes deals with offering type "Outside U.S." and deals with deal type "Non-U.S. ABS/MBS." Automobile ABS include ABS backed by prime and subprime automobile loans, automobile leases, and motorcycle loans.

Market participants often cite the RMBS asset-level disclosure requirements as a key barrier to the return of private-label RMBS issuance to the registered market.[31] Nevertheless, many market participants, including investors,[32] have expressed a desire to re-enter the registered RMBS market due to the benefits it provides, including increased liquidity and greater transparency of registered offerings and publicly available disclosure.[33] Others have emphasized the benefits of increased financing to housing markets from the broader investor base available to invest in registered RMBS offerings versus Rule 144A RMBS offerings.[34]

B. Recent Developments

In September 2019, the Treasury Department published a housing reform plan recommending that the Commission review its RMBS asset-level requirements in Schedule AL.[35] The report raised concerns that the Commission's regulations prescribing asset-level disclosures for registered RMBS might unduly restrict registered private-label RMBS issuances and contribute to a ''heightened . . . competitive advantage'' for the Agencies.[36] The report concluded, in part, that ''[i]t is difficult to collect the required data for some of these fields—with the expense and burden of collection potentially outweighing the benefit to [private-label RMBS] investors, particularly for seasoned mortgage loans and some of the [data points] are ambiguous.'' [37] The Treasury Department recommended that the Commission review the RMBS asset-level disclosure requirements to assess the number of required reporting fields and to clarify any ambiguous fields for registered private-label RMBS issuances.[38]

In October 2019, then-Chairman Jay Clayton released a statement seeking public input on the issues related to RMBS asset-level requirements.[39] As with the Treasury's housing reform

[31] *See, e.g.,* letter from the Associations. *See also* letter from Mortgage Bankers Association (Feb. 4, 2020) (''MBA'') at 2, in response to the 2019 Chairman's Statement, *available at https://www.sec.gov/comments/rmbs/cll8-6746321-207968.pdf* (''[E]fforts to revise the SEC's RMBS disclosure requirements are a valuable—and necessary—step toward reviving the non-agency mortgage securitization market.''); letter from Pentalpha Surveillance LLC (Dec. 23, 2019) at 1, in response to the 2019 Chairman's Statement, *available at https://www.sec.gov/comments/rmbs/cll8-6584947-201253.pdf* (''Based on our experience, we agree that the additional asset-level data points required by Regulation AB in an SEC-registered offering have been a contributing factor to the lack of SEC-registered RMBS issuances.''); Edward DeMarco, *Three Ways to Draw Private Capital Back Into Mortgages,* Am. Banker (June 19, 2019), *available at https://www.americanbanker.com/opinion/three-ways-to-draw-private-capital-back-into-mortgages* (''[T]he SEC's Regulation AB II includes elements that are difficult, if not impossible, to fulfill because the data definitions in the rule are unclear, certain required data is not relevant, and other data elements are not readily available. As a result, Reg AB II has become a barrier for issuers and investors, and we have seen no publicly registered mortgage-backed securities deals since the crisis.''); and *SFA Trains Sights on Regulation AB* (quoting Michael Bright, chief executive officer of the Structured Finance Association (''SFA''): ''There are too many data fields, and issuers can't comply.''). The 2019 Chairman's Statement is discussed in more detail in section II.B below.

[32] *See, e.g., Key Points Summary: Responding to the SEC's Request for Input on Residential Mortgage Backed Securities Disclosures,* Structured Finance Association (2019), *available at https://structuredfinance.org/wp-content/uploads/2020/02/SFA-Responding-to-the-SECs-RFI-on-RMBS-Summary-Final.pdf* (stating that, in response to the 2019 Chairman's Statement, the Structured Finance Association would convene member discussions including investors (such as those in Agency credit risk transfer offerings, 144A offerings, and investors currently not purchasing any MBS offerings), following which investor and issuer members would seek to ''establish a comprehensive industry agreed recommendation to the SEC for how disclosures in public RMBS offerings may be modified to provide investors the material information they need to analyze RMBS investment opportunities and while also supporting public issuance of private label RMBS.'').

[33] *See, e.g.,* DeMarco (''Public registration and disclosure of the details of asset-backed securitization is essential to market transparency and liquidity.'').

[34] *See, e.g.,* letter from MBA (''Reintroducing a critical source of private capital will add much-needed diversity to the housing finance system and increase aggregate liquidity, benefiting borrowers, lenders, issuers, and investors.'').

[35] U.S. Department of the Treasury Housing Reform Plan Pursuant to the Presidential Memorandum Issued March 27, 2019 (''2019 Housing Reform Plan'') (Sept. 2019), *available at https://home.treasury.gov/system/files/136/Treasury-Housing-Finance-Reform-Plan.pdf.*

[36] *Id.* at 39 (stating that ''[t]he special treatment afforded to the [Agencies] under the disclosure, risk retention, and other regulations governing securitization transactions has also heightened the [Agencies'] competitive advantage over private sector securitizers.'').

[37] *Id.* at 39.

[38] *See id.* at 40 and A–5.

[39] *See* 2019 Chairman's Statement.

plan, the Chairman's statement highlighted the absence of registered RMBS offerings since the adoption of Regulation AB II and the dominance of the Agencies in the overall RMBS market.[40] The Chairman's statement acknowledged that there were likely a number of factors contributing to the absence of registered private-label RMBS offerings and sought public input on these various factors, including whether the RMBS asset-level disclosure requirements were a significant contributing factor.[41] Public input was limited, with only a handful of commenters responding to the Chairman's statement.[42]

One comment letter submitted by a group of four industry organizations recommended the removal of certain specific RMBS asset-level data points from Schedule AL, and the addition of other data points, to align with the asset-level disclosures used in the Rule 144A RMBS market.[43] For example, these industry organizations suggested that, to bring the Schedule AL requirements more in line with disclosures generally provided in the Rule 144A RMBS market, the Commission should remove certain information related to servicer advances (Item 1(g)(31) of Schedule AL), loans in foreclosure (Item 1(r) of Schedule AL), ''real estate owned'' properties (Item 1(s) of Schedule AL), information related to losses (Item 1(t) of Schedule AL), and mortgage insurance claims (Item 1(u) of Schedule AL), among several others. The industry organizations suggested various reasons for removal of specific data points, including that the information is not typically obtained or is not obtainable, the information is not verifiable, or that the information is not material. They also recommended the addition of several data points that are used in Rule 144A RMBS issuances, including detailed information related to borrower credit scores, borrower income and employment information, geographical information related to the property, property valuation information, and certain information related to the modification of the terms of a mortgage. Schedule AL currently requires much of this information,[44] but to varying degrees and levels of granularity, at least in part due to privacy and confidentiality concerns, which we discuss in section III below. Commission staff has continued to engage with industry participants to identify potential barriers to registration of RMBS offerings, as well as ways to reduce or remove those barriers, and continue to hear concerns with certain RMBS asset-level data points.[45]

C. Potential Changes to RMBS Asset-Level Disclosure Requirements

In an effort to enhance the Commission's registration, disclosure, and reporting framework for RMBS, we are soliciting public comment on whether and how any potential revisions to the RMBS asset-level disclosure requirements in Item 1 of Schedule AL could facilitate increased capital formation through registered RMBS issuances, while providing investors with information necessary to their investment decisions. In the case of RMBS, there are several factors that may be contributing to the absence of registered offerings, including the dominance of the Agencies, which may be attributed to deep market liquidity, beliefs among some market participants regarding the availability of U.S. Government guarantees, more favorable underwriting standards compared to private-label RMBS, and attractive yields and returns for investors.[46] Nevertheless, it is important to consider whether the Commission's rules may be contributing to this absence.

Securitization market conditions have changed considerably since both the Financial Crisis and the Commission's adoption of Schedule AL, including improved investor confidence in securitization markets due to increased transparency and other regulatory guardrails established in response to the crisis.[47] Despite these developments, the issuance of registered RMBS has yet to return. In light of these observations—and based on the staff's ongoing engagement with market participants to understand the circumstances contributing to this lack of public issuance—we are considering whether the required disclosure of certain RMBS data points under Schedule AL contributes to the ongoing absence of registered RMBS transactions.

The RMBS market plays a substantial role in enhancing liquidity in the residential mortgage market and reduces the cost associated with access to capital, benefitting the U.S. housing sector.[48] As some RMBS market

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[40] *See id.*

[41] *See id.*

[42] The public comment file for the 2019 Chairman's Statement is available at *https://www.sec.gov/comments/rmbs/rmbs.htm.* The Commission received nine letters in total, five of which were substantively responsive.

[43] *See, generally,* letter from the Associations.

[44] For example, Items 1(e)(2) through (e)(6) of Schedule AL require information about an obligor's credit score, whereas the industry groups recommended inclusion of more than 10 data points related to credit score, requiring multiple credit score and credit score types for the ''primary wage earner'' and the ''secondary wage earner.''

[45] Industry participants have also continued to share concerns related to these potential barriers publicly. *See e.g., Dodd-Frank Turns 15: Lessons Learned and the Road Ahead: Hearing Before the H. Comm. on Financial Services,* 119th Cong. (July 15, 2025) (written testimony of Kenneth E. Bentsen, Jr., President and CEO, Securities Industry and Financial Markets Association (''SIFMA'')), *available at https://docs.house.gov/meetings/BA/BA00/20250715/118488/HHRG-119-BA00-Wstate-BentsenK-20250715.pdf* (stating, in relevant part, his belief that Regulation AB II has prevented registered RMBS issuances due to the ''impossibility of production of the data'' and suggesting that the Commission should ''review, reduce, and rationalize the number of required data fields.'').

[46] *See, e.g.,* letter from the Associations at 2 (''The GSE exemption from the CFPB Ability to Repay/Qualified Mortgage Rule, for example, was a regulatory privilege that had a tremendous market impact. As a result of the 'GSE Patch,' which granted Qualified Mortgage status to all GSE-eligible mortgages, the majority of the market was confined to the GSE underwriting parameters, an unfair advantage that undermined important market innovation, including critical advances in the mitigation, management, and distribution of risk.'').

[47] *See, e.g.,* letter from SIFMA, the Asset Management Group of SIFMA, and the Bank Policy Institute (Mar. 27, 2023) (''SIFMA *et al.*'') at 3 and 9, in response to the Securities Act Rule 192 re-proposing release, *available at https://www.sec.gov/comments/s7-01-23/s70123-20161806-330705.pdf* (noting that the current securitization market is ''vastly different, and better, than it was in the years leading up to the financial crisis'' and that the securitization market has improved ''with the help of well-considered rulemaking by the Commission'' such as Regulation AB II, Securities Act Rule 193, and Exchange Act Rule 15Ga-1). *See also,* letter from the American Investment Council (Mar. 27, 2023) at 4–5, in response to the Securities Act Rule 192 re-proposing release, *available at https://www.sec.gov/comments/s7-01-23/s70123-20161727-330618.pdf* (stating that ''[t]oday's ABS markets have been shaped in no small part by other provisions of the Dodd-Frank Act that have already been implemented'' and that the credit risk retention rule and the Volcker rule, ''together with other developments in the ABS markets, have materially aligned the incentives of investors and securitization participants, and have increased the transparency of transaction structures.''). *See also,* letter from Jay Knight, Chair of the Committee on Federal Regulation of Securities, Business Law Section of the American Bar Association (Apr. 5, 2023) at 4–5, in response to the Securities Act Rule 192 re-proposing release, *available at https://www.sec.gov/comments/s7-01-23/s70123-20163663-333899.pdf* (noting that, since the adoption of the Dodd-Frank Act, there has been a fundamental transformation of the regulatory landscape for the financial industry, including the credit risk retention rule, the Volcker rule, regulation of swaps and security-based swaps by the Commission and the Commodity Futures Trading Commission, the Commission's changes to the regulation of nationally recognized statistical rating organizations, and Securities Act Rule 192).

[48] *See e.g.,* Andreas Fuster, David Lucca, and James Vickery, *Mortgage-backed Securities,* Federal Reserve Bank of New York Staff Report, n.1001 (Feb. 2022), at 1 and 19, *available at https://www.newyorkfed.org/medialibrary/media/research/staff_reports/sr1001.pdf?sc_lang=en* (noting the ''US MBS market is one of the largest and most liquid global fixed-income markets'' and ''a key benefit of securitization is that it makes mortgages more liquid, thereby significantly de-coupling loan originators' ability to produce loans from their own financial condition (*e.g.* funding, risk exposure)'');

participants have noted, a diverse array of securitization options (*i.e.,* Agency RMBS, Rule 144A private-label RMBS, and registered private-label RMBS) is important for a healthy mortgage market because it provides access to a wider range of issuers and investors, reducing reliance on any one source of liquidity and contributing to lower consumer costs.[49] For these reasons, we seek to identify and address potential barriers that issuers may face when they seek to engage in registered RMBS offerings and to explore any accommodations that could facilitate public offerings of RMBS in a manner that is consistent with the Commission's statutory mandate and maintains investor protection.

As such, we are requesting input as to whether a reconsideration of the RMBS asset-level disclosure requirements is warranted to assess whether certain data points continue to be necessary for independent investor due diligence under current market conditions. We are also soliciting public comment about ways to enhance and revise the asset-level disclosure requirements of Schedule AL to reduce or remove any potential barriers to registration of RMBS offerings. In considering potential revisions to our rules, it would be helpful to understand which data points are possible to obtain, even if not typically or easily obtained, versus which data points are impossible to obtain, and the separate reasons for each.[50] As we consider potential approaches, it will be helpful to have a better understanding regarding the level of difficulty for disclosure of various data points and the related reasons and impacts. Likewise, it will be helpful to understand what asset-level data is necessary for the investor to independently perform due diligence on RMBS, consistent with the mandate in Securities Act section 7(c). In each case, a clear and demonstrable rationale for a suggested approach would allow us to evaluate more effective and tailored solutions. We welcome and encourage market participants and other interested persons to submit their views on potential regulatory changes discussed above or on any alternative that they deem appropriate.

D. Request for Comment

1. To what extent, if at all, are the Commission's asset-level disclosure requirements adopted in 2014 contributing to the lack of registered RMBS issuances? What are the costs and other related burdens associated with providing asset-level disclosures for registered RMBS offerings?

2. To what extent have other factors contributed to the absence of registered RMBS offerings? Which are the most salient factors? To what extent, if at all, has the Rule 144A market also contributed to the lack of registered RMBS issuances and if so, why?

3. Are there differences in transaction costs for registered RMBS relative to Rule 144A RMBS offerings? For example, are there differences in costs associated with reporting frequency, making filings on EDGAR, or costs related to the administration of the deals, such as those related to transaction parties? Is there quantitative data available underlying such cost comparisons? Are there any parallels to other quantitative data sets?

4. Are there any RMBS data points in Schedule AL for which the Commission's rationale articulated in the 2014 Regulation AB II Adopting Release is no longer relevant in today's market?

5. Should the RMBS asset-level disclosure requirements in Schedule AL be conformed to the practices of private-label RMBS issuers offering securities in the Rule 144A market?

6. Should any RMBS data points in Schedule AL be revised? Should any data points be removed? If so, which specific data points should be revised or removed and why? Should any RMBS data points not in Schedule AL be added? If so, which specific data points should be added and why?

7. Are there any RMBS data points in Schedule AL that are not necessary or are overly burdensome to obtain? If so, could any such data points be revised or should they be removed from Schedule AL? Are such data points overly burdensome to obtain for newly issued mortgages, or only for legacy mortgages, and if the latter, of what vintage? Which data points are possible to obtain, even if not typically or easily obtained, versus which data points are impossible to obtain and why? Please specify the data points and provide a detailed explanation of the reasons why they should be revised or removed.

8. Are there any definitions in Schedule AL regarding specific RMBS data points that are ambiguous or confusing? Why or why not? If so, how can such definitions be revised to provide clarity? Is there interpretive guidance that the Commission could provide to help clarify any data points?

9. Should we consider alternative reporting frequencies for ongoing disclosures and/or allowing summary reporting for certain credit events required to be disclosed by Schedule AL? Why or why not?

10. Should the Schedule AL data points be rearranged or modified in such a way that would more clearly delineate when and under what circumstances each data point is required to be provided (*i.e.,* at offering and/or at the time of filing each Form 10–D)? If so, what clarifying changes to the structure of Schedule AL or the definitions of specific data points would be helpful in this regard?

11. Should the response codes for specific RMBS data points in Schedule AL be revised? If so, which ones and why? Should we consider providing greater use of response codes such as ''not applicable,'' ''not available,'' ''not obtainable,'' or ''unknown''? Should we require additional explanatory information regarding such responses and, if so, where?

12. Should we consider a ''provide-or-explain'' regime?[51] Under a provide-or-explain regime, an issuer may omit any asset-level data point, provided the issuer identifies the omitted field and explains why the data was not disclosed.

- If so, what limits should we place on a provide-or-explain regime? What impact could a provide-or-explain regime have on investor protection, market transparency, and investors' ability to analyze data using models or other technologies?

13. What impacts would there be on standardization of RMBS asset-level data if we were to allow a provide-or-explain regime? How could a provide-or-explain disclosure regime be structured so as to be consistent with

and letter from SIFMA *et al.* at 3 (''Indeed, our well-functioning securitization market has helped to mitigate the effects of rising interest rates by acting as a source of cost-efficient financing for auto loans, mortgage loans, unsecured consumer loans, business loans and many other forms of commercial and consumer credit.''). *See also* 2019 Chairman's Statement.

[49] *See, e.g.,* letter from the Associations at 2 (''We believe that the long-term health and resilience of the mortgage market depends, in part, on maintaining a diverse set of securitization options that foster engagement from a broader array of issuers and investors. This, in turn, reduces lender reliance on any single source of liquidity and ensures that borrowers are receiving the lowest interest rates available.'').

[50] We note that, as the Commission stated in the 2014 Regulation AB II Adopting Release, the rules requiring asset-level disclosures do not affect the availability of Securities Act Rule 409 [17 CFR 230.409] or Exchange Act Rule 12b–21 [17 CFR 240.12b–21], which permit issuers to omit required information that is unknown and not reasonably available. *See* 2014 Regulation AB II Adopting Release at 57210. The distinction, therefore, is particularly salient for us to assess recommendations for revisions to Schedule AL.

[51] We note that the Commission previously declined to adopt a ''provide-or-explain'' regime because it could result in differing levels of disclosure. *See* 2014 Regulation AB II Adopting Release at 57205.

Securities Act section 7(c)? Please explain.

14. What asset-level data is necessary for investors to independently perform due diligence on RMBS offerings, consistent with the mandate in Securities Act section 7(c)? Are there data points in current Schedule AL upon which investors do not rely? Would the elimination of any of the RMBS data points in Schedule AL be reasonably expected to adversely affect investors' ability to analyze the quality and performance of the underlying assets? If so, which specific data points should not be eliminated and why?

15. Are there any RMBS data points in Schedule AL that are duplicative? If so, identify the data points and explain why. Would it be beneficial to issuers and investors to remove duplicative data points?

16. Some RMBS data points request the results of calculations, such as debt-to-income ratios. Can these ratios otherwise be calculated from data provided in other asset-level data points? Are these calculations overly burdensome to perform? Should we permit these data points to be excluded from the asset-level data file?

III. Disclosure of Certain Sensitive RMBS Asset-Level Data

A. Background

Throughout the Regulation AB II proposal process, the Commission was sensitive to the possibility that certain asset-level disclosures may raise concerns about an underlying obligor's personal privacy.[52] In particular, the Commission noted that asset-level data points requiring disclosures about the geographic location of the collateralized property and obligors' credit scores, income, and debt may raise privacy concerns.[53] The Commission also recognized, however, that information about obligors' credit scores, employment status, and income would permit investors to perform better risk and return analysis of the underlying assets and, therefore, of the ABS.[54] In an effort to balance individual privacy concerns with the needs of investors to have access to detailed financial information about the obligors, the Commission proposed a series of data points that required information presented in ranges and coded responses rather than specific values. One such example of this effort is the approach taken with respect to the data point requiring disclosure of the geographic location of the property.[55]

The Commission originally proposed that a property's location be provided by Metropolitan Statistical Area, Micropolitan Statistical Area, or Metropolitan Division (collectively, ''MSA'') [56] in lieu of the narrower geographic delineation of zip codes.[57] Commenters' responses to this proposal were mixed, with some noting that such an approach would greatly reduce transparency [58] and one stating its belief that limiting geographic information to MSA could result in lower pricing for new RMBS offerings, potentially resulting in higher costs for consumers of residential mortgage loans.[59] According to these commenters, zip codes were preferable as they could provide further information for a property, including, for instance, whether a property is in a flood plain or earthquake zone.[60] Other commenters highlighted the potential privacy risks posed by zip codes, including that they can be used with other public databases to match a property with a specific borrower.[61]

In February 2014, the Division of Corporation Finance issued a staff memorandum detailing how disclosure of certain asset-level data requirements combined with other publicly available sources of consumer information would allow the identity of the obligors in ABS pools to be uncovered or re-identified and the potential implications of such an outcome.[62] The 2014 Staff Memorandum also presented a potential approach of making certain asset-level data available to investors and potential investors through an issuer-sponsored website, rather than on EDGAR.[63] The 2014 Staff Memorandum suggested that such a website would allow issuers the flexibility to determine the procedures and controls best suited to protecting asset-level data while allowing investor access to the data necessary for any investment decisions. Also in February 2014, the Commission re-opened the comment period for the 2010 Regulation AB II Proposing Release and the 2011 Regulation AB II Re-Proposing Release to solicit public comment on the privacy considerations and website approach detailed in the 2014 Staff Memorandum.[64]

As detailed in the 2014 Regulation AB II Adopting Release, only a few commenters supported the use of such a website, citing concerns that it could increase the legal and reputational risks to issuers and may cause issuers to take on liability under any applicable privacy laws.[65] Other commenters noted

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[52] *See Re-Proposal of Shelf Eligibility Conditions for Asset-Backed Securities,* Release No. 33–9244 (July 26, 2011) [76 FR 47948, 47967] (Aug. 5, 2011) (the ''2011 Regulation AB II Re-Proposing Release'').

[53] *See* 2010 Regulation AB II Proposing Release at 23357 and the 2011 Regulation AB II Re-Proposing Release at 47967. *See also,* the Memorandum from the Commission's Division of Corporation Finance (Feb. 25, 2014), *available at https://www.sec.gov/comments/s7-08-10/s70810-258.pdf* (the ''2014 Staff Memorandum'').

[54] *See* 2011 Regulation AB II Re-Proposing Release at 47967.

[55] While this discussion focuses on the data point requiring disclosure of the geographic location of an individual property (as adopted, Item 1(d)(1) of Schedule AL), the Commission also proposed coded responses to represent ranges for other sensitive consumer information as well, such as credit scores and monthly income and debt ranges. *See* the 2010 Regulation AB II Proposing Release at 23357.

[56] Metropolitan and Micropolitan Statistical Areas are geographic areas designated by a five-digit number defined by the U.S. Office of Management and Budget (''OMB'') for use by Federal statistical agencies in collecting, tabulating and publishing Federal statistics. A Micropolitan Statistical Area contains a core urban area of at least 10,000 (but less than 50,000) population. Each Metro or Micro area consists of one or more counties and includes the counties containing the core urban area, as well as any adjacent counties that have a high degree of social and economic integration (as measured by commuting to work) with the urban core. The OMB also further subdivides and designates New England City and Town Areas. The OMB may also combine two or more of the above designations and identify it as a Combined Statistical Area. *See* the 2010 Regulation AB II Proposing Release at 23357.

[57] *See* the 2010 Regulation AB II Proposing Release at 23357.

[58] *See* letter from American Securitization Forum (Aug. 2, 2010) at 50, in response to the 2010 Regulation AB II Proposing Release, *available at https://www.sec.gov/comments/s7-08-10/s70810-70.pdf* (expressing views of investors only), letter from The Beached Consultancy (July 8, 2010) at 2, in response to the 2010 Regulation AB II Proposing Release, *available at https://www.sec.gov/comments/s7-08-10/s70810-41.pdf* (suggesting that the metropolitan area is too broad to be useful, and, therefore, a ''3-digit zip code'' should be permitted), and letter from Wells Fargo & Co. (Aug. 2, 2010) (''Wells Fargo'') at 13, in response to the 2010 Regulation AB II Proposing Release, *available at https://www.sec.gov/comments/s7-08-10/s70810-76.pdf.*

[59] *See* letter from Wells Fargo.

[60] *See, e.g.,* letter from The Epicurus Institute (Aug. 1, 2010) at 17, in response to the 2010 Regulation AB II Proposing Release, *available at https://www.sec.gov/comments/s7-08-10/s70810-64.pdf.*

[61] *See, e.g., generally,* letter from World Privacy Forum et al. (Aug. 2, 2010), in response to the 2010 Regulation AB II Proposing Release, *available at https://www.sec.gov/comments/s7-08-10/s70810-91.pdf* (noting as examples that property addresses, sales prices, and closing dates may be disclosed by certain local governments and could link asset-level data to individuals).

[62] *See* 2014 Staff Memorandum at 3. For example, if an obligor were identified in this process, the obligor's personal finances could be determined and information such as the obligor's credit score, monthly income, and debt would be available through EDGAR filings, which could further conflict with or undermine consumer privacy protections provided by Federal and foreign laws which restrict the dissemination of individual information such as the Fair Credit Reporting Act [15 U.S.C. 1681 *et seq.*] (''FCRA'') and the Gramm-Leach-Bliley Act [Pub. L. 106–102]. Moreover, the availability of such personal information could increase the potential for identity theft and fraud.

[63] *See id.* at 8.

[64] *Re-Opening of Comment Period for Asset-Backed Securities Release,* Release No. 33–9552 (Feb. 2, 2014) [79 FR 11361] (Feb. 28, 2014).

[65] *See* 2014 Regulation AB II Adopting Release at 57233.

concerns that websites pose technological risks and that any issues could have negative market impacts.[66] The Commission went on to detail a series of options considered before finally adopting Item 1(d)(1) of Schedule AL, which requires disclosure of a two-digit zip code for the geographic location of individual properties underlying an RMBS offering to mitigate privacy and re-identification risk.[67] To provide guidance with respect to the FCRA implications of the proposed asset-level disclosure requirements, the Consumer Financial Protection Bureau (''CFPB'') issued a letter to the Commission explaining its view that, if the Commission made certain determinations related to the disclosure of the asset-level information at issue, which excluded direct identifiers, the Commission would not become a consumer reporting agency by requiring, obtaining, and disseminating such information and an issuer would not become a consumer reporting agency by disclosing such information to investors or filing it with the Commission pursuant to the Commission's regulatory requirement.[68]

In his 2019 statement regarding RMBS asset-level disclosure requirements, then-Chairman Clayton specifically requested feedback on issues related to five-digit zip code and other privacy concerns.[69] Chairman Clayton noted the Commission staff's understanding that issuers of unregistered RMBS provide five-digit zip codes to investors rather than the two-digit zip code required under Schedule AL and that issuers address privacy concerns by limiting the use and dissemination of zip codes, including via the use of end-user agreements. Chairman Clayton requested feedback regarding the impact of the zip codes on registered RMBS offerings, the role and value of zip codes in risk and return analysis related to RMBS offerings, and whether there were alternatives to zip codes that would accommodate privacy concerns while still meeting the needs of investors.[70]

In response to this request, one commenter noted that there should be alignment between the asset-level data disclosure provided in registered and unregistered RMBS offerings, but that, in the meantime, issuers of registered RMBS offerings should provide the five-digit zip code to investors of record, with the EDGAR filing displaying only three-digit zip codes.[71] Another commenter stated that filing data on EDGAR should be limited to three-digit zip codes, with processes in place to allow public disclosure of a zip code to be further limited.[72] This commenter proposed an approach already used for Rule 144A RMBS issuances: a ''click-through'' agreement through which investors can access asset-level data (*e.g.,* through a permissioned website) after providing representations regarding the use and redistribution of such data.

The Securities Industry and Financial Markets Association (''SIFMA'') has made available a model click-through agreement.[73] The agreement places several limitations on users, including on the use of the data, disclosure of the data, and communications with any obligors. The agreement also requires users to represent that, where they do disclose the data, those with access to the data are informed that it is confidential and that they are subject to confidentiality and security obligations. Users must further represent that they will treat the information as personally identifiable under all applicable laws and that, commensurate with the type of user and relative to the nature and scope of their activities, they have reasonable safeguards to protect the confidentiality of the asset-level data.[74]

B. Potential Regulatory Response

As discussed in section II above, we are considering possible approaches to facilitate issuer participation in registered RMBS offerings, including a reconsideration of the issuer-sponsored websites discussed above. We understand there is a difference between the information investors receive in unregistered transactions, such as those conducted pursuant to Rule 144A, and disclosures required in a public offering through registered transactions. From staff discussions with RMBS market participants, we are aware that there are certain data point categories provided in Rule 144A RMBS transactions that, if included in registered RMBS transactions, would pose privacy concerns, including property address and other geographical property information, borrower credit scores, property valuation, and underwriting details. We also acknowledge that asset-level information is important to an investor's analysis in making investment decisions about the RMBS transaction. As such, providing that information to investors and promoting capital formation may involve considering potential alternative approaches, such as the use of a website separate from EDGAR, managed or sponsored by the issuer, consistent with current practices for unregistered private-label RMBS issuances.

At the time Regulation AB II was proposed, commenters generally opposed the use of a website for storing asset-level data, leading to its exclusion from the final rule.[75] However, commenters responding to the 2019 Chairman's Statement indicated that the use of a website would be more consistent with the approach currently utilized for unregistered RMBS issuances.[76]

Given the passage of time and evolution of industry practice, we are interested in market participants' views on whether an issuer-sponsored website as summarized in the Regulation AB II Adopting Release and the 2014 Staff Memorandum may be an alternative worth considering. Such a website could allow issuers to manage access to,

[66] *See id.* at 57234 n.587 and the accompanying text.

[67] *See* section III.A.3 of the 2014 Regulation AB II Adopting Release. For example, the Commission conducted an analysis of the disclosure practices of other market participants such as the Agencies and the effect of requiring less precise information, in particular, on the likelihood of isolating a unique mortgage in a sample pool of mortgage loans, depending on disclosure inputs. This analysis indicated that alternatives, such as disclosing three-digit zip codes, as the Agencies sometimes do, would not significantly reduce re-identification risk versus the MSA. The two-digit zip code did not eliminate the possibility of obligor re-identification but struck a balance between privacy and transparency.

[68] As the CFPB explained, this view relied on the Commission determining that disclosure of the information was ''necessary for investors to independently perform due diligence'' under section 942(b) of the Dodd-Frank Act and that the information should be filed with the Commission and disclosed via EDGAR to best fulfill the congressional mandate in section 942(b) of the Dodd-Frank Act. The letter also advised that the CFPB believed that the Commission and issuers would not violate section 604(f) of the FCRA by obtaining or disseminating certain asset-level information at issue if the Commission made these determinations. *See* letter from the CFPB (Aug. 26, 2014), *available at https://www.sec.gov/comments/s7-08-10/s70810-306.pdf. See also* 2014 Regulation AB II Adopting Release at 57237.

[69] *See* 2019 Chairman's Statement.

[70] *See id.*

[71] *See* letter from Veros Real Estate Solutions (July 20, 2020) at 2–3, in response to the 2019 Chairman's Statement, *available at https://www.sec.gov/comments/rmbs/cll8-7449542-220989.pdf.* We note that, in 2014, the Commission considered the option of requiring three-digit zip codes in Schedule AL but determined that three-digit zip codes presented a greater reidentification risk than two-digit codes, as ultimately adopted. *See* the 2014 Regulation AB II Adopting Release at 57236 (noting that, at the time, there were fewer than 99 distinct two-digit zip codes and approximately 900 distinct three-digit zip codes).

[72] *See* letter from the Associations at 5.

[73] *See* SIFMA Model Asset-Level Disclosure Click-Though Agreement Language, *available at https://www.sifma.org/wp-content/uploads/2017/08/SIFMA_Click-Through_Confidentiality_Agreement.pdf.*

[74] *Id.* (see representation 4).

[75] *See* 2014 Regulation AB II Adopting Release at 57233.

[76] *See* letter from the Associations at 6.

and protection of, asset-level data for investors. This could be done by leveraging existing technology and procedures that are currently used for unregistered RMBS issuances, which would also help provide consistency with current industry practices and legal requirements. We recognize that the concerns raised during the proposal of Regulation AB II may persist but, given that such websites are currently in use for unregistered RMBS issuances, this approach may provide a potential solution to balance the market concerns with respect to both individual privacy and consistency in investor access to certain information between registered and unregistered markets, and therefore we seek public comment on its regulatory viability. We also seek public input on any other potential approaches that could address privacy and confidentiality concerns related to the disclosure of certain sensitive asset-level information.

C. Request for Comment

17. Are issuers forgoing registered RMBS offerings because they cannot provide investors with sensitive asset-level information, such as five-digit zip code, due to privacy and re-identification concerns? If so, please identify the asset-level requirements that contain such sensitive information and that are causing or contributing factors in issuers' decisions to forgo registered RMBS offerings.

18. What methods of disclosing zip codes, obligor credit scores, and other sensitive asset-level data would best balance providing investors with sufficiently granular geographical and obligor financial information while also addressing privacy concerns?

19. Should we consider adding data points used in Rule 144A private-label RMBS transactions that may include sensitive information to Schedule AL? If so, which data points should be added and what steps should be taken to address privacy or confidentiality concerns?

• If any of the sensitive information is not currently considered by market participants to be necessary for investors to independently perform due diligence, please elaborate as to why such information is provided to investors in connection with a Rule 144A private-label RMBS issuance.

20. Are the legal and reputational concerns under privacy laws that were identified in connection with the adoption of Regulation AB II still relevant? How have Rule 144A private-label RMBS issuers mitigated those concerns? Have there been breaches in data and privacy protections resulting in harm to obligors? To what extent and how frequently do issuers update their data and privacy protections in response to emerging cybersecurity threats and breaches?

21. Are there other legal or reputational concerns, such as with respect to Regulation FD or other Federal or State securities laws, that RMBS issuers would have if we permit disclosures of certain information via an issuer-sponsored website (or other alternative method) rather than being publicly disseminated via filings on EDGAR? Would Commission rules or guidance establishing what information may or must be disclosed in this manner mitigate any of those concerns?

22. Please describe the websites currently used to provide RMBS asset-level data to investors and potential investors. How is access managed? Is access limited only to potential investors, investors, and the issuer? How is access managed to reflect secondary market transactions? For instance, how is it updated to reflect when investors may no longer hold an applicable investment? What are the challenges issuers have faced in maintaining these websites?

23. Do the websites continue to use click-through agreements consistent with the model click-through agreement provided by SIFMA? Have there been important changes to usage rights, representations, or limitations?

24. Do RMBS issuers maintain websites specific to their own issuances, or are there any third-party websites, whether affiliated or unaffiliated with the RMBS issuers, currently in use that allow investors to access data across issuances? If such websites have been utilized or considered, what challenges do they pose? How have those challenges been addressed? To what extent do liability concerns impact issuers' use of issuer-maintained websites or third-party websites, respectively?

• Do RMBS issuers delegate the responsibility and obligations to establish, maintain, and manage access to such websites to other transaction parties such as the sponsor, servicer, trustee, or custodian (whether affiliated or unaffiliated with the RMBS issuers)? Why or why not? To what extent do liability concerns impact issuers' decisions to delegate these obligations? Is there a standard market practice with respect to the security provided when issuers delegate their obligations to other transaction parties? If so, what are the standard liability provisions under these arrangements in the event of a data breach?

25. Should we permit RMBS issuers to use issuer-sponsored websites in connection with registered RMBS offerings? If so, should we permit RMBS issuers to delegate the responsibility and obligations to establish, maintain, and manage access to such websites to other transaction parties such as the sponsor, servicer, trustee, or custodian (whether affiliated or unaffiliated with the RMBS issuers)? Why or why not?

26. Have investors in unregistered RMBS offerings expressed concerns with the amount of asset-level data typically provided on the website? Have investors expressed concerns with the approach taken in providing the data, or on the attendant access restrictions?

27. Should we require the RMBS issuer to undertake in the offering materials and transaction documents that it will identify and make available the sensitive asset-level information provided on the website? Should we consider requiring that RMBS issuers make certain representations in their filings on EDGAR related to the disclosure of sensitive information?

28. If we require undertakings, representations, and/or certifications by the RMBS issuer as to the sensitive asset-level data provided on its website, what should those obligations include? Should the Commission provide standard language for such undertakings, representations, and/or certifications?

• For example, should we require undertakings, representations, and/or certifications that a website will be/has been established, that a website will continue to be maintained for the life of the deal, and that access to such website has been granted to all prospective/purchasing/current investors (and will continue to be granted) subject to certain specified conditions? Why or why not? Are there other representations and/or certifications that we should consider? If so, please specify.

• Should RMBS issuers be required to represent that such information will be provided to any investor or prospective investor upon request, similar to the standard used in Rule 144A? Would it be appropriate to require that the sensitive RMBS asset-level information that is disclosed outside of EDGAR be incorporated by reference into the issuer's disclosures that are publicly filed on EDGAR?

• When and how frequently should any such undertakings, representations, and/or certifications be required? For example, should they be required with the offering materials (either at the time that the preliminary prospectus is required to be filed pursuant to

Securities Act Rule 424(h) [77] or at the time that the final prospectus is required to be filed pursuant to Securities Act Rule 424(b) [78]), with each distribution report filed on Form 10–D,[79] and/or with the annual report filed on Form 10–K? Please specify why your recommendation as to timing and frequency would be appropriate.

29. Have there been recent technological or other advances in the production and analysis of property data that have lessened reliance on the RMBS asset-level data that has previously raised privacy concerns, including zip codes?

30. When investors in, or assets of, a given unregistered RMBS issuance are located outside the United States, what is the general approach for addressing any cross-border privacy considerations? For instance, when a property and/or obligor may be situated outside the United States and foreign privacy laws constrain the dissemination of asset-level information beyond what is contemplated by U.S. privacy laws, what sorts of restrictions are put in place?

31. Are there alternative approaches to providing RMBS investors with access to sensitive asset-level information that would minimize the re-identification risks discussed above? Please describe the alternative(s) and explain why it would be preferable to the issuer-sponsored website approach discussed in this release.

IV. Definition of Asset-Backed Security Generally

A. Background

When the Commission adopted Regulation AB in 2004, it defined ''asset-backed security'' to demarcate the securities and offerings to which the rules would apply for purposes of registration, disclosure, and reporting under the Securities Act and the Exchange Act.[80] Specifically, Item 1101(c) of Regulation AB (the ''Regulation AB ABS Definition'') defines ''asset-backed security'' as a ''security that is primarily serviced by the cash flows of a discrete pool of receivables or other financial assets, either fixed or revolving, that by their terms convert into cash within a finite time period, plus any rights or other assets designed to assure the servicing or timely distributions of proceeds to the security holders. . .'' with certain conditions and limitations added with respect to lease assets, transaction parties, non-performance, delinquencies, master trusts, and revolving asset pools.[81]

The origins of the Regulation AB ABS Definition can be traced back to 1992, when the Commission amended Form S–3 [82] to permit shelf registration of offers and sales of ABS.[83] At that time, the Commission envisioned a broad definition, stating that ''[a] broad standard has been adopted in order to provide sufficient flexibility and to accommodate future developments in the asset-backed marketplace.'' [84] The definition, however, was used only for purposes of Form S–3 eligibility. When the Commission later adopted the Regulation AB ABS Definition, it noted that moving the definition from the registration form to Regulation AB meant that any security meeting the general definition would be eligible for the new disclosure and reporting regime, regardless of the form used for registration.[85] The Commission made clear, however, that the substance of the definition itself would remain largely unchanged,[86] stating that it ''continue[d] to believe the ABS regulatory regime [being adopted] should be appropriately limited to a definable group of asset-backed securities.'' [87] For example, the Commission's emphasis on discrete pools meant excluding managed pool structures, such as collateralized loan obligations (''CLOs'').[88] Similarly, the emphasis on the activities of the issuing entity being limited to owning and holding one asset pool and issuing securities backed by that pool meant excluding series trust structures, where a single issuing entity issues separate series of ABS backed by separate asset pools.[89] The Commission's concerns about payments not being based primarily on the performance of assets in an underlying pool in synthetic securitizations meant excluding these securitizations.[90] Recognizing that other structures and securities may develop in the future, the Commission explained that the Regulation AB ABS Definition was not designed to limit the public offering of securities that fell outside its parameters; [91] rather, ABS that fall outside the parameters of Regulation AB, such as ABS structured as a series trust, do not qualify to rely on the registration and reporting regime created by Regulation AB.[92]

In 2010, section 941(a) of the Dodd-Frank Act [93] added a separate statutory definition of ''asset-backed security'' as section 3(a)(79) of the Exchange Act (the ''Exchange Act ABS Definition'').[94] The Exchange Act ABS Definition defines ''asset-backed security'' as ''a fixed-income or other security collateralized by any type of self-liquidating financial asset (including a loan, a lease, a mortgage, or a secured or unsecured receivable) that allows the holder of the security to receive payments that depend primarily on cash flow from the asset. . .'' and explicitly includes managed pool structures, such as CLOs. While the two definitions share similarities (*i.e.,* that the securityholder receives payments that primarily depend on cash flows from self-

[77] 17 CFR 249.424(h).

[78] 17 CFR 230.424(b).

[79] 17 CFR 249.312.

[80] *See* section III.A.2 of the 2004 Regulation AB Adopting Release.

[81] 17 CFR 229.1101(c)(2) through (3).

[82] ABS offerings are now registered on Forms SF–1 and SF–3, which are tailored to ABS offerings and disclosures, and are no longer eligible for registration on Form S–3. *See* 17 CFR 239.44 and 17 CFR 239.45, respectively. *See also* section V.B.2. of the 2014 Regulation AB II Adopting Release.

[83] *See Simplification of Registration Procedures for Primary Securities Offerings,* Release No. 33–6964 (Oct. 22, 1992) [57 FR 48970].

[84] *See id.*

[85] *See* 2004 Regulation AB Adopting Release at 1513.

[86] The limited changes made to the definition had the effect of expanding the definition to permit more flexibility. *See, e.g.,* 2004 Regulation AB Adopting Release at 1585–6 (noting that the new definition allows ''structures such as master trusts and revolving periods, currently allowed by the staff for only certain asset classes, to be used by all asset-backed issuers'' and stating its belief that ''these expansions will result in increased flexibility in structuring transactions that meet market demands'').

[87] *See* 2004 Regulation AB Adopting Release at 1586. The Commission explained that the approach was based on the history and development of the traditional ABS market such that a definable set of criteria and requirements could be established and that it was ''pragmatic and feasible to establish Regulation AB for an appropriately definable group of asset-backed securities.'' *See* 2004 Regulation AB Adopting Release at 1514–15.

[88] The ''discrete pool'' requirement also excluded master trust structures, where the ABS transaction contemplates future issuances of ABS backed by the same, but expanded, asset pool. Previously issued securities would also, therefore, be backed by the same expanded asset pool. When it adopted the definition, however, the Commission included an exception to this discrete pool requirement in Item 1101(c)(3)(i) of Regulation AB to permit these master trust structures. *See* section III.A.2.f of the 2004 Regulation AB Adopting Release and Item 1101(c) of Regulation AB.

[89] *See* 2004 Regulation AB Adopting Release at 1516 and *Asset-Backed Securities,* Release No. 33–8419 (May 3, 2004) [69 FR 26650, 26657 and n.63] (''2004 Regulation AB Proposing Release'').

[90] *See* 2004 Regulation AB Adopting Release at 1514 and 2004 Regulation AB Proposing Release at 26656 and n.62.

[91] *See* 2004 Regulation AB Adopting Release at 1515.

[92] For example, as discussed in section IV.B below, certain public utility securitizations that are structured as stand-alone trusts meet the Regulation AB ABS Definition, but others, such as public utility securitizations structured as series trusts, are ineligible under the current rules for the Regulation AB registration and reporting regime but do satisfy the Exchange Act ABS Definition.

[93] Public Law 111–203, 941(a), 124 Stat. 1376, 1890–91.

[94] 15 U.S.C. 78c(a)(79).

liquidating financial assets underlying the ABS), there are key differences—specifically, the inclusion of managed pool and series and master trust structures in the Exchange Act ABS Definition. Therefore, the Exchange Act ABS Definition is broader (*i.e.,* encompasses more types of ABS) than the Regulation AB ABS Definition, and any ABS that satisfy the Regulation AB ABS definition also meet the Exchange Act ABS Definition.

B. Potential Changes to Regulation AB Definitions

The Regulation AB ABS Definition was adopted prior to the enactment of the Dodd-Frank Act and, as noted above, was intended to identify ABS that satisfied certain core principles that the Commission determined should be met in order to be eligible for the specialized registration and reporting regime under Regulation AB.[95] The Exchange Act ABS Definition is used primarily in various Commission rules arising from the Dodd-Frank Act, such as the credit risk retention rule under Exchange Act section 15G,[96] which requires the securitizer of ABS to retain a portion of the credit risk associated with the underlying assets, and Securities Act Rule 192,[97] which was adopted by the Commission pursuant to Securities Act section 27B [98] and prohibits certain material conflicts of interest. As a result, the overall regulatory regime for ABS is governed by two different regulatory standards which serve distinct purposes. This dynamic has resulted in market participants needing to analyze the nuances of each definition to determine whether various ABS structures satisfy only the Exchange Act ABS Definition, both definitions, or neither definition, and what the ramifications might be.

As the ABS market continues to evolve in response to macroeconomic changes and market trends and innovations, ABS transactions have become more diverse and complex, both structurally and in the types of assets that are securitized. For example, since the Exchange Act ABS Definition was enacted in 2010 (and since the Regulation AB ABS Definition was adopted in 2004), we have observed the introduction of new asset classes, such as cell phone payment plan securitizations, as well as the proliferation of others, such as public utility securitizations.[99]

Public utility securitizations are a helpful example of both the impact of the differing definitions on the market and how the evolution of the ABS market over time indicates that a reconsideration of the current regulatory framework may be warranted.[100] These transactions are generally structured in one of two ways: using a stand-alone trust for each issuance of ABS; or using a single series trust that issues multiple series of ABS, each of which is backed by a separate pool of assets, from the same trust. In 2004, the Commission intentionally chose to exclude series trust ABS from the specialized regulatory regime in Regulation AB.[101] Today, this exclusion means that public utility securitizations could be subject to different registration, disclosure, and reporting obligations depending on their structure. As a result, investors in public utility securitizations structured as series trusts could receive different sets of disclosures, reporting frequency, and other regulatory requirements from those available in stand-alone trust issuances, despite the securities themselves having nearly identical features and risk profiles.

However, the concerns informing this decision (*e.g.,* that an investor may need to analyze potential risks from a wholly separate and unrelated transaction created after its original investment) [102] may no longer be so salient that the structure should continue to be disqualifying.[103] Aside from the difference in the structure of the issuance trust, the key features of these offerings are the same and satisfy the ''core principles'' of the ABS definition as set out by the Commission in 2004 as well as the elements of the Exchange Act ABS Definition.[104] For example, in

[95] *See* section III.A.2 of the 2004 Regulation AB Adopting Release (identifying these ''core principles'' as, *e.g.,* that the securities are primarily backed by a pool of assets, that there is a discrete pool with a general absence of active pool management, and an emphasis on the self-liquidating nature of pool assets).

[96] 17 CFR 246.1 *et seq.*

[97] 17 CFR 230.192.

[98] 15 U.S.C. 77z–2a.

[99] These securitizations have been variously referred to as ''utility recovery bonds,'' ''utility revenue bonds,'' ''stranded cost bonds,'' ''rate reduction bonds,'' and ''utility cost recovery bonds.'' For purposes of this release, we use the term ''public utility securitizations.''

[100] Public utility securitizations are offerings of securities that are backed by ''securitization property'' which consists of an intangible property right to assess and collect an irrevocable, non-bypassable charge paid by a public utility's customers. The proceeds of the securitization transaction are then used by the public utility to fund specified projects, such as rebuilding infrastructure following a natural disaster, decommissioning outdated facilities, and other such recovery costs. These types of ABS offerings were introduced to the market in the late 1990s. Until recently, offerings were infrequent and offering amounts were relatively modest, with some years seeing no registered public utility securitization offerings. In recent years, however, we have observed a sizeable increase in both the number of registered deals and in the issuance amounts. Based on EDGAR issuance data, there were eight registered public utility securitization offerings in 2022, totaling $10.3 billion; six in 2023, totaling $2.8 billion; and seven in 2024, totaling $4.3 billion (compared to approximately one registered issuance per year in the early 2000s, each totaling between $330 million and $1.8 billion).

[101] *See supra* section IV.A.

[102] *See* 2004 Regulation AB Adopting Release at 1516. The Commission discussed the basis for its concern at the time, when the ABS market was still relatively new, noting that ''[w]ith a series trust structure, instead of only analyzing the particular pool, an investor also may need to analyze any effect on its security, including bankruptcy remoteness issues, if problems were to arise in another wholly separate and unrelated transaction in the same issuing entity. These concerns are exacerbated if new unrelated transactions are created after the original transaction involving the investor.'' By contrast, for ABS transactions structured as stand-alone trusts where the issuance trust only issues ABS in a single transaction, an investor would not need to consider the impacts of other ABS issuances by the trust. As discussed, public utility securitizations utilize both structures.

[103] In 2004, the Commission also indicated that series trust structures were not ''commonly used for issuing asset-backed securities.'' *See id.* This is no longer the case. As discussed in note 100 above, the increased transaction frequency and volume of public utility securitizations, approximately half of which are issued from a series trust, demonstrates that this structure may not be as uncommon as it was when the Commission first considered this question. Given the maturity and sophistication of the current ABS market and the increased use of series trust structures, market participants' familiarity with such structures has also increased. Recognizing these developments, and—as the registration of public utility securitizations using series trusts has become more common over time—Commission staff has advised such series trust issuers to use the ABS registration and disclosure regime, similar to public utility securitizations that use stand-alone trusts. *See* Division of Corporation Finance Asset-Backed Securities Compliance and Disclosure Interpretations (''ABS C&DI''), Questions 112.01 and 112.02, *available at https://www.sec.gov/rules-regulations/staff-guidance/compliance-disclosure-interpretations/asset-backed-securities.* The statements in the staff's compliance and disclosure interpretations and any other staff statements referenced in this release (''CF Statements'') represent the views of the Division of Corporation Finance. CF Statements are not a rule, regulation or statement of the Commission. Further, the Commission has neither approved nor disapproved their content. CF Statements, like all staff statements, have no legal force or effect; they do not alter or amend applicable law, and they create no new or additional obligations for any person.

[104] The Commission has previously indicated its position that public utility securitizations are ABS as defined in Regulation AB and the Exchange Act. For example, the Commission described public utility securitizations in detail when it initially proposed to exempt these securitizations from the Regulation AB II asset-level disclosure requirements. *See Asset-Backed Securities,* Release No. 33–9117 (Apr. 7, 2010) [75 FR 23328, 23360] (the ''2010 Regulation AB II Proposing Release'') (referring to public utility securitizations as ''ABS backed by stranded costs''). In 2014, the Commission adopted this exemption as proposed. *See* section III of the 2014 Regulation AB II Adopting Release. Similarly, the Commission, jointly with five other Federal agencies, exempted public utility securitizations from the requirements of the credit risk retention rule at the request of commenters as the rule requirements would have otherwise applied to public utility securitizations as

public utility securitizations, the asset that collateralizes the ABS is the property right to assess and collect charges paid by utility customers, up to a specified total amount, within a specified time period that is not to exceed the final maturity date of the bonds issued to investors. This property right, therefore, is a ''self-liquidating financial asset'' because it establishes: (1) the total amount to be raised by the charges, thereby converting the property right into that dollar amount in cash; and (2) the finite time period by which that property right must convert to cash.

Another core principle of both ABS definitions—that payments to the securityholders depend primarily on cash flows from the underlying self-liquidating financial asset—is also present, regardless of structure. Whether an offering employs a stand-alone trust or a series trust, the financing order establishing the property right requires that the property right be transferred to a bankruptcy-remote special purpose vehicle (*i.e.,* the trust) as a true sale. The securityholders rely only on the cash flow from this property right for payment, not on the performance of the utility company itself and, in the event of bankruptcy of the utility company, payments on the public utility securitizations would continue independent of the utility's continued participation or existence.[105]

Because the key features of these offerings are otherwise the same, whether the offering is both Exchange Act ABS and Regulation AB ABS (and therefore eligible for the specialized registration, reporting, and disclosure regime in Regulation AB) or solely Exchange Act ABS (and therefore not eligible for the Regulation AB regime) is entirely dependent on the structure of the transaction. This has the practical effect of preventing an issuer of an offering structured as a series trust from accessing the registered ABS market. Recognizing this fact, and in response to a request from issuers in this asset class,[106] Commission staff has advised issuers of public utility securitizations structured using a series trust to follow the regulatory regime in Regulation AB since 2007.[107]

We have also observed that there appears to be some continued market confusion with respect to the differences, overlap, and purpose of the Regulation AB ABS Definition and the Exchange Act ABS Definition.[108] Given the evolution of the ABS market in general since the Regulation AB ABS Definition was adopted, the similarities between the two definitions, and the resulting potential ambiguity in the market, we are seeking public comment about whether we should amend the definition of ABS in Regulation AB to better align with the Exchange Act ABS Definition, as well as consider potential updates to other related definitions. Such revisions may bring clarity and uniformity to the current ABS regulatory regime and remove potentially unnecessary definitional and/or structural impediments to accessing the registered market for ABS issuers and investors, while providing sufficient flexibility and accommodating future developments in the ABS market.

C. Request for Comment

32. Are there any challenges to market participants associated with having more than one definition of ''asset-backed security'' in the Federal securities laws? If so, what are the challenges? Are there any potential benefits to retaining the current Regulation AB ABS Definition as is that could be lost if we make changes? What are those benefits?

33. Should we amend the Regulation AB ABS Definition to cross-reference, or otherwise incorporate, the Exchange Act ABS Definition? What are the advantages or disadvantages of consolidating the two definitions?

- If we amend the Regulation AB ABS Definition in this way, should we revise either Item 1101(c)(2) or Item 1101(c)(3) to be consistent with the additional features and structures (such as active pool management and the use of series trusts) included in the Exchange Act ABS Definition? Are there any conditions or limitations in Item 1101(c)(2) and/or Item 1101(c)(3) that we should retain as still applicable and/or because they would still be appropriate for registered offerings? If so, please specify what should be retained, deleted, and/or revised and why.

34. As an alternative to the approach described in question 33, should we replace the entirety of the Regulation AB ABS Definition with the Exchange Act ABS Definition? Would replacing the entirety of the Regulation AB ABS Definition with the Exchange Act ABS Definition create a definition of ''asset-backed security'' that is too broad for purposes of Regulation AB? If so, what conditions and limitations would be necessary or beneficial?

35. Should we consider expanding the Regulation AB ABS Definition to conform with the recently adopted definition of ''asset-backed security'' in Securities Act Rule 192, which references the Exchange Act ABS Definition but also includes synthetic and hybrid cash/synthetic securitizations? Why or why not?

36. Are there any potential regulatory impacts to market participants that would result from revising the Regulation AB ABS Definition?

- For example, would revising the Regulation AB ABS Definition cause any consequences for issuers who have historically offered, or would offer, securities in reliance on Regulation A,[109] which excludes ''asset-backed securities as such term is defined in Item 1101(c) of Regulation AB'' from eligibility? [110]
- What impacts, if any, would incorporating the Exchange Act ABS Definition into Regulation AB have on market participants who are subject to regulation under the Investment Company Act of 1940? Should managed pool structures such as CLOs be permitted (but not required) to register ABS offerings pursuant to Regulation AB? What impacts, if any, would such a registered ABS offering have on a pool's ability to rely on the exclusions set forth in sections 3(c)(1) or 3(c)(7) of the Investment Company Act?
- Should we also consider revising the definition of ''asset-backed securities'' in Rule 902(a)(2) of Regulation S [111] to further harmonize the definitions across the Federal securities laws? What impacts, if any,

ABS under the Exchange Act ABS Definition. *See Credit Risk Retention,* Release No. 34–73407 (Oct. 22, 2014) [79 FR 77602, 77672] and 17 CFR 246.19(b)(8).

[105] Because the financing order issued by the State public utility commission is irrevocable, the property right may not be impaired by subsequent government action (*i.e.,* the financing order probits any legislature, agency, or governmental authority from rescinding, amending, or altering the property right) and it continues to exist even if the utility company ceases to exist or if the utility is provided by a third party).

[106] *See* MP Environmental Funding LLC, PE Environmental Funding LLC, SEC No-Action Letter (Sept. 19, 2007) *available at https://www.sec.gov/divisions/corpfin/cf-noaction/2007/mpef091907-1101.htm,* and incoming letter (Sept. 7, 2007), *available at https://www.sec.gov/divisions/corpfin/cf-noaction/2007/mpef090707-1101-incoming.pdf.* The requesting issuers stated that the forms available under the Regulation AB disclosure and reporting regime would allow them to convey information to investors that would not be provided for under the non-ABS issuer reporting regime, such as the distribution and servicer related information required by Regulation AB.

[107] *See, e.g.,* ABS C&DI, Questions 112.01 and 112.02.

[108] *See, e.g.,* section II.A.3 of *Prohibition Against Conflicts of Interest in Certain Securitizations,* Release No. 33–11254 (Nov. 27, 2023) [88 FR 85396] (''Rule 192 Adopting Release'') (clarifying the ''discrete pool'' element in the Regulation AB ABS Definition and the elements and purpose of each definition).

[109] 17 CFR 230.250 *et seq.*

[110] 17 CFR 230.261(c).

[111] 17 CFR 230.902(a)(2).

would such a change have for issuers and/or offerings of ABS offered and sold pursuant to Regulation S?

• While any potential changes to the Regulation AB ABS Definition would not change the statutory definition of ''asset-backed security'' referenced in Exchange Act section 3(a)(62)(A)(iv), would revising the Regulation AB ABS Definition have any impact for a credit rating agency registered, or seeking to be registered, as a nationally recognized statistical rating agency (''NRSRO'') in the issuers of asset-backed securities category of credit ratings pursuant to Exchange Act Rule 17g–1? [112] Could revising such definition have any impact for NRSROs not registered in the issuers of asset-backed securities category or for users of credit ratings?

37. Are there other definitions under Item 1101 of Regulation AB that we should consider amending to expand issuer and investor access to the registered ABS markets and facilitate enhanced capital formation and liquidity while maintaining appropriate investor protections?

• For example, do the definitions for the various ABS transaction participants—such as asset-backed issuer, depositor, issuing entity, sponsor, and originator—still accurately describe these parties' roles and responsibilities in contemporary securitization transactions? If not, what changes would be beneficial?

• Would any new definitions be necessary or beneficial?

• Is there interpretive guidance that could help clarify any definitions?

38. What additional or alternative disclosures should we consider in light of any revisions to the Regulation AB ABS Definition or other definitional changes discussed above? What specialized disclosures may be necessary or appropriate regarding asset classes or structures that may be new to shelf registration or registration in general?

39. Are there any additional features of, or developments in, the ABS market that we should take into account in considering potential regulatory changes?

V. General Request for Comment

We request and encourage any interested person to submit comments on any aspect of this concept release, other matters that might have an impact on the topics discussed in this concept release, and any suggestions for additional changes. We are also soliciting comment on any other aspect of asset-backed securities regulations that commenters believe may be improved, including additional amendments to Regulation AB that should be considered. Please be as specific as possible in your discussion and analysis of any additional issues. We particularly welcome comments on any costs, burdens, or benefits that may result from possible regulatory responses related to the items identified in this release or otherwise proposed by commenters.

VI. Regulatory Planning and Review

This concept release and request for comments is a significant regulatory action under Executive Order 12866, as amended, and has been reviewed by the Office of Management and Budget.

VII. Conclusion

We are interested in the public's views regarding the matters discussed in this concept release. We recognize the public interest is served by opportunities to invest in a variety of securities, including asset-backed securities and, in this regard, we seek the public's input on ways to reduce the barriers to entering the registered ABS market, expand registration, and increase liquidity in the ABS market in general. For RMBS market participants, in particular, reducing barriers may result in a wider investor base, which could potentially increase financing available for housing markets, while also renewing opportunities for investors to benefit from the publicly available disclosure and greater transparency that registered offerings provide. We encourage all interested parties to submit comments on the topics being considered in this concept release. If possible, please reference the specific question numbers or sections of the release when submitting comments.

By the Commission.

Dated: September 26, 2025.

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2025–19152 Filed 9–30–25; 8:45 am]

BILLING CODE 8011–01–P

[112] Exchange Act section 3(a)(62) provides in relevant part that a ''nationally recognized statistical rating organization'' means a credit rating agency that issues credit ratings and is registered under Exchange Act section 15E in one or more categories of credit ratings, including ''issuers of asset-backed securities (as defined in [Item] 1101(c) of [Regulation AB] as in effect on September 29, 2006).'' See 15 U.S.C. 78(c)(a)(62).

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 4

[Docket No. VA–2025–VBA–0139]

RIN 2900–AS39

Eliminating the Requirement for Laparoscopy To Establish Service Connection for Endometriosis

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to remove the note under diagnostic code (DC) 7629 requiring an endometriosis diagnosis that is confirmed by laparoscopy. This update would ensure the VA Schedule for Rating Disabilities (VASRD) continues to align with current medical practice and would expedite the process for establishing service connection.

DATES: Comments must be received on or before December 1, 2025.

ADDRESSES: You may submit comments through *www.regulations.gov* under RIN 2900–AS39. That website includes a plain-language summary of this rulemaking. Instructions for accessing agency documents, submitting comments, and viewing the rulemaking docket are available on *www.regulations.gov* under ''FAQ.''

FOR FURTHER INFORMATION CONTACT: Virginia Greenwood and Maria Welch, Regulations Analysts, Compensation Service, Veterans Benefits Administration, (202) 461–9700.

SUPPLEMENTARY INFORMATION:

I. Background

As part of the ongoing revision of the VASRD, VA proposes to remove the note under title 38 Code of Federal Regulations (CFR) 4.116, DC 7629, Endometriosis. This change would help VA align DC 7629 with current medical science and clinical practice and expedite the process for establishing service connection. VA last updated the Gynecological Conditions and Disorders of the Breast body system in 2018. See 83 FR 15068 (April 9, 2018). However, VA did not address DC 7629 at that time. VA added DC 7629 to the VASRD to evaluate endometriosis in 1995 with a note that stated, ''Diagnosis of endometriosis must be substantiated by laparoscopy.'' 60 FR 19851, 19856 (April 21, 1995). VA established this note because medical professionals consider laparoscopy, which is an invasive surgical procedure that allows a surgeon to visually inspect the pelvis, as ''the gold standard'' for the confirmatory diagnosis of

endometriosis. See Bafort, C. et al., ''Laparoscopic surgery for endometriosis,'' Cochrane Database of Systematic Reviews (2020), *https://doi.org/10.1002/14651858.CD011031.* To date, laparoscopically confirmed endometriosis is still the medical ''gold standard.'' Because of the note to DC 7629, VA cannot grant service connection for endometriosis in the absence of confirmation by laparoscopy.

In recent years, there has been an increased interest in establishing non-invasive means to clinically diagnose endometriosis, such as patient interviews, physical examinations, and imaging techniques. See Agarwal, S. et al., ''Clinical diagnosis of endometriosis: a call to action,'' American Journal of Obstetrics and Gynecology (2019), *https://doi.org/10.1016/j.ajog.2018.12.039.* Nevertheless, researchers suggest that ''none of [these tools] have been proven to be [a] definitive clinical tool for diagnosis of endometriosis.'' Parasar, P. et al., ''Endometriosis: Epidemiology, Diagnosis, and Clinical Management,'' Current Obstetrics and Gynecology Reports (2017), *https://doi.org/10.1007/s13669-017-0187-1.* Since medical providers are unlikely to use laparoscopy as a first line diagnostic tool based on the variability of symptoms among patients, a diagnosis of endometriosis can be delayed by 8 to 12 years. Kiesel, L. & Sourouni, M., ''Diagnosis of endometriosis in the 21st century,'' Climacteric (2019), *https://doi.org/10.1080/13697137.2019.1578743.*

II. Need for Change

Due to the issues mentioned, VA contends that service connection for endometriosis should no longer be dependent upon obtaining a diagnosis via laparoscopy. Even though laparoscopy is the current standard to definitively diagnose endometriosis, medical providers can make a preliminary diagnosis using non-invasive methods. After obtaining the patient's clinical history, clinicians can physically examine the patient and perform pelvic and transvaginal ultrasounds, magnetic resonance imaging, and computed tomography scans to characterize pelvic masses. Parasar, P. et al., ''Endometriosis: Epidemiology, Diagnosis, and Clinical Management,'' Current Obstetrics and Gynecology Reports (2017), *https://doi.org/10.1007/s13669-017-0187-1.* Therefore, VA considers a preliminary diagnosis of endometriosis using these other methods as sufficiently reliable to warrant service connection for the condition and evaluation at the 10% and 30% levels in the current rating criteria.

This change would allow VA to align DC 7629 with other rated conditions where medical providers experience challenges with providing an immediate confirmed diagnosis. For example, there is currently no standard definitive test available to diagnose multiple sclerosis (DC 8018), Parkinson's disease (DC 8004 for Paralysis agitans), or chronic fatigue syndrome (DC 6354), which means a medical professional must generally rely on the patient's symptoms and medical history, and then eliminate other diseases that present similar symptoms. Because of these known challenges, VA did not include criteria within the VASRD requiring a specific test for confirming a diagnosis for these conditions. Moreover, even for purposes of confirming diagnoses in disability compensation claims, Veterans Health Administration and contract examiners cannot order surgical or other invasive procedures, such as laparoscopy. See VA's Adjudication Procedures Manual, Part X, Subpart i, Chapter 6, Section F, Topic 2, Paragraph i. As previously stated, medical providers are not likely to use laparoscopy as a first line diagnostic tool; therefore, VA does not want to impose barriers to obtaining disability compensation that do not align with established medical practices.

VA further considers this change appropriate for endometriosis since it has established procedures under 38 CFR 3.105 for addressing instances of misdiagnosis and changes in diagnosis if a preliminary diagnosis of endometriosis later changes to a different condition upon laparoscopy results or further medical evaluation.

III. Regulatory Amendments

VA bases the evaluations for endometriosis under DC 7629 on successive rating criteria derived from continuous treatment and whether symptoms are controlled by treatment. Currently, VA awards a 10% evaluation for pelvic pain or heavy or irregular bleeding requiring continuous treatment for control and a 30% evaluation for pelvic pain or heavy or irregular bleeding not controlled by treatment. VA assigns a 50% evaluation if there are (1) lesions involving the bowel or bladder confirmed by laparoscopy, (2) pelvic pain or heavy or irregular bleeding not controlled by treatment, and (3) bowel or bladder symptoms. To effectuate the change described in this rulemaking, VA proposes to remove the note for DC 7629, which states that the diagnosis of endometriosis must be substantiated by laparoscopy. This removal will have a two-fold effect: it will (1) allow VA to establish service connection for endometriosis by diagnosis without a laparoscopy (assuming the other elements of service connection are present) and (2) allow VA to assign evaluations up to 30% disabling without a laparoscopy. Please note that the criteria for the 50% evaluation will remain the same and will continue to require laparoscopy to confirm that there are lesions involving the bowel or bladder.

This amendment will ensure VA uses similar evidentiary standards across body systems when evaluating conditions having similar diagnostic challenges. By removing the note requiring laparoscopic confirmation for service connection, VA can provide benefits to veterans suffering from endometriosis faster without requiring an invasive procedure for entitlement.

Executive Orders 12866, 13563, and 14192

VA examined the impact of this rulemaking as required by Executive Orders 12866 (September 30, 1993) and 13563 (January 18, 2011), which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. The Office of Information and Regulatory Affairs has determined that this rulemaking is not a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563. This proposed rule is not expected to be an Executive Order 14192 regulatory action because this rule is not significant under Executive Order 12866. The regulatory impact analysis associated with this rulemaking can be found as a supporting document at *www.regulations.gov.*

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (5 U.S.C. 601–612). This certification is based on the fact that small entities or businesses are not impacted by VASRD revisions. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

Unfunded Mandates

This proposed rule would not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or

more (adjusted annually for inflation) in any one year.

Paperwork Reduction Act

This proposed rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

List of Subjects in 38 CFR Part 4

Disability benefits, Pensions, Veterans.

Signing Authority

Douglas A. Collins, Secretary of Veterans Affairs, approved this document on September 25, 2025, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Taylor N. Mattson,

Alternate Federal Register Liaison Officer, Department of Veterans Affairs.

For the reasons set out in the preamble, VA proposes to amend 38 CFR part 4 as set forth below:

PART 4—SCHEDULE FOR RATING DISABILITIES

Subpart B—Disability Ratings

■ 1. The authority citation for part 4 continues to read as follows:

Authority: 38 U.S.C. 1155, unless otherwise noted.

■ 2. Amend § 4.116 by revising the entry for diagnostic code 7629 to read as follows:

§ 4.116 Schedule of ratings—gynecological conditions and disorders of the breast.

	Rating
* * * * * * *	
7629 Endometriosis:	
Lesions involving bowel or bladder confirmed by laparoscopy, pelvic pain or heavy or irregular bleeding not controlled by treatment, and bowel or bladder symptoms	50
Pelvic pain or heavy or irregular bleeding not controlled by treatment	30
Pelvic pain or heavy or irregular bleeding requiring continuous treatment for control	10
* * * * * * *	

■ 3. Amend appendix A to part 4 by revising the entry for diagnostic code 7629 to read as follows:

Appendix A to Part 4—Table of Amendments and Effective Dates Since 1946

Sec.	Diagnostic code No.					
*	*	*	*	*	*	*
	7629	Added May 22, 1995; note [*effective date of final rule*].				
*	*	*	*	*	*	*

[FR Doc. 2025–19229 Filed 9–30–25; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2025–0078; FRL–5774–01–OAR]

RIN 2060–AS32

National Emission Standards for Hazardous Air Pollutants From Secondary Lead Smelting Technology Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is proposing amendments to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for the Secondary Lead Smelting source category (''Secondary Lead Smelting NESHAP'') under Clean Air Act (CAA) section 112. The EPA did not identify any cost-effective developments in practices, processes, and/or control technologies and is not proposing changes to the Secondary Lead Smelting NESHAP as a result of the technology review. The EPA is proposing to address previously unregulated hazardous air pollutants (HAP) from this source category. We are also addressing outstanding petition issues from the 2012 Secondary Lead Smelting (RTR), hereafter referred to as the 2012 RTR. In response to the petitions, we are taking comment on our conclusion in the 2012 RTR that the Secondary Lead Smelting NESHAP provides an ample margin of safety to protect public health and on two additional provisions. In addition, the EPA is proposing revisions related to emissions during periods of startup, shutdown, and malfunction; to add requirements for electronic reporting; to revise monitoring requirements; and to make other minor technical revisions.

DATES: Comments must be received on or before November 17, 2025. Under the Paperwork Reduction Act (PRA), comments on the information collection provisions are best assured of consideration if the Office of Management and Budget (OMB) receives a copy of your comments on or before October 31, 2025.

Public hearing: If anyone contacts us requesting a public hearing on or before October 6, 2025, we will hold a virtual public hearing. See **SUPPLEMENTARY INFORMATION** for information on requesting and registering for a public hearing.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OAR–2025–0078, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov/* (our preferred method). Follow the online instructions for submitting comments.

• *Email: a-and-r-docket@epa.gov.* Include Docket ID No. EPA–HQ–OAR–2025–0078 in the subject line of the message.

• *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Docket ID No. EPA–HQ–OAR–2025–0078, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

• *Hand/Courier Delivery:* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operation are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For questions about this proposed action, contact U.S. EPA, Attn: Amber Wright, Mail Drop: D243–02, 109 T.W. Alexander Drive, P.O. Box 12055, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–4680; and email address: *Wright.Amber@epa.gov.*

SUPPLEMENTARY INFORMATION:

Participation in virtual public hearing. To request a virtual public hearing, contact the public hearing team at (888) 372–8699 or by email at *SPPDpublichearing@epa.gov.* If requested, the hearing will be held via virtual platform on October 16, 2025. The hearing will convene at 11:00 a.m. Eastern Time (ET) and will conclude at 3:00 p.m. ET. The EPA may close a session 15 minutes after the last pre-registered speaker has testified if there are no additional speakers. The EPA will announce further details at *https://www.epa.gov/stationary-sources-air-pollution/secondary-lead-smelting-national-emissions-standards-hazardous-air.*

If a public hearing is requested, the EPA will begin pre-registering speakers for the hearing no later than 1 business day after a request has been received. To register to speak at the virtual hearing, please use the online registration form available at *https://www.epa.gov/stationary-sources-air-pollution/secondary-lead-smelting-national-emissions-standards-hazardous-air* or contact the public hearing team at (888) 372–8699 or by email at *SPPDpublichearing@epa.gov.* The last day to pre-register to speak at the hearing will be October 14, 2025. Prior to the hearing, the EPA will post a general agenda that will list pre-registered speakers at: *https://www.epa.gov/stationary-sources-air-pollution/secondary-lead-smelting-national-emissions-standards-hazardous-air.*

The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing. However, please plan for the hearings to run either ahead of schedule or behind schedule.

Each commenter will have 4 minutes to provide oral testimony. The EPA also recommends submitting the text of your oral testimony as written comments to the rulemaking docket.

The EPA may ask clarifying questions during the oral presentations but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral testimony and supporting information presented at the public hearing.

Please note that any updates made to any aspect of the hearing will be posted online at *https://www.epa.gov/stationary-sources-air-pollution/secondary-lead-smelting-national-emissions-standards-hazardous-air.* While the EPA expects the hearing to go forward as set forth above, please monitor our website or contact the public hearing team at (888) 372–8699 or by email at *SPPDpublichearing@epa.gov* to determine if there are any updates. The EPA does not intend to publish a document in the **Federal Register** (FR) announcing updates.

If you require the services of a translator or special accommodation such as audio description, please pre-register for the hearing with the public hearing team and describe your needs by October 8, 2025. The EPA may not be able to arrange accommodations without advanced notice.

Docket. The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2025–0078. All documents in the docket are listed in *https://www.regulations.gov/.* Although listed, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only as PDF versions that can only be accessed on the EPA computers in the docket office reading room. Certain databases and physical items cannot be downloaded from the docket but may be requested by contacting the docket office at 202–566–1744. The docket office has up to 10 business days to respond to these requests. With the exception of such material, publicly available docket materials are available electronically at *https://www.regulations.gov.*

Instructions. Direct your comments to Docket ID No. EPA–HQ–OAR–2025–0078. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *https://www.regulations.gov/,* including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit electronically to *https://www.regulations.gov/* any information that you consider to be CBI or other information whose disclosure is restricted by statute. This type of information should be submitted as discussed below.

The EPA may publish any comment received to its public docket. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

The *https://www.regulations.gov/* website allows you to submit your comment anonymously, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *https://www.regulations.gov/,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any digital storage media you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include

special characters or any form of encryption and should be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *https://www.epa.gov/dockets.*

The EPA is soliciting comment on numerous aspects of this proposed rule. The EPA has indexed each comment solicitation with an identifier (*e.g.,* ''Question 1, Question 2, . . .) to provide a consistent framework for effective and efficient provision of comments. Accordingly, we ask that commenters include the corresponding identifier when providing comments relevant to that comment solicitation. We ask that commenters include the identifier in either a heading, or within the text of each comment (*e.g.,* ''In response to Question 1, . . .'') to make clear which comment solicitation is being addressed. We emphasize that we are not limiting comment to these identified areas and encourage provision of any other comments relevant to this proposal.

Submitting CBI. Do not submit information containing CBI to the EPA through *https://www.regulations.gov/.* Clearly mark the part or all of the information that you claim to be CBI. For CBI information on any digital storage media that you mail to the EPA, note the docket ID, mark the outside of the digital storage media as CBI, and identify electronically within the digital storage media the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI directly to the public docket through the procedures outlined in *Instructions* above. If you submit any digital storage media that does not contain CBI, mark the outside of the digital storage media clearly that it does not contain CBI and note the docket ID. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2.

Our preferred method to receive CBI is for it to be transmitted electronically using email attachments, File Transfer Protocol (FTP), or other online file sharing services (*e.g.,* Dropbox, OneDrive, Google Drive). Electronic submissions must be transmitted directly to the Office of Air Quality Planning and Standards (OAQPS) CBI Office at the email address *oaqps_cbi@epa.gov* and, as described above, should include clear CBI markings and note the docket ID. If assistance is needed with submitting large electronic files that exceed the file size limit for email attachments, and if you do not have your own file sharing service, please email *oaqps_cbi@epa.gov* to request a file transfer link. If sending CBI information through the postal service, please send it to the following address: U.S. EPA, Attn: OAQPS Document Control Officer, Mail Drop: C404–02, 109 T.W. Alexander Drive, P.O. Box 12055, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA–HQ–OAR–2025–0078. The mailed CBI material should be double wrapped and clearly marked. Any CBI markings should not show through the outer envelope.

Preamble acronyms and abbreviations. Throughout this preamble the use of ''we,'' ''us,'' or ''our'' is intended to refer to the EPA. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

ABR Association of Battery Recyclers
ANSI American National Standards Institute
ASME American Society of Mechanical Engineers
BACT best available control technology
CAA Clean Air Act
COS carbonyl sulfide
CBI Confidential Business Information
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CEMS continuous emissions monitoring systems
CFR Code of Federal Regulations
Cl_2 chlorine
CMS continuous monitoring system
CO_2 carbon dioxide
D/F dioxins and furans
EPA Environmental Protection Agency
FR Federal Register
FTP File Transfer Protocol
GACT generally available control technology
gr/dscf grains per dry standard cubic foot
HAP hazardous air pollutant(s)
HQ hazard quotient
HCl hydrochloric acid
HEPA high-efficiency particulate air
ICR information collection request
LAER lowest achievable emission rate
LEAN Louisiana Environmental Action Network
MACT maximum achievable control technology
mg/dscm milligrams per dry standard cubic meter
mm millimeters
NAAQS National Ambient Air Quality Standards
NAICS North American Industry Classification System
NEI National Emissions Inventory
NESHAP National Emission Standards for Hazardous Air Pollutants
NOCS Notification of Compliance Status
NRDC Natural Resources Defense Council
NSSN National Standards Service Network
NTTAA National Technology Transfer and Advancement Act
OAQPS Office of Air Quality Planning and Standards
OMB Office of Management and Budget
O_2 oxygen
PM particulate matter
ppmv parts per million by volume
PRA Paperwork Reduction Act
PV present value
PVC polyvinyl chloride
RACT reasonably available control technology
RATA relative accuracy test audit
REL reference exposure level
RFA Regulatory Flexibility Act
RTR Risk and Technology Review
SBA Small Business Administration
SSM startup, shutdown, and malfunction
TEQ toxic equivalency quotient
THC total hydrocarbons
tpy tons per year
UMRA Unfunded Mandates Reform Act
UPL upper prediction limit
VCS voluntary consensus standards
WESP wet electrostatic precipitator

Table of Contents

I. General Information
A. Does this action apply to me?
B. Where can I get a copy of this document and other related information?
II. Background
A. What is the statutory authority for this action?
B. What is this source category and how does the current NESHAP regulate its HAP emissions?
C. What data collection activities were conducted to support this action?
D. What other relevant background information and data are available?
E. How does the EPA perform the technology review?
III. Analytical Results and Proposed Decisions
A. What are the results and proposed decisions based on our technology review, and what is the rationale for those decisions?
B. What other actions are we proposing, and what is the rationale for those actions?
C. What compliance dates are we proposing, and what is the rationale for the proposed compliance dates?
IV. Summary of Cost, Environmental, and Economic Impacts
A. What are the affected sources?
B. What are the air quality impacts?
C. What are the cost impacts?
D. What are the economic impacts?
E. What are the benefits?
F. What analysis of children's environmental health did we conduct?
V. Request for Comments
VI. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

B. Executive Order 14192: Unleashing Prosperity Through Deregulation
C. Paperwork Reduction Act (PRA)
D. Regulatory Flexibility Act (RFA)
E. Unfunded Mandates Reform Act (UMRA)
F. Executive Order 13132: Federalism
G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
J. National Technology Transfer and Advancement Act (NTTAA)

I. General Information

A. Does this action apply to me?

The source category that is the subject of this proposal is Secondary Lead Smelting regulated under 40 CFR part 63, subpart X. The North American Industry Classification System (NAICS) code for the secondary lead smelting industry is 331492. This category and NAICS code are not intended to be exhaustive but rather provide a guide for readers regarding the entities that this proposed action is likely to affect. The proposed standards, if finalized, would be directly applicable to the affected sources. Federal, state, local, and Tribal government entities do not own or operate sources that would be affected by this proposed action. As defined in the *Initial List of Categories of Sources Under Section 112(c)(1) of the Clean Air Act Amendments of 1990* (57 FR 31576; July 16, 1992) and *Documentation for Developing the Initial Source Category List, Final Report* (EPA–450/3–91–030, July 1992), the secondary lead smelting source category consists of any facility engaged in the production of purified lead from lead scrap by melting and separating lead from metal and non-metallic contaminants and by reducing lead compounds to elemental lead. The category includes processes associated with secondary lead smelting such as battery breaking, smelting in reverberatory blast, rotary and electric furnaces, refining, alloying, and casting.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this action is available on the internet. In accordance with 5 U.S. Code (U.S.C.) 553(b)(4), a brief summary of this rule may be found at *https://www.regulations.gov,* Docket ID No. EPA–HQ–OAR–2025–0078. Following signature by the EPA Administrator, the EPA will post a copy of this proposed action at *https://www.epa.gov/stationary-sources-air-pollution/secondary-lead-smelting-national-emissions-standards-hazardous-air.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of the proposal and key technical documents at this same website.

A memorandum showing the rule edits that would be necessary to incorporate the changes to 40 CFR part 63, subpart X proposed in this action is available in the docket (Docket ID No. EPA–HQ–OAR–2025–0078). Following signature by the EPA Administrator, the EPA also will post a copy of this document to *https://www.epa.gov/stationary-sources-air-pollution/secondary-lead-smelting-national-emissions-standards-hazardous-air.*

II. Background

A. What is the statutory authority for this action?

The statutory authority for this action is provided by CAA section 112, as amended (42 U.S.C. 7412). CAA section 112 establishes a two-stage regulatory process to develop standards for emissions of HAP from stationary sources. Generally, the first stage involves establishing technology-based standards that reflect the maximum achievable control technology (MACT) or an appropriate alternative.[1] The second stage involves evaluating those standards within eight years to determine whether additional standards are needed to address any remaining risk associated with HAP emissions.[2] This second stage is commonly referred to as the ''residual risk review.'' In addition to the residual risk review, CAA section 112 also requires the EPA to review the standards every eight years and ''revise as necessary'' taking into account ''developments in practices, processes, or control technologies.'' [3] This review is commonly referred to as the ''technology review,'' and is the subject of this proposal unless otherwise indicated. The discussion that follows identifies the most relevant statutory sections and briefly explains the contours of the methodology used to implement these statutory requirements.

In the first stage of CAA section 112 standard-setting process, the EPA promulgates technology-based standards under CAA section 112(d) for categories of sources identified as emitting one or more of the HAP listed in CAA section 112(b). Sources of HAP emissions are either major sources or area sources, and CAA section 112 establishes different requirements for major source standards and area source standards. ''Major sources'' are those that emit or have the potential to emit 10 tons per year (tpy) or more of a single HAP or 25 tpy or more of any combination of HAP.[4] All other sources are ''area sources.'' [5] For major sources, CAA section 112(d)(2) provides that the technology-based NESHAP must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts). These standards are commonly referred to as MACT standards. CAA section 112(d)(3) also establishes a minimum control level for MACT standards, known as the MACT ''floor,'' based on emission controls achieved in practice by the best performing sources. In certain instances, as provided in CAA section 112(h), the EPA may set work practice standards in lieu of numerical emission standards. The EPA also considers control options that are more stringent than the floor.[6] Standards more stringent than the floor are commonly referred to as ''beyond-the-floor'' standards. For area sources, CAA section 112(d)(5) allows the EPA to set standards based on generally available control technologies or management practices (GACT standards) in lieu of MACT standards. For categories of major sources and any area source categories subject to MACT standards, the second stage focuses on identifying and addressing any remaining (*i.e.,* ''residual'') risk within eight years pursuant to CAA section 112(f) and concurrently conducting a technology review pursuant to CAA section 112(d)(6). For categories of area sources subject to GACT standards, there is no requirement to address residual risk, but, similar to the major source categories, the technology review is required every eight years.[7]

CAA section 112(d)(6) requires the EPA to review standards promulgated under CAA section 112 and revise them ''as necessary (taking into account developments in practices, processes, and control technologies)'' no less often than every eight years. In conducting this review, which we call the ''technology review,'' the EPA is not required to recalculate the MACT floors that were established in earlier

[1] 42 U.S.C. 7412(d)(1)–(4).
[2] 42 U.S.C. 7412(f)(2).
[3] *Id.* 7412(d)(6).
[4] *Id.* 7412(a)(1).
[5] *Id.* 7412(a)(2).
[6] *Id.* 7412(d)(2).
[7] *Id.* 7412(d)(6).

rulemakings.[8] The EPA may consider cost in deciding whether to revise the standards pursuant to CAA section 112(d)(6).[9]

B. What is this source category and how does the current NESHAP regulate its HAP emissions?

The secondary lead smelting source category is defined as any facility at which lead-bearing scrap materials (typically but not limited to lead acid batteries) are recycled by smelting into elemental lead or lead alloys.[10] The Secondary Lead Smelting NESHAP applies to major and area sources. The affected source for this subpart is any of the following sources at a secondary lead smelter: blast, reverberatory, rotary, and electric furnaces; refining kettles; agglomerating furnaces; dryers; process fugitive emissions sources; buildings containing lead bearing materials; and fugitive dust sources.[11] The secondary lead smelting process consists of (1) breaking lead-acid batteries and separating the lead-bearing materials from the other materials including plastic and acid electrolyte; (2) melting lead metal and reducing lead compounds to lead metal in the smelting furnace; and (3) refining and alloying the lead to customer specifications. secondary lead smelting releases HAP as process, process fugitive, and fugitive dust emissions. Process emissions are the exhaust gases from feed dryers and from blast, reverberatory, rotary, and electric furnaces. The HAP in process emissions are primarily composed of metals, including lead compounds with arsenic, cadmium, and other metals. The emissions may also include organic compounds that result from incomplete combustion of coke that is charged to the smelting furnaces as a fuel or fluxing agent, natural gas, and/or small amounts of plastics or other materials that get fed into the furnaces along with the lead bearing materials. Process fugitive emissions occur at various points during the smelting process (such as during charging and tapping of furnaces) and are composed primarily of metal HAP. Fugitive dust emissions result from the entrainment of HAP in ambient air due to material handling, vehicle traffic, wind erosion from storage piles, and other various activities. Fugitive dust emissions are composed of metal HAP only.[12]

Secondary lead smelting accounts for more than half of all lead produced around the world and there are currently no operating primary lead smelting facilities in the United States. The United States total lead consumption has remained relatively constant from 2020 to 2024, averaging 1,500 thousand metric tons. In 2024, an estimated 1,000 thousand metric tons of secondary lead was produced, an amount equivalent to 71 percent of apparent domestic consumption.[13] Nearly all secondary lead is recovered from old scrap, mostly lead-acid batteries. Since the 2012 rulemaking, five secondary lead facilities have closed. We do not anticipate any new secondary lead smelters, as currently defined, to be built in the next few years.

The EPA originally promulgated the Secondary Lead Smelting NESHAP in 1995.[14] In 2012, the EPA promulgated amendments to the Secondary Lead Smelting NESHAP to address the results of the RTR. As amended in 2012, the NESHAP specifies that facilities must limit emissions of lead compounds (as a surrogate for all non-mercury metal HAP) to an outlet concentration of 1.0 milligrams per dry standard cubic meter (mg/dscm) (0.00043 grains per dry standard cubic foot (gr/dscf)) and limit the flow-weighted average lead concentration to 0.20 mg/dscm (0.000087 gr/dscf) or less.[15] [16] For process vents at new sources, the NESHAP limits lead compound emissions to 0.20 mg/dscm (0.000087 gr/dscf) or less.[17] The Secondary Lead Smelting NESHAP also regulates total hydrocarbon (THC) as a surrogate for non-dioxin and furan organic HAP and imposes dioxins and furans (D/F) limits for reverberatory, electric, blast, and collocated blast and reverberatory furnaces.[18] The NESHAP also requires that secondary lead facilities operate any sources of fugitive lead emissions within total enclosures that are maintained under negative pressure and vented to a control device and to conduct work practices to minimize fugitive dust emissions.[19]

C. What data collection activities were conducted to support this action?

To support this action, the EPA created a current list of secondary lead smelting facilities by updating the facility list developed to support the 2012 RTR. We referenced the National Emissions Inventory (NEI) [20] and confirmed the list with the secondary lead smelting industry association, the Association of Battery Recyclers (ABR). In November 2023, the EPA issued a CAA section 114 information request to six companies that collectively own ten of the 11 facilities in the source category.[21] These companies were selected because they were operating, a majority of the source category and represented all furnace types and configurations. The CAA section 114 information request collected comprehensive information regarding process equipment, control technologies, point and fugitive emissions, and other aspects of facility operations. Additionally, as part of the CAA section 114 information request, we requested stack testing for certain emission sources (*e.g.,* rotary furnaces) and six months of fenceline monitoring for arsenic and lead. Responses not claimed as CBI by respondents and the list of facilities that are part of the secondary lead smelting source category are available in the docket for this action.[22]

D. What other relevant background information and data are available?

To supplement the data and information obtained through the CAA section 114 information request, we reviewed the EPA's Reasonably Available Control Technology (RACT)/Best Available Control Technology (BACT)/Lowest Achievable Emission Rate (LAER) Clearinghouse (RBLC). The EPA established the RBLC to provide a central database of air pollution technology information (including technologies required in source-specific permits) to promote the sharing of information among permitting agencies and to aid in identifying future control technology options that might apply to numerous sources within a category or apply only on a source-by-source

[8] *Ass'n of Battery Recyclers, Inc.* v. *EPA,* 716 F.3d 667 (D.C. Cir. 2013); *Natural Resources Defense Council (NRDC)* v. *EPA,* 529 F.3d 1077, 1084 (D.C. Cir. 2008).

[9] 42 U.S.C. 7412(d)(2), (6); *Ass'n of Battery Recyclers,* 716 F.3d at 673–74.

[10] 40 CFR 63.542.

[11] 40 CFR 63.541.

[12] *Secondary Lead Smelting Background Information Document for Proposed Standards,* Docket ID No. A–92–43, III–B–004, June, 1992.

[13] U.S. Geological Survey. (2025). Mineral Commodity Summaries, Lead.

[14] 60 FR 32587 (June 23, 1995) (codified at 40 CFR part 63, subpart X).

[15] 77 FR 556 (January 5, 2012).

[16] 40 CFR 63.543(a).

[17] *Id.* 63.543(b).

[18] *Id.* 63.543(c)–(f) and Table 2 to 40 CFR part 63, subpart X.

[19] 40 CFR 63.544–45.

[20] U.S. Environmental Protection Agency (Last Updated April 16, 2025). National Emissions Inventory (NEI): *https://www.epa.gov/air-emissions-inventories/national-emissions-inventory-nei.*

[21] 42 U.S.C. 7414.

[22] Docket ID No. EPA–HQ–OAR–2025–0078.

basis.[23] The EPA also reviewed facility operating permits issued by state regulatory agencies. We also examined regional data for the lead national ambient air quality standards (NAAQS) when evaluating fenceline monitoring for this source category. More information can be found in the *Clean Air Act Section 112(d)(6) Technology Review Memorandum for Secondary Lead Smelting* available in the docket for this rulemaking.[24] Finally, the EPA reviewed previous test reports obtained from a CAA section 114 information request in 2010 that were used to inform the 2012 RTR.

E. How does the EPA perform the technology review?

Our technology review primarily focuses on the identification and evaluation of developments in practices, processes, and control technologies that have occurred since the MACT standards were promulgated. Where we identify such developments, we analyze their technical feasibility, estimated costs, energy implications, and non-air environmental impacts.[25] We also consider the emission reductions associated with the potential application of each development. This analysis informs our decision whether it is ''necessary'' to revise the emissions standards.[26] In addition, we consider the appropriateness of applying controls to new sources versus retrofitting existing sources. For this exercise, we consider any of the following to be a ''development'': [27]

- Any add-on control technology or other equipment that was not identified and considered during development of the original MACT standards;
- Any improvements in add-on control technology or other equipment (that were identified and considered during development of the original MACT standards) that could result in additional emissions reduction;
- Any work practice or operational procedure that was not identified or considered during development of the original MACT standards;
- Any process change or pollution prevention alternative that could be broadly applied to the industry and that was not identified or considered during development of the original MACT standards; and
- Any significant changes in the cost (including cost effectiveness) of applying controls (including controls the EPA considered during the development of the original MACT standards).

In addition to reviewing the practices, processes, and control technologies that were considered at the time we last updated the NESHAP, we review a variety of data sources in our investigation of potential practices, processes, or controls to consider. Pursuant to the D.C. Circuit's decision in *Louisiana Environmental Action Network (LEAN)* v. *EPA,* 955 F.3d 1088 (D.C. Cir. 2020), we also review available data to determine if there are any unregulated emissions of HAP within the source category and evaluate these data for use in developing new emission standards. The *LEAN* decision requires the EPA to address regulatory gaps when reviewing MACT standards, such as missing standards for listed air toxics known to be emitted from a major source category.

III. Analytical Results and Proposed Decisions

A. What are the results and proposed decisions based on our technology review, and what is the rationale for those decisions?

As described in section II.E of this preamble, the EPA's technology review focused on the identification and evaluation of potential developments in practices, processes, and control technologies that have occurred since the NESHAP was last updated in 2012. In conducting the technology review, the EPA reviewed and considered several sources of information to determine whether there have been developments in practices, processes, and control technologies as discussed in sections II.C and II.D of this preamble. Pursuant to CAA section 112(d)(6), we identified wet electrostatic precipitators (WESPs) and fenceline monitoring as the most relevant potential developments in practices, processes, or control technologies for consideration in this action. We did not identify any cost-effective developments in practices, processes, or control technologies that achieve greater HAP emission reductions beyond the emission reductions the NESHAP already requires; therefore, we are not proposing any changes to the Secondary Lead Smelting NESHAP based on our technology review. Information on additional technologies reviewed can be found in the memorandum titled: *Clean Air Act Section 112(d)(6) Technology Review Memorandum for Secondary Lead Smelting* available in the docket for this rulemaking.[28] The EPA is soliciting comment whether we should consider any additional developments not addressed here or in the technical memorandum (Question #1).

1. WESPs

The main emission sources at secondary lead smelting facilities are process vents. Process vents route process and process fugitive emissions to particulate matter (PM) control devices from blast, reverberatory, rotary, and electric furnaces; refining kettles; agglomerating furnaces; dryers; process fugitive emissions sources; buildings containing lead bearing materials; and fugitive dust sources. For existing sources, facilities must maintain the concentration of lead compounds in any process vent gas at or below 1.0 mg/dscm and the flow-weighted average concentration of lead compounds in vent gases from the entire secondary lead smelting facility at or below 0.20 mg/dscm.[29] Typical controls at secondary lead smelting facilities include baghouses (often combined with high-efficiency particulate air (HEPA) filters), WESPs, wet scrubbers, afterburners, and dry lime scrubbers.

In the 2012 RTR, the EPA evaluated the addition of WESPs on the outlet of baghouses as a potential control technology for metal HAP emissions. At that time, one out of the then 15 existing facilities had installed a WESP. This approach involves placing a WESP on the outlet of a baghouse for further control of metal HAP emissions and under optimal conditions, can provide an estimated control efficiency of greater than 99 percent. Current emissions limits for existing facilities reflect reductions achievable using baghouses, which typically achieve 99 percent control. Currently, three out of the now 11 existing sources have added WESPs. Collectively, these three facilities represent a quarter of the source category. In the 2012 RTR, the EPA estimated that installing WESPs would result in total capital costs to the industry of $400 million and a total annualized cost of $55 million with a cost effectiveness of about $4.0 million per ton of metal HAP emissions reduced (mainly lead compounds) in 2009 dollars.

[23] U.S. Environmental Protection Agency. (Last updated Oct. 4, 2024). RACT/BACT/LAER Clearinghouse (RBLC) Basic Information: *https://www.epa.gov/catc/ractbactlaer-clearinghouse-rblc-basic-information.*

[24] Docket ID No. EPA–HQ–OAR–2025–0078.

[25] 42 U.S.C. 7412(d)(2).

[26] *Id.* 7412(d)(6).

[27] 76 FR 29032, 29047–29048 (May 19, 2011); *see also Nat'l Ass'n for Surface Finishing* v. *EPA,* 795 F.3d 1, 11 (D.C. Cir. 2015) (upholding EPA's interpretation of what is considered ''developments'' under CAA section 112(d)(6) and deferring to EPA's methodology and balancing decisions for a technology review under the *Skidmore* standard of review).

[28] Docket ID No. EPA–HQ–OAR–2025–0078.

[29] 40 CFR 63.543(a).

As part of this review, now that nearly a quarter of the source category utilizes WESPs to control metal HAP emissions, we have updated our cost estimates for installing WESPs at the 8 remaining facilities that do not currently operate them. Updated estimates for installation of WESPs would result in total capital costs of $621 million and a total annualized cost of $73 million for existing sources and achieve about 3.8 tpy in lead reductions (the surrogate for metal HAP). We estimate the cost effectiveness would be approximately $19 million per ton of lead reduced (in 2024 dollars).[30] Based on the cost estimated for the existing sources and applying this estimated cost to a potential new source, the estimated costs to install WESPs are $78 million in capital costs and annualized costs of $9 million, and their installation would achieve approximately 0.5 tpy of lead reduction, with cost effectiveness of $19 million per ton of lead reduced. In the 2012 RTR, we considered $1.3 million per ton (in 2009 dollars) of lead reduced as cost-effective for existing facilities. Based on this analysis, we are not proposing an emission limit reflecting a baghouse routed to WESPs for new or existing sources due to the high cost and poor cost effectiveness. The full analysis for a baghouse routed to a WESP can be found in the memorandum titled *Clean Air Act Section 112(d)(6) Technology Review Memorandum for Secondary Lead Smelting* in the docket of this rulemaking.[31] The EPA is soliciting comment on the determination that a baghouse routed to a WESP is not cost-effective (Question #2).

2. Fenceline Monitoring

In this technology review, we evaluated fenceline monitoring as a development in practices or procedures. Fenceline monitoring is the practice by which monitors are placed around the perimeter of a facility to measure the concentration of certain pollutants. Generally, the EPA has found fenceline monitoring can sometimes be an effective tool when fugitive or ground level releases are significant, or where we have identified considerable uncertainties in HAP emissions estimates from fugitive emission sources. When required in conjunction with root cause analysis and corrective action, fenceline monitoring can potentially reduce uncertainties associated with fugitive emissions estimation and characterization. Other considerations include the types of pollutants that are emitted, the availability of fenceline monitoring measurement methods for the key pollutants, other sources of the key pollutant near the fenceline, proximity of residences or other areas where people could be exposed to emissions at or near facility fencelines, and the other types of monitoring that are already required or are being considered. For the secondary lead smelting source category, we are not proposing fenceline monitoring requirements. For the reasons discussed below, we are not proposing that fenceline monitoring requirements are ''necessary'' pursuant to CAA section 112(d)(6).

In the 2012 RTR, the Agency finalized a requirement for facilities to operate sources of fugitive lead emissions within total enclosures that are maintained under negative pressure and vented to a PM control device to address fugitive metal HAP emissions that drove the unacceptable levels of risk identified by the Agency.[32] Our evaluation during this current technology review determined that the total enclosure requirements and the stack and flow weighted average lead limits promulgated in the 2012 RTR have significantly reduced ground level fugitives and allow us to accurately estimate lead emissions from the source category based on stack test data. The CAA section 114 information request for fenceline monitoring data confirmed our 2012 estimates that lead levels at the fenceline would be below the lead NAAQS 3-month rolling average limit of 0.15 micrograms per cubic meter (μg/m^3) for most facilities. The CAA section 114 data showed lead levels at the fenceline were well below the NAAQS for all but one facility, which is currently under a state consent agreement. This represents significant improvement from data collected for the 2012 RTR, where nine of fifteen facilities were modeled to be above the NAAQS at the fenceline pre-control. While there is no NAAQS for arsenic, the EPA compared measured arsenic concentrations to the chronic inhalation reference exposure level (REL), which is used to estimate population risk due to inhalation of arsenic. All average daily arsenic concentrations were below the chronic inhalation REL of 0.015 μg/m^3. Additionally, we compared the fenceline monitoring results to the operating lead NAAQS monitors and found the results aligned. The community NAAQS monitors near most facilities detect fugitive and stack emissions and are as effective if not more effective than fenceline monitors. Additionally, secondary lead smelting facilities are required to have bag leak detection systems [33] and comply with differential pressure monitoring [34] requirements, which identify potential situations of excess lead emissions and assist with root cause analysis and corrective action more quickly than a fenceline monitoring program.

Finally, the EPA does not have a fenceline monitoring method that has been proposed or promulgated for metals. If the EPA were to require fenceline monitoring in a rule for metals, facilities would be unable to conduct such monitoring until a method has been promulgated. To conduct the CAA section 114 information request sampling, we relied on a common ambient monitoring method for multi-metals for the analysis.[35] [36] While these methods are robust and appropriate for ambient trend applications, the EPA needs to further investigate and revise these approaches for a stationary source regulatory program to ensure improved precision and accuracy in the method. This is similar to how EPA Method 327 [37] was developed from TO–15A.

The EPA is not proposing to include fenceline monitoring in this rulemaking because the process fugitives are well controlled due to the total enclosure requirements of the NESHAP, several monitoring programs are already in place, such as bag leak detection systems at secondary lead facilities and NAAQS monitors in many communities surrounding secondary lead smelters, and currently there is not a promulgated fenceline monitoring method for metals.[38] The EPA is soliciting comment

[30] CAA section 112(d)(6) does not address cost consideration in setting MACT floors under CAA section 112(d)(3); conversely, CAA section 112(d)(2) explicitly authorizes cost consideration in other aspects of standard setting. However, the statute does not prescribe a methodology for the EPA's consideration of costs under 112(d). Where cost is a consideration for technology reviews under CAA section 112(d)(6), EPA has historically used cost-effectiveness (cost/ton-reduced) in supporting analyses. *Ass'n of Battery Recyclers,* 716 F.3d at 673–74.

[31] Docket ID No. EPA–HQ–OAR–2025–0078.

[32] 40 CFR 63.544(a).

[33] 40 CFR 63.548 (e).

[34] 40 CFR 63.548 (k).

[35] Reference Method for the Determination of Suspended Particulates in the Atmosphere (High Volume Method). 40 CFR part 50, appendix B.

[36] U.S. Environmental Protection Agency. (Last updated June 1999). IO Compendium Method IO–3.5: Compendium of Methods for the Determination of Inorganic Compounds in Ambient Air: Determination of Metals in Ambient Particulate Matter Using Inductively Coupled Plasma/Mass Spectrometry (ICP/MS): *https://www.epa.gov/esam/epa-io-inorganic-compendium-method-io-35-determination-metals-ambient-particulate-matter-using#:~:text=The%20EPA%20IO%203.5%20method%20is%20a,total%20metal%20component%20in%20prepared%20air%20samples.*

[37] 88 FR 25413 (April 25, 2023). 40 CFR part 63, appendix A.

[38] For more information regarding fenceline monitoring see the memorandum titled: *Clean Air*

on our determination not to propose fenceline monitoring for the secondary lead smelting source category (Question #3).

B. What other actions are we proposing, and what is the rationale for those actions?

In this proposal, we are proposing actions to address unregulated HAP pursuant to the D.C. Circuit's decision in *LEAN,* various technical matters, and outstanding petition issues.

Based on a review of available information pursuant to the *LEAN* decision, we are proposing the following: an emission limit based on MACT for THC (as a surrogate for non-D/F organic HAP) and D/F for collocated rotary and reverberatory furnaces; to add a definition for collocated rotary and reverberatory furnaces; THC as a surrogate for carbonyl sulfide (COS) emissions; and that hydrochloric acid (HCl) and chlorine (Cl_2) emissions are so minimal as to be considered *de minimis,* and therefore the EPA is not requiring standards for those pollutants.

Additionally, we are proposing a 24-month performance test extension request will be deemed approved under certain circumstances as outlined in section III.B.3. We are also proposing to increase the averaging time for differential pressure monitors and the inclusion of an alternative monitoring option for confirming total enclosure compliance.

We are also addressing outstanding petition issues from the 2012 RTR. In response to the petitions, we are taking comment on our conclusion in the 2012 RTR that the Secondary Lead Smelting NESHAP provides an ample margin of safety to protect public health and on two additional provisions.

Finally, we are proposing to remove affirmative defense provisions and revise startup, shutdown, and malfunction (SSM), and electronic recordkeeping and reporting requirements. The results and proposed decisions, as well as the rationale for those decisions, are presented below.

1. Proposed Actions To Address Five Unregulated HAP for Both New and Existing Sources

As previously stated in section II.C of this preamble, while reviewing the NEI and previous rulemakings, the EPA identified HCl, Cl_2, and COS from all furnaces and THC and D/F from rotary furnaces as currently unregulated for this source category. The EPA included stack testing for these unregulated HAP as part of the CAA section 114 information request. As required by the D.C. Circuit's decision in *LEAN,* we are proposing to address unregulated HAP as discussed below.

a. THC & D/F Emissions From Rotary Furnaces

As part of the 2012 RTR, the EPA promulgated THC and D/F limits for all furnace types except rotary furnaces. The EPA stated it was not adopting numerical limits for THC and D/F emissions from rotary furnaces, pending further data gathering and analysis for this furnace type. As part of the CAA section 114 information request, the EPA required testing of the only rotary furnace in the source category. Based on this information request, the EPA received five THC and D/F test runs from the one operating rotary furnace. Upon review of the test and operational data, we determined that the rotary furnace normally operates as a batch process as opposed to a continuous process, and that the five individual test runs represent periods within a batch, and not from the same batch. Therefore, the data provided from the CAA section 114 information request do not truly represent the normal operation of the rotary furnace, which ideally would measure at least three separate batch test runs of 4 hours each (or the entire length of the complete batch cycle).

Based on the data submitted in response to the CAA section 114 information request, any proposed standards for THC and D/F from the rotary furnace alone would be determined from an incomplete batch that would not be considered representative of normal operation. When calculating variability using a limited dataset (in this case, one batch) the effect of variability can be substantial. The EPA also has previous test data from this rotary furnace from the 2012 RTR. However, since 2012 the facility has made substantial changes to their processes and added additional controls. Therefore, we determined that the previous test data are also not representative of current emissions. In addition, this rotary furnace is not a ''stand-alone'' furnace. That is, the emissions are controlled through multiple control devices, and the rotary furnace emissions are combined downstream with emissions from other sources at the facility, prior to entering these control devices. In order to propose proper and representative THC and D/F standards from the rotary furnace, additional THC and D/F testing would need to be conducted from the rotary furnace with at least three complete batches, from start to finish, so that any process variability is included and accounted for in the test data.[39] When we determined that the data did not include at least three separate batches, we were unable to request additional testing prior to this proposal.

However, the EPA does have sufficient data to establish standards for the combined emissions of this rotary furnace and continuously operating reverberatory furnaces, using stack measurements taken at the outlet of the control device (*i.e.,* the WESP stack) that control HAP emissions from these units. Therefore, instead of a stand-alone rotary furnace limit, we are proposing to set a collocated rotary and reverberatory furnace limit of 34 parts per million by volume (ppmv) of THC and 0.28 ng/dscm D/F, expressed as toxic equivalency quotient (TEQ) corrected to 7 percent oxygen (*i.e.,* at 7 percent O_2). We are also proposing for D/F testing that a minimum sample volume of 3.0 dscm be collected for each run. We calculated the proposed MACT floor-based emissions limits using the standard MACT floor development procedures, which use the 99 percent upper prediction limit (UPL) to incorporate variability demonstrated by the available test data from the stack outlet of the WESP.

While these data include portions of the batch process from the rotary furnace, we believe these limits better represent emissions from actual operations, since the testing was performed at the location where the combined emissions emit to the atmosphere after all control devices, and while the facility was also continuously (and normally) operating its reverberatory furnace and periodically (and normally) operating its rotary furnace.

We expect the one facility where the collocated rotary and reverberatory limits apply can meet the proposed THC and D/F limits without installing any new pollution control devices. We anticipate only testing, recordkeeping, and reporting costs will be incurred to comply with the proposed THC and D/F limits. The EPA is also proposing to add a new definition at 40 CFR 63.542

Act Section 112(d)(6) Technology Review Memorandum for Secondary Lead Smelting available in the docket for this rulemaking.

[39] In a given CAA section 114 information collection request (ICR), the EPA requires that for batch process operations, sample for a minimum sample time of 4 hours or the entire length of the complete batch cycle, whichever is shorter. For batch cycles longer than 4 hours, the runs should be spaced to represent the expected range of batch emissions (for example: high, average, and low). For the 2024 CAA section 114 test program, only one process batch was represented in the test data. Moreover, the five THC test runs were only 1-hour in length each.

for ''collocated rotary and reverberatory furnaces'' to mean operation of a rotary furnace and a reverberatory furnace at the same location, where the vent streams of the furnaces are mixed.

In the 2012 RTR, we considered beyond-the-floor options to further reduce emissions of D/F and THC from blast furnaces but did not finalize them as they were not cost-effective and would likely lead to an increase in other pollutants (*i.e.,* NO_X and CO_2).[40] When considering beyond-the-floor D/F and THC limits for collocated rotary and reverberatory furnaces, the EPA found that the facility currently uses its rotary furnace to process slag after it has been processed in the reverberatory furnace. Due to the plastics separation work practices already in place and the pre-processing of slag in the reverberatory furnace, most D/F emissions from the rotary furnace are below the detection limit, which is the lowest quantifiable value. However, we found the rotary only data set to be insufficient for setting standards and, instead, are proposing to regulate the collocated rotary and reverberatory furnace limit. However, we found this data set to be insufficient for setting standards and, instead, are proposing to regulate the collocated rotary and reverberatory furnaces. D/F limits are already in place for the reverberatory furnaces, and we are proposing to add an additional limit to include D/F from rotary furnaces. We did not identify any beyond-the-floor options that would lower the D/F limits from collocated rotary and reverberatory furnaces. For THC, the facility already has several control devices in place, including a scrubber. We did not identify any new technically feasible, cost-effective control options to obtain any additional reductions for THC. More information can be found in the memorandum: *Summary of MACT Floor and Beyond-the-Floor Analysis for the Secondary Lead Smelting Source Category* available in the docket of this rulemaking.

The EPA is soliciting comment on the proposed THC and D/F limits and beyond-the-floor rationale (Question #4) and definition for collocated rotary and reverberatory furnaces (Question #5). THC is a surrogate for non-D/F organic HAP, as stated in previous secondary lead rulemakings and as proposed below for COS.[41] The destruction of THC through incineration is strongly correlated with the destruction of non-D/F organic HAP compounds, and COS can also be controlled using thermal controls.

Additionally, we are soliciting comment on setting the THC and D/F standards pursuant to CAA section 112(d)(6) rather than setting the THC and D/F standards exclusively pursuant to CAA section 112(d)(2) and (3) (Question #6). Although the D.C. Circuit held in *LEAN* that the EPA is required to address previously unregulated HAP from major sources during a CAA section 112(d)(6) technology review, it is not entirely clear how that process functions under the statutory text. In this instance, setting the standards under CAA section 112(d)(6) would result in essentially the same standards because the performance of the only collocated rotary and reverberatory furnace would be used to establish the standards, resulting in the same values as the standards we are proposing under CAA sections 112(d)(2) and (3). The difference in the approach would be that we would not be constrained to any minimum stringency level and would, therefore, not conduct a beyond-the-floor analysis. We would not anticipate any cost or impact differences associated with setting the THC and D/F limits pursuant to CAA section 112(d)(6) as compared to CAA section 112(d)(2) and (3). The estimated costs would be for testing, recordkeeping, and reporting.

b. COS

During the NEI review, the EPA identified COS as a HAP that might be emitted and is not currently regulated. The CAA section 114 information request required COS testing from four facilities to determine whether COS was emitted by the source category. Three of the four facilities emitted a measurable amount of COS with one facility below the detection limit. To address this unregulated HAP, we are proposing to use THC as a surrogate for COS. Thermal control technology used to control THC simultaneously controls COS as well. In addition, THC is easily measured, and THC testing is already required for the source category. The EPA is soliciting comment on proposing THC as a surrogate for COS (Question #7).

c. HCl/Cl_2

In the 1994 Secondary Lead NESHAP proposed rule, the EPA estimated secondary lead facilities emitted 806 tpy of HCl from 16 facilities. In response, the EPA proposed HCl and Cl_2 emission limits.[42] The EPA received several comments on that proposal indicating that the feasibility of emission controls was overstated, additional controls would be needed to achieve the proposed emission standards, and polyvinyl chloride (PVC), the primary source of HCl and Cl_2 emissions, was being phased out as a separator material in batteries. Due to that new information in these comments, the EPA did not finalize emission limits for HCl and Cl_2 at that time.[43]

During the 2012 RTR, the EPA estimated HCl and Cl_2 emissions from the source category had been reduced to about 2 tpy and, therefore, did not propose any emission limits at that time.[44] While reviewing emissions inventories for this rulemaking, the EPA found that secondary lead smelting facilities were still emitting small amounts of HCl and Cl_2. Through a CAA section 114 information request, the EPA requested testing from three facilities to confirm whether and how much HCl and Cl_2 are still emitted from the source category. The testing results, supplemented with data collected during the 2012 RTR from an additional 5 facilities, showed that the source category now emits only 1.5 tpy of HCl and 0.2 tpy of Cl_2, in total, from 11 facilities. The EPA proposes that these very small amounts of HCl and Cl_2 emitted are too trivial to justify requiring additional controls and thus amount to *de minimis* levels that Congress did not intend to subject to the imposition of controls under CAA section 112.

The EPA recognizes that the D.C. Circuit has emphasized that the Agency has a ''clear statutory obligation to set emission standards for each listed HAP'' and must address previously unregulated pollutants known to be emitted by a source category during a technology review.[45] While the D.C. Circuit's *LEAN* decision focused on the

[40] Docket ID No. EPA–HQ–OAR–2011–0344–0150.

[41] 60 FR 32587 (June 23, 1995).

[42] 59 FR 29754, June 9, 1994 (''All smelting furnaces that process broken batteries are potential sources of HCl and Cl2 [chloride] emissions. Many used lead-acid batteries contain polyvinyl chloride (PVC) plastic separators between the battery grids, although the use of PVC plastic as a separator material has been discontinued by most battery manufacturers. These separators are typically not removed from the lead bearing parts of the battery during the battery breaking and separation process. When the PVC plastic is burned in the smelting furnace, the chlorides are released as HCl, Cl2, and chlorinated hydrocarbons.''; 60 FR 19556, April 11, 1995; *Secondary Lead Smelting Background Information Document for Promulgated Standards NESHAP,* pages 2–41–2–46 and Appendix A.

[43] 60 FR 32587, 32593, June 23, 1995 (explaining that the ''EPA is reasonably confident that the predicted decline in PVC separators in secondary lead smelter feedstock will continue and PVC will be present in only trace quantities by the 1997 effective date of this rule.'').

[44] 77 FR 556 (January 5, 2012).

[45] *Nat'l Lime Ass'n* v. *EPA,* 233 F.3d 625, 634 (D.C. Cir. 2000); *see also LEAN,* 955 F.3d at 1092.

broad question whether the EPA is required to address unregulated pollutants generally during a CAA section 112(d)(6) technology review. The decision did not address the narrower question whether CAA section 112 displaces the ordinary background rule that a general statutory requirement does not encompass de minimis concerns unless otherwise indicated under the circumstances.

As the Supreme Court explained in *Wisconsin Department of Revenue* v. *William Wrigley, Jr., Co.,* ''the venerable mexim de minimis non curat lex ('the law cares not for trifles') is part of the established background of legal principles against which all enactments are adopted, and which all enactments (absent contrary indication) are deemed to accept.'' [46] The Court further explained that ''whether a particular activity is a *de minimis* deviation from a prescribed standard must, of course, be determined with reference to the purpose of the standard.'' [47] In *Alabama Power Company* v. *Costle,* a CAA case, the D.C. Circuit held that categorical exemptions from the requirements of a statute may be permissible ''as an exercise of agency power, inherent in most statutory schemes, to overlook circumstances that in context may fairly be considered *de minimis*.'' [48] This principle derives from the commonplace notion that ''the law does not concern itself with trifling matters.'' [49] The ability to recognize *de minimis* regulatory issues ''is not an ability to depart from the statute, but rather a tool to be used in implementing the legislative design.'' [50]

The EPA does not dispute that CAA section 112(d)(1) requires the Administrator to ''promulgate regulations establishing emission standards for each category or subcategory of major sources and area sources of [HAP] listed for regulation pursuant to section (c) of this section.'' [51] However, statutory context makes clear that Congress did not intend the EPA to relentlessly regulate trivial amounts of HAP. For example, CAA section 112(a)(1) defines a major source as one ''that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any [HAP] or 25 tons per year or more of any combination of [HAP].'' [52]. Sources with fewer emissions are defined as area sources, which the EPA need only regulate if the Administrator finds that they present ''a threat of adverse effects to human health or the environment (by such sources individually or in the aggregate) warranting regulation under this section.'' [53] And once regulated, the EPA may elect to promulgate standards for area sources ''which provide for the use of generally available control technologies or management practices,'' as opposed to more stringent MACT standards.[54]

Moreover, additional considerations support the conclusion that Congress did not intend CAA section 112 to require regulation of *de minimis* emissions under the circumstances CAA section 112(e)(2) expressly authorizes the EPA to determine ''priorities'' for developing standards under section 112(d), including based on the quantity of emissions.[55] The EPA proposes that CAA section 112 does not include the contrary language expected for an intentional departure from the ordinary *de minimis* background principle and that application of that principle here is consistent with the design and objective of CAA section 112 to reduce emission of HAP that endanger public health and welfare. In doing so, the EPA is also mindful of the Supreme Court's admonition that because ''[l]egislation is, after all, the art of compromise ... no statute yet known 'pursues its [stated] purpose[] at all costs.'' [56]

Here, the secondary lead smelting source category, currently consisting of 11 major and area source facilities, emit only 1.5 tpy of HCl and 0.2 tpy of Cl_2. Considered in isolation, these emissions are nowhere near the 10 tpy pollutant-specific and 25 tpy aggregate thresholds that trigger major source regulation. And as further discussed, the trivial amounts of HCl and Cl_2 estimated to be emitted from this source category do not amount to a level that presents or risks an adverse effect to human health or the environment. Thus, even in light of the *LEAN* decision, the EPA proposes that Congress did not intend CAA section 112 to abrogate the ordinary background principle that *de minimis* concerns do not fall within the scope of general legislative requirements under the circumstances.

As noted above, in CAA section 112(e)(2) Congress established criteria for the EPA to consider ''[i]n determining priorities for promulgating standards under subsection (d).'' [57] These criteria include ''the known or anticipated adverse effects of such pollutants on public health and the environment; the quantity and location of emissions or reasonably anticipated emissions of [HAP] that each category or subcategory will emit''.[58] Thus, in prioritizing the EPA's work to reduce HAP emissions, Congress intended the EPA to focus on the pollutants emitted in the highest quantities with the greatest impact. Therefore, for certain pollutants emitted in trivial quantities with low impact, such as HCl and Cl_2 for this source category, EPA finds that those emissions would be the most likely to qualify for *de minimis* treatment under the legislative design. However, EPA would evaluate whether *de minimis* treatment for those emissions would continue to be appropriate during subsequent technology reviews.

Applying those criteria here, the EPA proposes to find that both support a finding that emissions from HCl and Cl_2 from secondary lead smelting facilities qualify as *de minimis*.[59]

First, secondary lead smelting facilities emit HCl and Cl_2 in very low quantities. With regards to HCl, the EPA estimates that the average amount emitted per facility is 0.13 tpy, and no single facility emits more than 1 tpy. For Cl_2 we estimate the average amount emitted per facility is 0.017 tpy, and no single facility emits more than 0.025 tpy. In addition to the work practices, several facilities currently have control devices in place that may capture and control HCl and Cl_2 in addition to

[46] 505 U.S. 214, 231 (1992).

[47] *Id.* at 232.

[48] 636 F.2d 323, 360 (D.C. Cir. 1979).

[49] *Id.*

[50] *Id.; see also Citadel Sec.* v. *SEC,* 45 F.4th 27, 36 (D.C. Cir. 2022) (upholding agency decision as reasonable and supported by this principle); *Shays* v. *FEC,* 414 F.3d 76, 113–14 (D.C. Cir. 2005) (''Predicated on the notion that the Congress is always presumed to intend that pointless expenditures of effort be avoided, such authority is inherent in most statutory schemes, by implication.'') (internal quotation marks omitted).

[51] 42 U.S.C. 7412(d)(1).

[52] *Id.* 7412(a)(1).

[53] *Id.* 7412(c)(3). CAA section 112(c)(3) requires that the EPA shall ''list, based on actual or estimated aggregate emissions of a listed pollutant or pollutants, sufficient categories or subcategories of area sources to ensure that area sources representing 90 percent of the area source emissions of the 30 [HAP] that present the greatest threat to public health in the largest number of urban areas are subject to regulation under this section.'' HCl and Cl_2 are not among the EPA's 30 listed urban air toxics (*see https://www.epa.gov/haps/urban-air-toxic-pollutants*).

[54] 42 U.S.C. 7412(d)(5).

[55] *Id.* 7412(e)(2), (e)(2)(B).

[56] *Henson* v. *Santander Consumer USA, Inc.,* 582 U.S. 79, 89 (2017) (quoting *Rodriguez* v. *United States,* 480 U.S. 522, 525–26 (1987) (per curiam)).

[57] 42 U.S.C. 7412(e)(2).

[58] *Id.*

[59] The EPA distinguishes this proposed *de minimis* analysis here from the EPA's decision to reject a *de minimis* exemption for HCl for the Portland Cement Manufacturing source category, which the D.C. Circuit found to be reasonable in *Nat'l Lime Ass'n* 233 F.3d at 640. In that source category, HCl was emitted at amounts to qualify each kiln as a major source. See 64 FR 31898, 31907 (June 14, 1999). As clarified, that is not the case here for HCl or Cl_2 for the secondary lead source category.

reducing other target pollutants. Finally, the EPA does not expect HCl and Cl_2 emissions to increase over time because older batteries with PVC will continue to leave circulation and thus no longer be recycled.[60]

Second, the impacts of HCl and Cl_2 from this source category are very low. Neither HCl nor Cl_2 persist in the environment for long periods of time, and they do not transform into other HAP.[61] Neither HCl nor Cl_2 can bioaccumulate; that is, they do not have the ability to build up in the food chain to levels that are harmful to human health and the environment. Neither HCl[62] nor Cl_2[63] are non-threshold carcinogens. These factors decrease the likelihood of adverse impacts from these pollutants, especially at low emission rates. Indeed, the health impacts of exposure to HCl and Cl_2 emissions here are exceedingly low. Noncancer hazard is expressed as a hazard quotient (HQ), the ratio of estimated exposure to the reference value. An HQ less than or equal to one indicates that adverse effects are not likely to occur. When the EPA last assessed the risk for this source category in 2012, the estimated maximum acute HQ for HCl was more than two orders of magnitude below one.[64] The chronic risk assessment yielded an even lower HQ. While Cl_2 is understood to be a more potent noncancer toxicant than HCl, the inappreciable emissions led to similarly low potential health impacts for Cl_2. Taken together, these results suggest there is no discernable risk of adverse health impacts from HCl and Cl_2 in this circumstance. This is particularly true given the conservative nature of the risk assessment, which used health-protective benchmarks and worst-case-scenario meteorological data for the acute scenario, and the fact that emission levels have continued to decrease over time.

Finally, the EPA distinguishes this proposed *de minimis* analysis from the EPA's prior decision to reject *de minimis* treatment for HCl for the cement kilns source category, which the D.C. Circuit previously found to be reasonable.[65] In that source category, HCl was emitted at amounts to qualify each kiln as a major source.[66] Here, as a factual matter, that is nowhere near the case for HCl or Cl_2 for the secondary lead source category as these 11 facilities emit only 1.5 tpy of HCl and 0.2 tpy of Cl_2. Further, even if this proposal arguably represents a change in the EPA's position on *de minimis* treatment for HCl, allowing for *de minimis* treatment of certain pollutants emitted in trivial amounts is the best reading of the statute when considering Congress's intent for promulgating standards as expressed in CAA section 112(e)(2).[67] The EPA seeks comment on whether the Agency's proposed *de minimis* treatment here for HCl and Cl_2 for the secondary lead smelting source category could be considered a change in Agency position (Question #8).

In light of these specific facts and circumstances, the EPA proposes to find that emissions of HCl and Cl_2 from secondary lead smelting facilities are *de minimis* and do not require emission limits. The continuing decline in these emissions due to the phaseout of PVC in batteries, and their lack of discernable risk of adverse health impacts all counsel against regulation. However, the EPA emphasizes the highly fact-specific nature of this proposed *de minimis* treatment. Other pollutants, even if emitted at low levels from other source categories, may not qualify for *de minimis* treatment where risks of adverse health impacts are significant. The EPA seeks comment on all aspects of the Agency's proposed determination, including the Agency's statutory interpretation and factual findings (Question #9).

In addition to proposing that HCl emissions are *de minimis,* we are also taking comment on whether to adopt a MACT HCl limit of 0.03 lb/hr in lieu of the *de minimis* determination (Question #10). This HCl limit was calculated using the standard MACT floor development procedures, which use the 99 percent UPL to incorporate variability demonstrated by the available test data obtained during the 2010 and 2023 CAA section 114 information requests. We did not identify any technically feasible, cost-effective control options to obtain any additional reductions for HCl. More information on the MACT floor and beyond-the-floor analysis is available in the memorandum titled: *Summary of MACT Floor and Beyond the Floor Analysis for the Secondary Lead Smelting Source Category* available in the docket of this rulemaking. [68] This HCl limit would serve as a surrogate for Cl_2. As affirmed by the D.C. Circuit, the EPA may use a surrogate to regulate emissions of HAP if there is a reasonable basis to do so.[69] For example, we have used PM controls as a surrogate for HAP metals ''because no cement plant intentionally controls HAP metals; metal emissions are controlled only incidentally by controls placed upon PM.'' [70] Thus, the court found that ''EPA's response is the correct one: 'cement plants actually *are* controlling HAP metals[,] intentionally or not.' '' [71] Here, control technologies that reduce HCl also control Cl_2. Therefore, HCl is an appropriate surrogate for Cl_2. Additionally, in the 2011 RTR proposed rule testing indicated 98 percent of chlorine was emitted as HCl.

2. Differential Pressure Monitoring

As part of the amendments finalized in the 2012 RTR, the EPA required all secondary lead facilities to operate sources of fugitive lead emissions within total enclosures that are always maintained under negative pressure and vented to a control device.[72] As previously explained, these sources of fugitive emissions include but are not limited to the following: smelting furnaces, smelting furnace charging areas, lead taps, slag taps, molds during tapping, battery breakers, refining kettles, casting areas, dryers, material handling areas, and areas where dust from fabric filters, sweepings or used fabric filters are processed. The facilities are also required to adopt a list of specified work practice standards to minimize fugitive emissions. To demonstrate compliance with the total enclosure requirement, facilities measure compliance using three differential pressure monitors placed on the leeward wall, windward wall, and an exterior wall that connects the leeward and windward wall. Monitors must maintain negative pressure values of at least 0.013 millimeters (mm) of mercury, which is equivalent to 0.007

[60] 60 FR 32587 (June 23, 1995).

[61] EPA discussed environmental impacts of HCl in its proposed NESHAP for Lime Manufacturing Plants: 67 FR 78046 (December 20, 2002).

[62] Information on the effects and environmental fate of HCl can be found at: U.S. Agency for Toxic Substances and Disease Registry (Last updated July 27, 2015). ToxFAQs for Hydrogen Chloride: *https://wwwn.cdc.gov/TSP/ToxFAQs/ToxFAQsDetails.aspx?faqid=759&toxid=147.*

[63] Information on the effects and environmental fate of Cl_2 can be found at: U.S. Agency for Toxic Substances and Disease Registry (Last updated March 12, 2015). Toxicological Profile for Chlorine: *https://wwwn.cdc.gov/TSP/ToxProfiles/ToxProfiles.aspx?id=1079&tid=36.*

[64] Docket ID No. EPA–HQ–OAR–2011–0344–0160.

[65] *National Lime Ass'n* v. *EPA,* 233 F.3d 625, 640 (D.C. Cir. 2000).

[66] 64 FR 31898, 31907 (June 14, 1999).

[67] *FCC* v. *Fox Television Stations, Inc,* 556 U.S.502 (2009); *Loper Bright Enters* v. *Raimondo,* 603 U.S. 369 (2024).

[68] Docket ID No. EPA–HQ–OAR–2025–0078.

[69] *See Dithiocarbamate Task Force* v. *EPA,* 98 F.3d 1394, 1399 (D.C. Cir. 1996) (EPA may attribute characteristics of a subclass of substances to an entire class of substances if doing so is scientifically reasonable.); *See also NRDC* v. *EPA,* 822 F.2d 104, 125 (D.C. Cir. 1987) (EPA may regulate a pollutant indirectly when its emissions are controllable by regulation of other pollutants.)

[70] *National Lime Ass'n,* 233 F.3d at 640.

[71] *Id.*

[72] 40 CFR 63.554.

inches of water.[73] The rule incorporated 40 CFR 63.10(b)(2)(vii), which requires records of 15-minute averages of data collected from continuous monitoring systems (CMS). The EPA subsequently issued a Secondary Lead Smelting NESHAP direct final rule clarifying that the data collected from the continuous pressure monitors must be used to calculate 15-minute averages that are used to demonstrate compliance, and the 15-minute averages must include at least one reading per minute.[74]

Since implementing the negative pressure requirements, the EPA received requests from industry to allow for alternative monitoring procedures for demonstrating continuous negative pressure for total enclosures. ABR submitted comments [75] in response to Executive Order 13777, ''Enforcing the Regulatory Reform Agenda,'' available in the docket of this rulemaking. In the letter, ABR requested that the EPA revise the Secondary Lead Smelting NESHAP monitoring requirements and provide an option of demonstrating compliance through fan amperage monitors via EPA Method 204, sections 6.1 and 8.3, rather than mandating that smelters employ digital differential pressure devices. Industry states that at certain smelters, digital differential pressure devices do not provide robust and valid data for measuring compliance. The size and/or configurations of buildings, including the placement of inner walls and bulkheads, produce internally induced air currents at speeds and angles that create aspiration flows in the monitors, leading to errors in pressure measurements that do not reflect the actual pressure differential of the total enclosure. In addition to configuration issues, industry noted factors outside the control of smelters, including external temperature, sudden external barometric pressure changes, and other weather conditions, can disturb the validity of differential pressure readings and inward air flow at enclosure openings. Further, in response to the CAA section 114 information request, the EPA received several responses from facilities reporting issues with external factors such as sudden weather, water intrusion, and blockages due to pest activity that affected the accuracy of the differential pressure monitoring readings.

Some EPA regional offices have approved alternative monitoring requests submitted by industry. For example, the East Penn secondary lead smelter in Lyons, Pennsylvania, and the Johnson Controls Battery Group secondary lead smelter in Florence, South Carolina, have been approved to use fan amperage as an alternative monitoring parameter to demonstrate continuous negative pressure.[76] [77]

In addition to the alternative monitoring request, ABR requested that the EPA revise the monitoring requirement to include a data recovery requirement consistent with 40 CFR 60.7 for all continuous monitoring devices. This is addressed in the general provisions requirements of 40 CFR 63.10(e)(3)(vii), which is applicable to 40 CFR part 63, subpart X and is similar to 40 CFR 60.7, requiring only a summary report if the total duration of excess emissions or process or control system parameter exceedances for the reporting period is less than 1 percent of the total operating time for the reporting period and CMS downtime for the reporting period is less than 5 percent of the total operating time for the reporting period.

In response to the comments received regarding differential pressure monitoring, the EPA recognizes that, as the regulations are currently written, there may be difficulty demonstrating compliance using differential pressure monitors. The rule currently requires facilities to demonstrate compliance with the standard for differential pressure by maintaining the pressure in total enclosures such that the average pressure in any 15-minute period does not fall below the level specified in 40 CFR 63.544(c)(1). To better align with the general provisions of 40 CFR part 63 and address the ongoing issues with the use of negative pressure monitors, we are proposing to increase the differential pressure averaging period from 15 minutes to 3 hours. The data from the CMS will be reduced according to 40 CFR 63.8(g)(2) to 1-hour averages, computed from four or more data points equally spaced over each 1-hour period, except during periods when calibration, quality assurance, or maintenance activities are being performed. During these periods, a valid hourly average will consist of at least two data points with each representing a 15-minute period. The increased averaging time will help differential pressure monitors overcome environmental issues such as wind and weather impacts while not disrupting the negative pressure requirements that are essential in controlling process fugitive emissions. We are also proposing to amend the rule requirements to clarify the averaging period applies to each individual monitor and not the average of the three monitors in 40 CFR 63.548(k)(4). The EPA is soliciting comment on increasing the differential pressure monitor averaging time (Question #11).

3. Total Enclosure Alternative Monitoring Using Fan Amperage

We are also proposing that affected sources of the Secondary Lead Smelting NESHAP may demonstrate compliance with the total enclosure monitoring requirements under 40 CFR 63.544(a) by using fan amperage as an alternative to differential pressure.[78] We are proposing procedures to use fan amperage that are based on EPA Method 204, sections 6.1 and 8.3 to demonstrate compliance with total enclosure monitoring. EPA Method 204 sets forth the criteria for a permanent total enclosure. Specifically, EPA Method 204 states that the pressure differential of 0.007 inches of water (or 0.013 mm of mercury) corresponds to 200 feet per minute (fpm) of inward face velocity at natural draft openings, per EPA Method 204, section 8.3. Inward face velocity (FV) can be calculated by dividing the difference between the sum of all exhaust air streams (Q_O) and the sum of all forced makeup air (Q_I) by the total area of all natural draft openings (A_N) using the following equation:[79]

$$FV = \frac{Q_O - Q_I}{A_N}$$

Smelters must use the Manufacturers' Fan Performance Curves to determine the brake horsepower requirements necessary to achieve at least 3,600 m/hr (200 fpm) FV and calculate the minimum amperage necessary to achieve that corresponding horsepower. This minimum fan amperage will be the operating limit to ensure the negative pressure of the total enclosure is always maintained. The amperage at each exhaust and intake fan must then be monitored by a current transformer, recorded at least once per minute by a programmable logic controller or equivalent device, and averaged into a 3-hour period.

The EPA is proposing to add 40 CFR 63.548(n) which includes the procedures for using fan amperage to

[73] 40 CFR 63.554 (C)(1).

[74] 79 FR 367 (Jan. 3, 2014).

[75] Baker Hostetler, Comments of the Association of Battery Recyclers on Evaluation of Existing Regulations, 82 FR 17793 (Apr. 13, 2017).

[76] U.S. Environmental Protection Agency. (August 13, 2014). East Penn Manufacturing Company, Alternate Monitoring Petition [Letter].

[77] U.S. Environmental Protection Agency. (August 27, 2016). Johnson Controls Battery Group, Inc., Alternate Monitoring Petition [Letter].

[78] 40 CFR part 63, subpart X.

[79] See EPA Method 204, section 8.3, Equation 204–3.

demonstrate compliance with total enclosure requirements and add associated records in 40 CFR 63.550(c) and the reporting requirements in 40 CFR 63.550(e). The EPA is soliciting comment on allowing monitoring of total enclosure at negative pressure through the use of fan amperage (Question #12).

4. 24-Month Performance Test Extension

In their response to the CAA section 114 information request, industry requested the EPA remove the need to submit a written request to the Administrator when applying for an extension of up to 24 calendar months to conduct the next compliance test, if lead and THC testing results are 50 percent or less of the applicable emission limit. The Secondary Lead Smelting NESHAP requires sources to conduct annual compliance tests for total lead compounds and THC. The Secondary Lead Smelting NESHAP allows facilities to submit a written request to the Administrator for an extension of up to 24 calendar months from the previous compliance test to conduct the next compliance test if an annual compliance test is below a certain level. Industry notes that it has been difficult to obtain timely approval from the EPA for a performance test extension which, in practical effect, results in a denial of the extension request and smelters having to continue to conduct annual compliance testing. Therefore, industry requested that the EPA revise the Secondary Lead Smelting NESHAP to make performance test extensions of up to 24 calendar months automatic upon written notice of the request to the Administrator.

The EPA agrees that it is reasonable to expect to get a response within a reasonable timeframe before the next compliance test. Therefore, similar to the Standards of Performance for Secondary Lead Smelters for Which Construction, Reconstruction, or Modification Commenced After December 1, 2022,[80] the EPA is proposing a provision at 40 CFR 63.543(g)(3) and (h) that the extension request will be deemed approved under the following circumstances: (1) a facility completes a performance test that is measured as 50 percent or lower than the applicable emissions limit, (2) a facility submits a request for the extension within 4 months after the compliance test, and (3) the Administrator does not provide a response within 6 months of receipt of the request. The EPA is soliciting comment on the automatic approval of the 24-month testing extensions under certain circumstances (Question #13).

5. Issues Raised by Petitioners Following the 2012 RTR

In January 2012, the EPA finalized the Secondary Lead Smelting RTR. In March 2012, the EPA received petitions for reconsideration from California Communities Against Toxics, Frisco Unleaded, Missouri Coalition for the Environment Foundation, NRDC, and Sierra Club (collectively); ABR; and Johnson Controls Battery Group Inc. (JCI). The EPA granted reconsideration to California Communities Against Toxics, Frisco Unleaded, Missouri Coalition for the Environment Foundation, NRDC, and Sierra Club (collectively) on the ample margin of safety analysis. The EPA also granted ABR and JCI's petitions for reconsideration.

The EPA addressed some industry issues in the subsequent Secondary Lead Smelting NESHAP direct final rule.[81] The remaining industry issues were litigated and on May 28, 2013, the court rejected the industry petitioners' arguments and denied their petitions for review.[82] Based on this court decision, we consider all the industry petitioners' reconsideration requests to be resolved, as those issues were addressed by the 2014 direct final rule or the court. The EPA will not respond to comments addressing any other issues or any other provisions of the 2012 rule not specifically addressed in this proposed rulemaking.

a. Ample Margin of Safety Analysis

In their 2012 petition, Sierra Club, California Communities Against Toxics, Frisco Unleaded, Missouri Coalition for the Environment Foundation, and Natural Resources Defense Council[83] alleged that the EPA failed to adequately support its finding that the rule provided an ample margin of safety to protect public health. The ample margin of safety analysis included arsenic, cadmium, lead, dioxins and furans, organic HAP, and mercury. In 2012, the EPA granted reconsideration of the 2012 RTR on the following issue: petitioners' allegation that the EPA's ample margin analysis considered only cost, emission reductions, and cost effectiveness and did not include consideration of health and other metrics.

In evaluating and developing standards under section 112(f)(2), as discussed in Section I.A of the 2011 proposal preamble, we apply a two-step process to address residual risk. In the first step, the EPA determines whether risks are acceptable. This determination ''considers all health information, including risk estimation uncertainty, and includes a presumptive limit on maximum individual lifetime [cancer] risk (MIR) of approximately 1 in 10 thousand [*i.e.,* 100-in-1 million]'' (54 FR 38045). In the second step of the process, the EPA sets the standard at a level that provides an ample margin of safety ''in consideration of all health information, including the number of persons at risk levels higher than approximately 1-in-1 million, as well as other relevant factors, including costs and economic impacts, technological feasibility, and other factors relevant to each particular decision'' (*Id.*)

In the 2012 RTR, we finalized the following requirements under CAA section 112(d)(6) and the acceptability determination under CAA section 112(f)(2):

- fugitive emission work practices,
- enclosure for fugitive emission sources, and
- a requirement limiting stack lead emissions to 0.2 mg/dscm as a facility-wide emissions average and limiting stack lead emissions from any single stack to 1.0 mg/dscm.

In the residual risk assessment for the 2012 RTR, we estimated that these requirements would reduce the cancer risk associated with arsenic and cadmium from 200-in-1 million to 10-in-1 million for MACT-allowable emissions and from 50-in-1 million to 10-in-1 million for actual emissions. In the 2012 rule, the maximum acute HQ value for arsenic was expected to be reduced from 20 to 5. We note that we changed our acute risk methodology in 2019 from using the worst-case air dispersion conditions (*i.e.,* the worst hour) to using the reasonable worst-case air dispersion conditions (*i.e.,* 99th percentile). If we were to estimate the acute risk using the updated acute risk approach, we anticipate it would be significantly less than estimated in the 2012 RTR. In the 2012 RTR, we estimated that the multipathway cancer risk from ingestion of dioxin was less than 1.

The risks described above were considered acceptable. As required, we performed an ample margin of safety analysis to determine whether risks could be further reduced. In the Secondary Lead Smelting NESHAP

[80] 40 CFR part 60, subpart La.

[81] 79 FR 367 (January 3, 2014).

[82] *Ass'n of Battery Recyclers, Inc.* v. *EPA,* 716 F.3d 667 (D.C. Cir. 2013).

[83] Petition for Reconsideration of National Emissions Standards for Hazardous Air Pollutant Emissions from Secondary Lead Smelting, 77 FR. 556 (Jan. 5, 2012), Docket ID No. EPA–HQ–OAR–2011–0344–0173.

proposal [84] and in the final rule,[85] the EPA presented the ample margin of safety analysis and the resulting decision. The ample margin of safety analysis did not focus only on costs as alleged by the petitioner. In addition to costs, we considered the human health impacts, availability of controls, and technical feasibility of applying available controls. We performed an ample margin of safety analysis for the source category that included consideration of multiple emissions sources, including sources that emit the following HAP: (1) arsenic and cadmium, (2) lead compounds, (3) dioxins and furans, (4) organic HAP, and (5) mercury compounds. The results of the ample margin of safety analysis are provided in the following paragraphs.

i. *Arsenic and Cadmium:* For fugitive emissions sources of arsenic and cadmium, we did not identify any additional feasible control options beyond what we required under acceptability. Therefore, we did not promulgate additional fugitive controls based on our ample margin of safety analysis. For stack emissions of arsenic and cadmium, we identified the addition of a WESP as a potential control. However, we found that stack emissions of arsenic and cadmium did not appreciably contribute to the 10-in-1 million cancer risks remaining after implementation of the controls under acceptability (cancer risks were largely driven by fugitive emissions of arsenic and cadmium). Moreover, we concluded that the likelihood of significant noncancer effects due to post-control arsenic emissions would be very low because the maximum acute noncancer HQ was estimated to be 5, and the assessment was based on a very conservative analysis using some worst-case assumptions (as indicated above, using the updated acute methodology, the HQ would likely be significantly lower). Furthermore, the costs for these additional controls were high: total capital costs were $400 million, and the total annualized costs were $55 million ($4 million/ton of metal HAP emissions reduced). Therefore, we did not promulgate standards based on the installation of a WESP under the ample margin of safety analysis.

ii. *Lead:* In the 2012 RTR, we finalized requirements under CAA sections 112(d)(6) and (f)(2) lowering the facility-wide emissions limit to a flow-weighted average of 0.20 mg/dscm, limiting the emissions from any one stack to no more than 1.0 mg/dscm, and requiring facilities to fully enclose process fugitive emissions sources and fugitive dust sources. These actions reduced the actual and MACT-allowable lead emissions from this source category to a level that would not result in off-site concentrations above the NAAQS. Moreover, we did not identify any further feasible and cost-effective controls. Thus, we determined that additional lead controls beyond those required under CAA sections 112(d)(6) and (f)(2) were not needed to provide an ample margin of safety to protect public health.

iii. *Dioxins and Furans:* We promulgated various emissions limits for D/F emissions in the final rule,[86] under CAA section 112(d)(2) and (3). At proposal, results of the multipathway risk assessment indicated that the ingestion cancer risk associated with dioxin and furan emissions was 30-in-1 million. Following proposal, new dioxins and furans emissions data were obtained for the industry. We revised the multipathway risk assessment based on these new data and found that the ingestion cancer risk associated with dioxin and furan emissions was less than 1-in-1 million. Because the maximum individual risk is less than 1-in-1 million, we determined that reductions in emissions of dioxins and furans beyond those achieved by the MACT standards were not needed to provide an ample margin of safety to the public.

iv. *Organic HAP:* For organic HAP (other than dioxins and furans), we estimated that actual emissions did not result in a cancer risk above 1-in-1 million at any facility in this source category. Given that actual emissions from blast furnaces did not result in a cancer risk above 1-in-1 million and the actual THC emissions modeled from blast furnaces were at levels close to the allowable emissions, we concluded that the cancer risk associated with actual and allowable emissions of organic HAP from all other furnace types are not likely to be greater than 1-in-1 million since the THC limit for blast furnaces is considerably higher than for other furnace types. Additionally, emissions of organic HAP from this source category do not appreciably contribute to any chronic noncancer risk. For these reasons, we determined that additional organic HAP reductions were not needed to provide an ample margin of safety.

v. *Mercury:* With regard to mercury emissions from this source category, our risk assessment indicated that, even based on our highly conservative estimates of mercury emissions, emissions of mercury did not appreciably contribute to risk based on both the inhalation and multipathway risk analyses. Given that the work practice standard for mercury is based on actual performance of the industry, we determined that more stringent mercury standards were not required to provide an ample margin of safety to protect public health.

Therefore, in conclusion, we have illustrated above that in the 2011 RTR proposal and 2012 RTR final rule, the EPA presented the ample margin of safety analysis and the resulting decision. The ample margin of safety analysis did not focus only on costs as alleged by the petitioner. In addition to costs, we considered the human health impacts, availability of controls, and technical feasibility of applying available controls. The EPA is soliciting comment on the determination the Secondary Lead Smelting NESHAP provides an ample margin of safety (Question #14).

b. Other Petition for Reconsideration Items

Petitioners maintain that it was not feasible to comment on the accidental release threshold and the paved road exemption for limited use roads which were promulgated as part of work practice standards in the 2012 RTR. We are not making any changes to the work practice standards in the 2012 RTR. However, we are requesting public comment on the accidental release threshold (Question #15) and the paved road exemption for limited use roads (Question #16). The EPA will not respond to comments addressing any other issues or any other provisions of the 2012 rule not specifically addressed in this proposed rulemaking.

6. Other Items

In addition to the proposed actions described above, we are proposing additional revisions to the NESHAP. We are proposing revisions to the SSM provisions of the NESHAP in order to ensure that they are consistent with the decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), in which the court vacated two provisions that exempted sources from the requirement to comply with otherwise applicable CAA section 112(d) emission standards during periods of SSM. We also are proposing other revisions to the General Provisions table (Table 1), electronic reporting, and affirmative defense provisions. Our analyses and proposed changes related to these issues are discussed below.

[84] 76 FR 29057 (May 19, 2011).

[85] 77 FR 556 (January 5, 2012).

[86] 77 FR 556 (January 5, 2012).

a. SSM

Consistent with *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), which held that under CAA section 302(k), emissions standards or limitations must be continuous in nature and that the SSM exemption violates the CAA's requirement that some section 112 standards apply continuously, the EPA established standards in the Secondary Lead Smelting NESHAP for all periods of operation and removed references to SSM provisions.[87] As part of this proposal, we are addressing outstanding SSM provisions by proposing to revise the General Provisions Applicability Table (table 1) entries (Question #17) as follows:

- 40 CFR 63.8(d)(3): change the ''Yes, except for last sentence.'' in column ''Applies to Subpart X'' to ''No'' and add a comment ''See § 63.550(c)(15)'' which includes written CMS procedures.
- 40 CFR 63.10(b)(2)(i): add a comment ''See § 63.550(e)(13) for recordkeeping for startup and shutdown.''
- 40 CFR 63.10(b)(2)(ii): revise the comment to include references to 40 CFR 63.550(c)(11) and (12) for recordkeeping related to malfunctions.
- 40 CFR 63.10(b)(2)(iv)–(b)(2)(v): add a comment ''See § 63.550(c)(13)'' for identifying excess emissions.
- 40 CFR 63.10(c)(10)–(11): revise the comment to include references to 40 CFR 63.550(c)(11) and (12) for recordkeeping related to malfunctions.
- 40 CFR 63.10(d)(5): revise the comment to include a reference to 40 CFR 63.550(e)(13).

Additionally, we are proposing to revise the references to no standards for D/F for periods of startup and shutdown from 40 CFR 63.543(c) and from Table 2. The EPA recognizes dioxins and furans will not be emitted during those periods. We are proposing work practices standards during startup and shutdown where facilities ensure scrap feed materials (including chlorinated plastics and flame retardants) that contain the precursors needed for dioxin formation are not introduced into the smelter so there are no conditions that could give rise to D/F emissions. The EPA is soliciting comment on the proposed work practice standards for D/F during startup and shutdown (Question #18).

b. Other General Provisions Applicability Revisions to Table 1

We are also proposing to amend the General Provisions Applicability Table entries (Question #19) as listed below to address changes in the general provisions since the last rulemaking:

- 40 CFR 63.6(c)(1), (2): change the ''Yes'' in column ''Applies to Subpart X'' to a ''No'' and add the comment, ''see § 63.546.''
- 40 CFR 63.6(c)(3), (4): change the ''Yes'' in column ''Applies to Subpart X'' to a ''No'' and add the comment, ''Section Reserved.''
- 40 CFR 63.6(f)(2)–(3): add ''Yes'' in the column ''Applies to Subpart X.''
- 40 CFR 63.9(k): Removing the comment ''Only as specified in 63.9(j).''
- 40 CFR 63.10(d)(1)–(4): add 40 CFR 63.10(d)(1), 63.10(d)(2), 63.10(d)(3), and 63.10(d)(4), add ''No'' to column ''Applies to Subpart X'' and comment, ''see § 63.9(k)'' for 40 CFR 63.10(d)(2), add ''No'' to column ''Applies to Subpart X'' for 40 CFR 63.10(d)(3), add ''Yes'' to column ''Applies to Subpart X'' for 40 CFR 63.10(d)(4).
- 40 CFR 63.12 to 63.15: Change to 40 CFR 63.12 to 63.16.

c. Electronic Reporting

The EPA is proposing to update and expand the electronic reporting requirements to which owners and operators of secondary lead smelting facilities are subject. The following report types (initial notification of compliance, performance test reports, results of CEM performance evaluations, Notification of Compliance Status (NOCS), and semiannual excess emissions and CMS performance reports and summary reports) will be submitted through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI). A description of the electronic data submission process is provided in the memorandum *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules,* available in the docket for this action. Performance test results and performance evaluation results of continuous emissions monitoring systems (CEMS) relative accuracy test audits (RATAs) have been required to be submitted electronically since January 1, 2012. We are proposing to revise the regulatory text to reference the general provisions and that the initial notification of compliance and the NOCS reports be submitted as a PDF upload in CEDRI (Question #20).

For the semiannual excess emissions and CMS performance reports and summary reports, we are proposing at 40 CFR 63.550(e)(15)(iii) that owners and operators use the appropriate spreadsheet template to submit information to CEDRI. The EPA is proposing to revise the recordkeeping and reporting requirements at 40 CFR 63.550(c) and (e) which is reflected in the template. A draft version of the proposed template for these reports is included in the docket for this action.[88] The EPA specifically requests comment on the content, layout, and overall design of the template (Question #21).

The electronic submittal of the reports addressed in this proposed rulemaking will increase the usefulness of the data contained in those reports, is in keeping with current trends in data availability and transparency, will further assist in the protection of public health and the environment, will improve compliance by facilitating the ability of regulated facilities to demonstrate compliance with requirements and by facilitating the ability of delegated state, local, tribal, and territorial air agencies and the EPA to assess and determine compliance, and will ultimately reduce burden on regulated facilities, delegated air agencies, and the EPA. Electronic reporting also eliminates paper-based, manual processes, thereby saving time and resources, simplifying data entry, eliminating redundancies, minimizing data reporting errors, and providing data quickly and accurately to the affected facilities, air agencies, the EPA, and the public.

d. Affirmative Defense

As part of the 2012 RTR[89] the EPA included the ability to assert an affirmative defense to civil penalties for violations caused by malfunctions.[90] Although the EPA recognized that its case-by-case enforcement discretion provided sufficient flexibility under such circumstances, we included the affirmative defense provision to provide a more formalized approach and greater regulatory clarity. Under the EPA's regulatory affirmative defense provisions, if a source could demonstrate in a judicial or administrative proceeding that it had met the requirements of the affirmative defense in the regulation, civil penalties would not be assessed. However, in *NRDC,* the D.C. Circuit vacated an affirmative defense provision in another CAA section 112 regulation, finding that the EPA lacked authority to establish such an affirmative defense because the authority to determine civil penalty amounts in such cases lies exclusively

[87] 77 FR 556 (January 5, 2012).

[88] Secondary_Lead_Smelters_Semiannual_Excess_Emission_SMS_Performance_Report_Template, available at Docket ID. No. EPA–OAR–2025–0078.

[89] 77 FR 556 (January 1, 2012).

[90] 40 CFR 63.542.

with the courts, not the EPA.[91] In response to this decision, the EPA is proposing to remove the affirmative defense provisions previously established in the Secondary Lead Smelting NESHAP at 40 CFR 63.552 in their entirety and the definition of ''affirmative defense'' at 40 CFR 63.542. The EPA initially added the affirmative defense provisions in the Secondary Lead Smelting NESHAP in 2012, specifically describing the affirmative defense in the preamble as an ''affirmative defense to civil penalties for exceedances of emission limits that are caused by malfunctions.'' [92] The regulatory language narrowly defines this affirmative defense as an ''affirmative defense to civil penalties for exceedances of emissions limit during malfunction.'' [93] As explained above, if a source is unable to comply with emissions standards as a result of a malfunction, the EPA may use its case-by-case enforcement discretion to provide flexibility, as appropriate. Further, as the court recognized in the *NRDC* decision, in an EPA or citizen enforcement action, the court has the discretion to consider any defense raised and determine whether penalties are appropriate.[94] The same is true for the presiding officer in EPA administrative enforcement actions.

The EPA previously proposed to remove the affirmative defense provisions from the Secondary Lead Smelting NESHAP as part of a proposed rule entitled Removal of Affirmative Defense Provisions from Specified New Source Performance Standards and National Emissions Standards for Hazardous Air Pollutants.[95] We now propose the removal of these provisions as part of this action. We are soliciting comment on our proposal to remove the affirmative defense provisions from the Secondary Lead Smelting NESHAP as part of this rulemaking (Question #22). Comments previously submitted on the prior proposed rule will not be considered as part of this action and must be submitted to the docket for this action in order to be considered.[96]

Additionally, on September 5, 2025, the D.C. Circuit held in *SSM Litigation Group* v. *EPA,* Case No. 23–1267, that although EPA has no authority under the CAA to ''create a regulatory 'defense' that limits the remedial authority granted by Congress to the federal courts,'' a ''complete affirmative defense, like the one at issue [in that case], is permissible because it relates to the antecedent question of liability and therefore does not impinge on the judiciary's authority to award 'appropriate civil penalties.' '' [97] As previously noted, this affirmative defense provision for which EPA is now proposing removal is only for civil penalties and is not a complete affirmative defense as contemplated by the D.C. Circuit in the *SSM Litigation Group* decision. Due to the timing of the D.C. Circuit's decision in *SSM Litigation Group* and the Agency's consent decree deadline to issue this proposed action, the Agency is proposing to remove the existing affirmative defense in response to the *NRDC* decision while reserving the issue of affirmative defenses more generally for the future.

The EPA therefore requests comment on whether and how we should establish regulations within this and other New Source Performance Standards or NESHAPs in response to the D.C. Circuit's *SSM Litigation Group* decision. Due to the timing of the D.C. Circuit decision and the Agency's consent decree deadline, the EPA will address the impacts of the *SSM Litigation Group* decision in an appropriate future action. The EPA is soliciting comment on the proposed removal of this affirmative defense provision for civil penalties (Question #23).

e. Hydrometallurgical and Electrometallurgical Lead Processing

On February 5, 2016, the EPA received a petition for a new rulemaking from Sierra Club and California Communities Against Toxics.[98] The petition requested that the EPA revise the provisions on applicability and definitions in the Secondary Lead Smelting NESHAP. The petition was submitted in response to a published notice of proposed action on an application for an operating permit submitted by Aqua Metals, Inc. to the Nevada Department of Environmental Protection. The permit concerned plans to construct and operate a used lead acid battery recycler, also known as a secondary lead processing facility. The proposed facility intended to recycle lead acid car batteries using hydrometallurgical and electrometallurgical lead processing techniques rather than using typical pyrometallurgic lead technology. The permit application did not include terms or conditions to comply with the Secondary Lead Smelting NESHAP, as the facility did not believe the NESHAP was applicable due to the applicability requirements and current definitions of affected sources. This facility later shut down, and hence the EPA did not act on the petition. The EPA has recently been notified of a new facility intending to operate a secondary lead recycling facility that will operate non-pyrometallurgic lead recycling processes. The EPA is requesting information about these non-pyrometallurgic processes to aid in determining the most appropriate way to address this type of secondary lead recycling (Question #24).

C. What compliance dates are we proposing, and what is the rationale for the proposed compliance dates?

The proposed amendments to the Secondary Lead Smelting NESHAP in this action are subject to the compliance timeframes in CAA section 112(i).[99] We expect most existing sources can comply with the amendments without modification.

We are proposing the following amendment to be effective upon publication of the final rule: the provision that a performance test extension request will be deemed approved under certain circumstances; and the use of fan amperage to demonstrate compliance with the total enclosure requirement as an alternative to differential pressure monitoring.

We are proposing to allow six months to comply with the amendments to recordkeeping and reporting of malfunctions and deviations and the D/F work practice standards during startup and shutdown and the increased averaging period for differential pressure monitoring. This additional compliance time allows facilities to read and the requirements and modify their procedures accordingly.

We are proposing to allow one year for the use of the CEDRI reporting template and compliance with the D/F and THC limits for collocated rotary and reverberatory furnaces. For the CEDRI reporting template we are proposing,

[91] *NRDC* v. *EPA,* 749 F.3d 1055 (D.C. Cir. 2014) (vacating affirmative defense provisions in the CAA section 112 rule establishing emission standards for Portland cement kilns).

[92] 77 FR 556 (January 5, 2012).

[93] 40 CFR 63.552.

[94] Cf. *NRDC,* 749 F.3d at 1063 (arguments that violation was caused by unavoidable technology failure can be made to the courts in future civil cases when the issue arises).

[95] 89 FR 52425 (June 24, 2024).

[96] Docket ID No. EPA–HQ–OAR–2025–0078. The EPA intends to take appropriate final action on the remainder of that proposed rule in a separate action at the appropriate time.

[97] Slip Op. at 10–11 (quoting CAA 304(a), 42 U.S.C. 7604(a)).

[98] U.S. Environmental Protection Agency. (Last updated Feb. 5, 2016). Petition for Rulemaking on NESHAP from Secondary Lead Smelting: *https://www.epa.gov/sites/default/files/2016-10/documents/secleadpetfornewrulemakingearthjustice5feb16.pdf.*

[99] 42 U.S.C. 7412(i).

facilities submit semiannual excess emissions and CMS performance reports to the Administrator using the template beginning 1 year after publication of the final rule in the **Federal Register** or once the report template for 40 CFR part 63, subpart X has been available on the CEDRI website for one year, whichever date is later.

The EPA estimates that only one existing source would need time to comply with the proposed collocated rotary and reverberatory furnace limits. This facility needs time to establish contracts with testing companies and arrange for and conduct the performance testing. Therefore, we are proposing to allow one year for existing sources to comply with the collocated rotary and reverberatory furnace THC and D/F emission limits.

As provided in CAA section 112(i), for all affected sources that commenced construction or reconstruction after October 1, 2025, we are proposing that owners and operators comply with the provisions by the effective date of the final rule (or upon startup, whichever is later). The effective date is the date of publication of the final amendments in the **Federal Register**.

We solicit comment on these proposed compliance periods, and we specifically request submission of information from sources in this source category regarding specific actions that would need to be undertaken to comply with the proposed amended provisions and the time needed to make the adjustments for compliance with any of the revised provisions (Question #25).

IV. Summary of Cost, Environmental, and Economic Impacts

A. What are the affected sources?

There are currently 11 secondary lead smelting facilities in the United States. The list of facilities is available in the document titled *List of Facilities Subject to the Secondary Lead Smelting NESHAP,* which is available in the docket for this rulemaking.[100] We anticipate that no new secondary lead smelting facilities, as currently defined, will become subject to the NESHAP in the next eight years.

B. What are the air quality impacts?

We do not anticipate any air quality impacts due to this rulemaking. We are setting a MACT Floor for THC and D/F rotary furnaces but do not anticipate any reductions of THC and D/F. There is only one collocated rotary and reverberatory furnace in the source category and the limit reflects current controls on this furnace.

[100] Docket ID No. EPA–HQ–OAR–2025–0078.

C. What are the cost impacts?

We anticipate limited costs associated with this rulemaking. The THC and D/F testing requirement for collocated rotary and reverberatory furnaces only applies to one facility. We anticipate the costs of testing and recordkeeping and reporting to be approximately $70,700 for the first year of testing. The estimated D/F testing costs every 6 years are $30,000 per test and the estimated annual THC testing costs are $10,000 per test. The estimated recordkeeping and reporting costs are $30,700 for the first year.

D. What are the economic impacts?

As described above, costs were estimated for the first 8 years (2027—2034) following this action. This allows for a reasonable and consistent timeframe over which to examine impacts of this action from a present value (PV) perspective. The PV in 2023 dollars is a cost of approximately $180,000 using a 3 percent discount rate and $160,000 using a using a 7 percent discount rate. The equivalent annualized value in 2023 dollars is a cost of approximately $26,000 using a discount rate of 3 percent and $26,000 using a discount rate of 7 percent. Given the results of the analysis, these economic impacts are relatively low for affected industries and entities impacted by this proposed rule, and there will not be substantial impacts on the markets for affected products. The costs of the proposed rule are not expected to result in a significant market impact, regardless of whether they are passed on to the purchaser or absorbed by the companies.

The EPA performed a screening analysis to assess potential impacts of this action on small entities. Based on the small entity size standards defined by the U.S. Small Business Administration (SBA), the EPA determined that 4 of the 11 facilities affected by this action are ultimately owned by parent companies that are small entities. None of these small entities are expected to incur significant impacts. The only entity that is expected to be impacted by the additional testing costs from this rule is not considered a small business. Therefore, the EPA has determined that this rule will not have a significant impact on a substantial number of small entities (*i.e.,* no SISNOSE).

E. What are the benefits?

We do not anticipate emissions reductions from the proposed THC and D/F standards for collocated rotary and reverberatory furnaces. Some benefits may result from the revised provision allowing a 24-month extension for compliance testing, if finalized as proposed, as the requirements to receive the extension will encourage facilities to operate below 50 percent of the lead and THC limits, encouraging individual facilities to be top performers for emissions reductions. We are unsure of the number of facilities that may meet the requirements. Therefore, we cannot estimate potential benefits of this proposed provision.

V. Request for Comments

We solicit comments on this proposed action. In addition to general comments on this proposed action, we are also interested in additional data that may improve the analyses. We are specifically interested in receiving any information regarding developments in practices, processes, and control technologies that reduce HAP emissions.

The EPA is soliciting comment on the following:

- Question #1: Whether we should consider any additional developments not addressed here or in the technical memorandum.
- Question #2: On the determination that a baghouse routed to a WESP is not cost-effective.
- Question #3: Our determination not to propose fenceline monitoring for the secondary lead smelting source category.
- Question #4: The proposed THC and D/F limits and beyond-the-floor rationale.
- Question #5: The proposed collocated rotary and reverberatory furnace definition.
- Question #6: On setting the THC and D/F standards pursuant to CAA section 112(d)(6) rather than setting the THC and D/F standards exclusively pursuant to CAA section 112(d)(2) and (3).
- Question #7: On proposing THC as a surrogate for COS.
- Question #8: On whether the Agency's proposed *de minimis* treatment here for HCl and Cl_2 for the secondary lead smelting source category could be considered a change in Agency position.
- Question #9: On all aspects of the Agency's proposed determination, including the Agency's statutory interpretation and factual findings.
- Question #10: On whether to adopt a MACT HCl limit of 0.03 lb/hr in lieu of the *de minimis* determination.
- Question #11: On increasing the differential pressure monitor averaging time.

- Question #12: On allowing monitoring of total enclosure at negative pressure through the use of fan amperage.
- Question # 13: On the approval of the 24-month testing extensions under certain circumstances.
- Question #14: On the determination the Secondary Lead Smelting NESHAP provides an ample margin of safety.
- Question #15: On the accidental release threshold.
- Question #16: On the paved road exemption for limited use roads.
- Question #17: On changes removing the General Provisions Applicability Table (Table 1) entries to address SSM.
- Question #18: On the proposed work practice standards for D/F during startup and shutdown.
- Question #19: On the proposed changes to the General Provisions Applicability Table entries.
- Question #20: On the proposed changes regulatory text to reference the general provisions and that the initial notification of compliance and the NOCS reports be submitted as a PDF upload in CEDRI.
- Question #21: On the content, layout, and overall design of the template.
- Question #22: On our proposal to remove the affirmative defense provisions from the Secondary Lead Smelting NESHAP as part of this rulemaking.
- Question #23: On the proposed removal of the affirmative defense provision for civil penalties.
- Question #24: On the non-pyrometallurgic processes to aid in determining the most appropriate way to address non-pyrometallurgic secondary lead recycling.
- Question #25: On the proposed compliance periods, and we specifically request submission of information from sources in this source category regarding specific actions that would need to be undertaken to comply with the proposed amended provisions and the time needed to make the adjustments for compliance with any of the revised provisions.
- Question #26: On the EPA's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden to the EPA using the docket identified at the beginning of this rule.
- Question #27: Any potentially applicable VCS and to explain why such standards should be used in this regulation.

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

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

This action is not a significant regulatory action and was therefore not submitted to the OMB for review.

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

This action is not expected to be an Executive Order 14192 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

The information collection activities in this proposed rule have been submitted for approval to the OMB under the PRA. The ICR document that the EPA prepared has been assigned EPA ICR number 2060–0296. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here.

Respondents/affected entities: Owners or operators of secondary lead smelting facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart X).

Estimated number of respondents: 11.

Frequency of response: Initially, semiannually, and annually.

Total estimated burden: 100 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: Average annual cost is $34,000 (per year) which includes $0 annualized capital or operation and maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

Submit your comments on the EPA's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden to the EPA using the docket identified at the beginning of this rule (Question #26). You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs via email to *OIRA_submission@omb.eop.gov,* Attention: Desk Officer for the EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after receipt, OMB must receive comments no later than October 31, 2025. The EPA will respond to any ICR-related comments in the final rule.

D. 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. In making this determination, the EPA concludes that the impact of concern for this rule is any significant adverse economic impact on small entities and that the EPA is certifying that this rule will not have a significant economic impact on a substantial number of small entities because the rule has no net burden on the small entities subject to the rule. We identified that four of the 11 facilities in the secondary lead smelting source category affected by this proposed action are small businesses. The EIA conducted for this proposal (see *Economic Impact Analysis,* which is available in the docket for this action) showed that the small businesses will not incur total annualized costs greater than 1 percent of their revenue. We have therefore concluded that this action will have no net regulatory burden for all directly regulated small entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million (adjusted annually for inflation) or more (in 1995 dollars) as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The costs involved in this action are estimated not to exceed $187 million in 2024$ ($100 million in 1995$ adjusted for inflation using the gross domestic product implicit price deflator) or more in any 1 year.

F. 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.

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

This action does not have tribal implications as specified in Executive Order 13175. None of the facilities that have been identified as being affected by this action are owned or operated by tribal governments or are located within tribal lands. Thus, Executive Order 13175 does not apply to this action.

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

Executive Order 13045 directs Federal agencies to include an evaluation of the health and safety effects of the planned regulation on children in Federal health and safety standards and explain why the regulation is preferable to potentially effective and reasonably feasible alternatives. This action is not subject to Executive Order 13045 because the EPA does not believe the environmental health risks or safety risks addressed by this action present a disproportionate risk to children. Emissions from this source category include HAP like lead and arsenic which are known developmental toxicants. However, the controls required in 2012 already reduced the modeled exposure to HAP from these facilities to below levels of public health concern (77 FR 556; January 5, 2012). Therefore, this action does not present or address disproportionate risk to children. However, the EPA's *Policy on Children's Health* applies to this action.

The EPA does not believe there are disproportionate risks to children because the Secondary Lead Smelting NESHAP currently has lead emissions limits for process vents and process fugitives. In 2012, we estimated the required controls would result in modeled lead concentrations such that there would be no one living at a census block centroid exposed to ambient concentrations above the NAAQS, thereby mitigating the risk of future adverse health effects to children. The modeled concentration data are supported by fenceline monitoring conducted during the CAA section 114 information request which showed ambient lead levels well below the lead NAAQS limit of 0.15 micrograms per cubic meter 3-month rolling average limit at the fenceline for all but one facility (this one facility is currently subject to a state consent agreement). The fenceline monitoring conducted also included testing for arsenic which we found to be below levels of concern. Additionally, we are updating monitoring, recordkeeping, and reporting requirements to help improve compliance reporting, which also benefits children's health.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

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

J. National Technology Transfer and Advancement Act (NTTAA)

This action involves technical standards. The EPA proposes to use the voluntary consensus standard (VCS) discussed below. The EPA searched the Enhanced National Standards Service Network (NSSN) database maintained by the American National Standards Institute (ANSI) for VCS that could be used in the Secondary Lead Smelting NESHAP. While we have made a reasonable effort to identify and evaluate potentially practical VCS, our findings do not necessarily represent all potential alternative standards which may exist.

Searches were conducted for EPA Methods 1, 2, 3A, 3B, 4, 5D, 12, 23, 25A, and 29 of 40 CFR part 60, appendix A. We found no VCS are acceptable alternatives for EPA Methods 1, 2, 3A, 4, 5D, 12, 23, 25A and 29.

One VCS is an acceptable alternative to EPA Method 3B for this rule. The manual methods in ANSI/ASME PTC 19–10–1981 Part 10, ''Flue and Exhaust Gas Analyses'' (2010 version) are acceptable alternatives to EPA Method 3B to analyze O_2 and carbon dioxide (CO_2) concentrations in the stack gas. The instrumental methods in the VCS ANSI/ASME PTC 19–10–1981 Part 10, ''Flue and Exhaust Gas Analyses'' (2010 version) are not acceptable alternatives to EPA Method 3B. The manual methods are available at the ANSI, 1899 L Street NW, 11th Floor, Washington, DC 20036 and the American Society of Mechanical Engineers (ASME), Three Park Avenue, New York, NY 10016–5990; telephone number: 1–800–843–5990; and email address: *customercare@asme.org.* See *www.ansi.org* and *www.asme.org.* The standard is available to everyone at a cost determined by ANSI/ASME ($88). ANSI/ASME also offer memberships or subscriptions for reduced costs. The cost of obtaining these methods is not a significant financial burden, making the methods reasonably available.

Under 40 CFR 63.7(f) and 40 CFR 63.8(f), subpart A—General Provisions, a source may apply to the EPA for permission to use alternative test methods or alternative monitoring requirements in place of any required testing methods, performance specifications, or procedures in the final rule or any amendments.

The EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially applicable VCS and to explain why such standards should be used in this regulation (Question #27).

The EPA proposes to amend 40 CFR 63.14 to incorporate by reference for one VCS: ANSI/ASME PTC 19.10–1981, Flue and Exhaust Gas Analysis [Part 10, Instruments and Apparatus], issued August 31, 1981, IBR requested for 40 CFR 63.1450(a)(iii), (b)(iii), (d)(iii), and (e)(iii). This method is an approved alternative to EPA Method 3B manual portion only, not the instrumental portion. The applicable portion of this Performance Test Code is the wet chemical manual procedures, apparatus and calculations for quantitatively determining O_2, CO_2, carbon monoxide and nitrogen from stationary combustion sources.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Incorporation by reference, Reporting and record keeping requirements.

Lee Zeldin,

Administrator.

[FR Doc. 2025–19155 Filed 9–30–25; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 40

[Docket DOT–OST–2021–0093]

RIN 2105–AF28

Procedures for Transportation Workplace Drug and Alcohol Testing Programs

AGENCY: Office of the Secretary, Department of Transportation (Department or DOT).

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: This action supplements an earlier notice of proposed rulemaking (NPRM) that DOT published on December 9, 2024. This supplemental proposal would update terminology in DOT's drug and alcohol testing regulations consistent with Executive Order 14168 (E.O. 14168), *Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government.* DOT continues to propose a provision to require a directly observed urine collection in situations where oral fluid tests are currently required, but oral fluid testing is not yet available.

DATES: Comments on this notice of proposed rulemaking should be submitted by November 15, 2025.

FOR FURTHER INFORMATION CONTACT: Bohdan Baczara, Deputy Director, Office of Drug and Alcohol Policy and Compliance, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone number 202–366–3784; *ODAPCwebmail@dot.gov*.

SUPPLEMENTARY INFORMATION:

I. Purpose

DOT is issuing this supplemental notice of proposed rulemaking (SNPRM) following issuance of a 2024 notice of proposed rulemaking (NPRM) to amend its drug testing procedures rule. (*See* 89 FR 97579.) The NPRM proposed an interim provision to require the conduct of directly observed urine tests in the limited situations where the rule requires oral fluid tests, but oral fluid testing is not yet available. DOT continues to propose a directly observed urine collection in situations where oral fluid tests are currently required, but oral fluid testing is not yet available and supplements that proposal by updating language in its drug and alcohol testing regulations consistent with E.O. 14168 on Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government.

II. Authority for This Rulemaking

This rulemaking is promulgated pursuant to the Omnibus Transportation Employee Testing Act of 1991 (OTETA) (Pub. L. 102–143, Tit. V, 105 Stat. 952). DOT requires urine drug testing and authorizes oral fluid drug testing as an alternative methodology for the testing of safety-sensitive transportation industry employees subject to drug testing under part 40 of Title 49 of the Code of Federal Regulations (part 40). DOT's part 40 regulations are, in turn, incorporated by reference in the drug and alcohol testing requirements of each of its operating administrations.[1]

III. Background

DOT published a final rule amending the procedures for its drug testing program (49 CFR part 40) on May 2, 2023 (88 FR 27596) (May 2023 Final Rule). The May 2023 Final Rule went into effect on June 1, 2023. The May 2023 Final Rule authorized oral fluid drug testing as an additional methodology for employers to use as a means of achieving the safety goals of the program. Because the Department of Health and Human Services (HHS) had determined that oral fluid drug testing, like urine drug testing, is both scientifically accurate and forensically defensible, DOT saw no reason to eliminate or mandate either methodology. As such, in the vast majority of collection scenarios, oral fluid testing is available to employers as an alternate methodology to choose, and not as a replacement for urine drug testing.

Importantly, for an employer to implement oral fluid testing, there must be at least two HHS-certified laboratories for oral fluid testing. There must be one HHS-certified laboratory to conduct the screening and confirmation drug testing on the primary specimen. There must be a different HHS-certified laboratory to conduct the split specimen drug testing on the secondary specimen if the employee requests split specimen testing for the Medical Review Officer (MRO) verified positive, adulterated, or substituted result. However, as of the date of the publication of this rule, there are no HHS-certified laboratories to conduct oral fluid testing.[2]

DOT regulations at § 40.67 require that a collection be directly observed in certain circumstances, *e.g.,* if the original sample was invalid without an adequate medical explanation or the test is for a return to duty. In the May 2023 Final Rule, and in response to comments received on the notice of proposed rulemaking (NPRM) that preceded that rule, we added a provision at § 40.67(g)(3) to require a directly observed collection to be an oral fluid test[3] (as opposed to a urine test) in situations where an observer as required by the regulations cannot be easily provided and in certain other situations. These limited situations are the only ones in which Part 40 expressly requires an oral fluid test to be conducted as opposed to a urine test; in all other situations, an employer has the choice of whether a urine test or an oral fluid test will be conducted, including those conducted as directly observed collections.

Because there are no HHS-certified oral fluid laboratories, it is not yet possible to comply with the requirement in § 40.67(g)(3) that requires the directly observed collection to be an oral fluid test in the situations specified in that section. In the interim, and to preserve transportation safety by deterring illicit drug use, it is necessary to ensure that directly observed collections can still be conducted when required.

To correct the inadvertent factual impossibility created by the fact there are no HHS certified oral fluid laboratories, DOT published an NPRM on December 9, 2024, proposing to amend Part 40, for an interim period, to require directly observed urine collections in the situations specified in § 40.67(g)(3) if an oral fluid collection is not yet available (89 FR 97579). The proposed amendment would simply maintain the ''status quo'' wherein all directly observed collections are currently conducted as urine tests, because oral fluid testing is not yet available.

The Department stated that the amendment to require directly observed urine tests in situations where an oral fluid collection is required, but is not yet available, is intended to be a temporary, short-term solution, as there are currently no certified oral fluid laboratories. DOT proposed that the provision would sunset one year after HHS publishes a **Federal Register** notice that it certified the second oral fluid drug testing laboratory. To ensure all are aware of the date when this provision will sunset, DOT stated it will publish a **Federal Register** document specifying the date the second oral fluid laboratory is certified by HHS and the corresponding sunset date. Importantly, DOT was clear that if, during the interim period, a collection site is able to conduct an oral fluid collection (HHS has certified at least two oral fluid drug testing laboratories, and both a qualified oral fluid collector and a conforming oral fluid collection device are available at the collection site), an oral fluid collection would be required to be conducted as specified in § 40.67(g)(3).

III. Comments on the NPRM

DOT received 22 comments on the NPRM. Several commenters expressed concern and frustration that oral fluid testing is not yet available, given that the May 2023 Final Rule that authorized the use of oral fluid testing in the DOT drug testing program became effective on June 1, 2023. DOT made it clear in the May 2023 Final Rule, and we have again noted above, there must be at least two HHS-certified laboratories for oral fluid testing for an employer to implement oral fluid testing under Part 40. HHS is the agency that establishes scientific and technical guidelines for Federal workplace drug testing programs and standards for certification of laboratories engaged in such drug testing. While DOT has discretion

[1] *See* § 40.3 (defining ''DOT, The Department, DOT Agency'' to include each of the DOT operating administrations).

[2] For a list of HHS-certified laboratories, please see *https://www.samhsa.gov/substance-use/drug-free-workplace/drug-testing-resources/lab-list.*

[3] All oral fluid collections are directly observed because they are always conducted in front of the collector. See also the definition of ''oral fluid specimen'' in § 40.3: ''A specimen that is collected from an employee's oral cavity and is a combination of physiological fluids produced primarily by the salivary glands. An oral fluid specimen is considered to be a direct observation collection for all purposes of this part.'' [Emphasis added]

concerning many aspects of its regulations governing testing in the transportation industries' regulated programs, DOT is required, by statute (OTETA of 1991), to follow the HHS Mandatory Guidelines for the laboratory and specimen testing procedures. While DOT acknowledges the comments urging DOT to accelerate/expedite the certification of laboratories to conduct oral fluid testing, DOT has no authority or jurisdiction to do so because HHS is the agency that certifies laboratories that can be used in the DOT drug testing program. Similarly, DOT is not permitted to allow single-laboratory testing on a temporary basis as recommended by one commenter, as statutory law (again, OTETA of 1991) gives employees the right to request a test of the split specimen sample, which must be tested independently at a second HHS-certified laboratory. Because HHS certifies laboratories, comments related to laboratory certification are outside of the scope of this rulemaking.

Several commenters expressed concerns regarding various issues related to oral fluid testing, including the qualification of oral fluid collectors, the availability and cost of oral fluid collection devices, and other associated issues. In addition, some commenters seem to believe that the NPRM proposed to delay implementation of oral fluid testing in general, which is not the case. The scope of the NPRM was very narrow, and proposed to revert to directly observed urine collections in situations where a required oral fluid collection could not be done until two laboratories are certified for oral fluid testing by HHS. As such, these commenters' concerns about oral fluid testing are similarly outside of the scope of this rulemaking.

Several commenters supported the proposal to conduct directly observed urine collections in the limited situations where an observer as required by the regulations cannot be easily provided or in the circumstances identified in § 40.67(g)(3) but objected to the manner and timeline in which the provision was proposed to be implemented. Specifically, a commenter read the NPRM to ''delay and/or make optional 49 CFR section § 40.67(g)(3) for one year from when HHS certifies the first two laboratories to conduct Federal testing.'' Other commenters stated similar concerns, citing the comments submitted by this commenter.

In response, DOT notes that in situations where an observer as required by the regulations cannot be easily provided or in the circumstances identified in § 40.67(g)(3), and a directly observed collection is required, DOT was clear that an oral fluid collection must be conducted, if possible (*i.e.,* HHS has certified at least two oral fluid drug testing laboratories, and both a qualified oral fluid collector and a conforming oral fluid collection device are available at the collection site) during the period until one year after HHS publishes a **Federal Register** notification that a second oral fluid laboratory has been certified. Otherwise, if oral fluid testing is not available, a directly observed urine test must be conducted in these situations during the specified time period. After one year following the certification of the second oral fluid laboratory, an oral fluid test must be conducted as required in the May 2023 Final Rule. The above aligns directly with the commenter's statement that collection sites with trained personnel prepared to offer oral fluid testing immediately should be allowed to proceed with oral fluid testing.

Several commenters stated that the proposed changes would have a significant economic impact on a number of small entities. These commenters stated that many companies have expended time and costs to revise their company policies to incorporate changes to facilitate oral fluid testing in their drug testing programs, and that these policies will need to be revised again to reflect the changes associated with the provisions to require the conduct of directly observed urine tests in the limited situations where the rule requires oral fluid tests, but oral fluid testing is not yet available. As discussed above, this regulatory flexibility is very narrow in scope, and affects a very small percentage of collections (directly observed collections where an observer as required by the regulations cannot easily be provided or in the specific circumstances specified in § 40.67(g)(3)). As noted below, DOT stated in the May 2023 Final Rule that oral fluid testing is optional except in very rare cases. As such, DOT does not believe that widespread changes will need to be made to the company policies that have been developed to facilitate the implementation of oral fluid testing. Further, employers will not be faced with a ''new choice'' (*i.e.,* whether to conduct an oral fluid test or a urine test) in these limited scenarios because the rule requires that an oral fluid test be conducted, if possible, and that a urine test be conducted otherwise.

Finally, in the May 2023 Final Rule in § 40.67(g)(3), DOT included procedures on what to do when the required ''observer'' cannot be found but mistakenly used the term ''collector'' instead of ''observer'' in the regulatory text of that section. We proposed to correct the error in the NPRM and received no comments on this issue.

IV. Proposed Supplement to the NPRM

In § 40.65 there are two scenarios, (b)(5) and (c)(1), that direct the collector to perform either a directly observed urine collection or an oral fluid collection. However, nothing in those sections tells the collector how or who makes that decision. We think it is important to remind the collector to check if the employer has standing orders or contact the Designated Employer Representative (DER) to receive instructions on how to proceed in each of those scenarios. We would do so in the proposed new paragraph (d).

On January 20, 2025, the President issued E.O. 14168 on Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government. E.O. 14168 stated, among other things, that it was the policy of the United States to recognize two sexes, male and female, that each Federal agency shall use the term ''sex'' and not ''gender'' in its policies and documents, that ''sex'' shall refer to an individual's immutable biological classification as either male or female and give meaning to the term ''sex'' as set forth in the E.O. when applying regulations, statutes or guidance. The Department has identified several instances in its regulation 49 CFR part 40 *(i.e.,* §§ 40.67, 40.69, and 40.147) where the word ''gender'' is used. In these sections, we propose to replace the word ''gender'' with the word ''sex''. E.O. 14168 also states ''sex'' is not a synonym for and does not include the concept of ''gender identity''.

The Department is proposing to amend § 40.67(g)(3) by retaining only the original instructions that require an oral fluid collection when a same sex observer cannot be found with a slight modification to the text in (g)(3)(ii) to say that the DER is to instruct the collector to perform an oral fluid test. The Department is retaining the originally proposed language that requires a directly observed urine collection when an oral fluid collection cannot be done for up to one year after two laboratories are HHS certified for oral fluid testing. This language was proposed to ensure that a urine collection would be done in the event the collection site was not ready to conduct oral fluid collections even after two laboratories were HHS-certified for oral fluid testing. To summarize the supplemental proposal to (g)(3), if a directly observed urine collection is required and a same sex observer cannot

be provided, then an oral fluid test is to be performed. However, because oral fluid testing cannot be performed (because there are no two HHS-certified oral fluid laboratories), we have retained the originally proposed language that a directly observed urine collection be performed. This provision applies for one year after HHS certifies at least two oral fluid laboratories. In the interest of safety, if the employee initially provided a suspect urine specimen, we would want to ensure that a second urine collection is performed rather than not performing a second collection because oral fluid testing is not yet available.

V. Regulatory Notices and Analyses

Executive Orders 12866, 13563, and 14094

This rule is a non-significant rule for purposes of E.O. 12886, as supplemented by E.O. 13563 and amended by E.O. 14094 and will not impose any significant costs or have any significant impacts. Given the uncertainty of testing costs and lack of data on other aspects of testing, DOT did not estimate cost savings or other benefits for the May 2023 Final Rule which permitted oral fluid testing as an alternative to urine testing in most scenarios. In the regulatory analyses for the May 2023 Final Rule, DOT stated that oral fluid testing is optional except in very rare cases. This proposal amends the transportation industry drug testing program procedures regulation to comply with E.O. 14168 and proposes to require a directly observed urine collection be conducted when an oral fluid test is required but cannot because there are no two HHS-certified oral fluid drug testing laboratories. This proposal will not impose any significant costs or have any significant impacts on the DOT testing program, because the requirement of a directly observed urine collection existed before issuance of the May 2023 Final Rule, and oral fluid testing has not yet been able to be conducted since the May 2023 Final Rule in the absence of at least two HHS-certified oral fluid laboratories.

Regulatory Flexibility Act and Small Business Regulatory Enforcement Fairness Act (SBREFA)

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires Federal agencies to consider the effects of their regulatory actions on small businesses and other small entities and minimize any significant economic impact. The term ''small entities'' comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with a population of less than 50,000. For this rulemaking, potentially affected small entities include drug testing companies (U.S. Small Business Administration (SBA) North American Industry Classification System (NAICS) Sector 54 (Professional, Scientific and Technical Services), Code 541380 (Testing Laboratories and Services)) as well as DOT-regulated entities (SBA NAICS Sectors 48–49 (Transportation and Warehousing)).

The Department does not expect that the rule will have a significant economic impact on a substantial number of small entities. This proposal amends the transportation industry drug testing program procedures regulation to revise language consistent with E.O. 14168 and proposes a requirement to conduct directly observed urine collections in situations when an oral fluid collection is required but not yet available. The requirement for directly observed urine collections was in existence before issuance of the May 2023 Final Rule, and regulated entities are therefore familiar with the procedure for directly observed urine tests. In addition, because oral fluid testing is not yet available, regulated entities are also likely to still have the collection devices and personnel to conduct urine testing. As a result, the proposed amendments will not impose significant costs. For these reasons, I certify that the rule does not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Unfunded Mandates

DOT has examined the impact of this rule under the Unfunded Mandates Reform Act (UMRA) of 1995 (Pub. L. 104–4). This rule does not trigger the requirement for a written statement under sec. 202(a) of the UMRA because this rulemaking does not impose a mandate that results in an expenditure of $206 million or more by either State, local, and Tribal governments in the aggregate or by the private sector in any one year.

Environmental Impact

DOT has analyzed the environmental impacts of this action pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) and has determined that it is categorically excluded pursuant to DOT Order 5610.1D, ''DOT's Procedures for Considering Environmental Impacts'' (July 1, 2025) (available at *https://www.transportation.gov/mission/dots-procedures-considering-environmental-impacts*). Categorical exclusions are actions identified in an agency's NEPA implementing procedures that do not normally have a significant impact on the environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS). This proposal amends the transportation industry drug testing program procedures regulation to comply with E.O. 14168 and requires a directly observed urine collection when required by part 40 because oral fluid testing is not yet available. This action is covered by the categorical exclusion listed at 23 CFR 771.118(c)(4), ''[p]lanning and administrative activities that do not involve or lead directly to construction, such as: . . . promulgation of rules, regulations, directives. . .'' The Department does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

Executive Order 13132: Federalism

DOT has analyzed the rule in accordance with Executive Order 13132: Federalism. Executive Order 13132 requires Federal agencies carefully to examine actions to determine if they contain policies that have federalism implications or that preempt State law. As defined in the order, ''policies that have federalism implications'' refer to regulations, legislative comments or proposed legislation, and other policy statements or actions that 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.

Most of the regulated parties under the Department's drug testing program are private entities. Some regulated entities are public entities (*e.g.,* transit authorities and public works departments); however, DOT has determined that this proposed rule, which would amend the transportation industry drug testing program procedures regulation to comply with E.O. 14168 and require the conduct of directly observed urine testing where employers are required to conduct an oral fluid test but such testing is not available, does not contain policies that have federalism implications.

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 (65 FR 67249, November 6, 2000) requires Federal

agencies to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' as defined in the Executive Order, include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.'' This rule does not have Tribal implications. The proposal does not have substantial direct effects on Tribal governments, 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, as specified in Executive Order 13175.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) (PRA) requires that DOT consider the impact of paperwork and other information collection burdens imposed on the public. The information collection for DOT's drug and alcohol testing program is approved under OMB control number 2105–0529. This rule does not require any new collection of information under the PRA. Notwithstanding any other provision of law, 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 currently valid Office of Management and Budget (OMB) control number.

Privacy Act

Anyone is able to search the electronic form of all comments received in 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.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

Rule Summary

As required by 5 U.S.C. 553(b)(4), a summary of this rule can be found at *regulations.gov,* Docket DOT–OST–2021–0093, in the **SUMMARY** section of this document.

Pay-As-You-Go Act of 2023

In accordance with Compliance with Pay-As-You-Go Act of 2023 (Fiscal Responsibility Act of 2023, Pub. L. 118–5, div. B, title III) and OMB Memorandum (M–23–21) dated September 1, 2023, the Department has determined that this rule is not subject to the Pay-As-You-Go Act of 2023 because it will not increase direct spending beyond specified thresholds.

List of Subjects in 49 CFR Part 40

Administrative practice and procedure, Alcohol abuse, Alcohol testing, Drug abuse, Drug testing, Laboratories, Reporting and recordkeeping requirements, Safety, Transportation.

For the reasons stated in the preamble, DOT amends 49 CFR part 40 as follows:

PART 40—PROCEDURES FOR TRANSPORTATION WORKPLACE DRUG AND ALCOHOL TESTING PROGRAMS

■ 1. The authority for 49 CFR part 40 continues to read as follows:

Authority: 49 U.S.C. 102, 301, 322, 5331, 20140, 31306, 45101 and 60102 *et seq.*

■ 2. In § 40.65, add a new paragraph (d) to read:

§ 40.65 What does the collector check for when the employee presents a urine specimen?

* * * * *

(d) Direct observations. If a new urine collection using direct observation procedures or an oral fluid collection is required under § 40.65(b)(5) or (c)(1), you must check if the employer has a standing order on which specimen collection to perform. If there is no standing order, you must contact the DER on whether to continue with a directly observed urine collection or an oral fluid collection.

■ 3. In § 40.67 revise paragraph g and in paragraph (h) remove the word ''gender' and add in its place ''sex'' to read as follows:

§ 40.67 When and how is a directly observed urine collection conducted?

* * * * *

(g) As the collector, you must ensure that the observer is the same sex (male or female) as the employee.

(1) You must never permit a person of the opposite sex to act as the observer.

(2) The observer can be a different person from the collector and need not be a qualified collector.

(3) If a same sex observer cannot be found:

(i) If the employer has a standing order to allow oral fluid testing in such situations, the collector will follow that order.

(ii) If there is no standing order from the employer, the collector must contact the DER and the DER will direct the collector to either conduct an oral fluid test if the collection site is able to do so or send the employee to a collection site acceptable to the employer for the oral fluid test.

(4) Notwithstanding paragraphs (g)(3)(i) and (ii) of this section, until otherwise specified (one year after HHS publishes a **Federal Register** notification of the second certified oral fluid drug testing laboratory), you must conduct an oral fluid collection if possible (*i.e.,* HHS has certified at least two oral fluid drug testing laboratories, and both a qualified oral fluid collector and a conforming oral fluid collection device are available at the collection site). Otherwise, you must conduct a directly observed urine collection as required in this section.

* * * * *

■ 4. In § 40.69 in paragraph (c), remove the word ''gender'' and add in its place ''sex (male or female)''; in paragraph (d), remove the word ''same-gender'' and add in its place ''same-sex''.

■ 5. In § 40.145 in paragraph (h)(1)(ii), remove the word ''gender'' and add in its place ''sex (male or female)''.

Issued in Washington, DC.

Sean P. Duffy,

Secretary of Transportation.

[FR Doc. 2025–19119 Filed 9–30–25; 8:45 am]

BILLING CODE 4910–9X–P

Notices

Federal Register
Vol. 90, No. 188
Wednesday, October 1, 2025

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.

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Maryland Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: 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 Maryland Advisory Committee (Committee) to the Commission will hold a public meeting via Zoom. The purpose is for the committee to discuss possible topics of study.

DATES: Wednesday, October 22, 2025, at 3:00 p.m. ET.

ADDRESSES: *Registration Link (Audio/Visual):* The meeting will be held via Zoom. *https://www.zoomgov.com/webinar/register/WN_pi8yUGRvS_W0N0-NYIONrg. Join by Phone (Audio Only):* 1–833–435–1820 USA Toll Free; Webinar ID: 160 730 8088 #

Agenda: https://usccr.box.com/s/530rlth9epgpr00xqspsh86i4schbuvj (note: a final meeting agenda will be available prior to the meeting date).

FOR FURTHER INFORMATION CONTACT: Brooke Peery, Designated Federal Officer, at *bpeery@usccr.gov* or 1–202–701–1376.

SUPPLEMENTARY INFORMATION: This virtual committee meeting is available to the public through the registration link above. Any interested member of the public may join at the link to listen to this meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. Pursuant to the Federal Advisory Committee Act, public minutes of the meeting will include a list of persons who are present at the meeting. If joining via phone, 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. Closed captioning is available by selecting ''CC'' in the Zoom meeting platform. To request additional accommodations, please email *ebohor@usccr.gov* at least 10 business days prior to the meeting.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the scheduled meeting. Written comments may be emailed to Evelyn Bohor at *ebohor@usccr.gov*. Persons who desire additional information may contact the Regional Programs Coordination Unit at (202) 809–9618.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit Office, as they become available, both before and after the meeting. Records of the meetings will be available via the file sharing website: *https://tinyurl.com/mnshz8n9* as well as at: *www.facadatabase.gov* under the Commission on Civil Rights, selecting the Advisory Committee of interest. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Coordination Unit at *ebohor@usccr.gov.*

Dated: September 29, 2025.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2025–19189 Filed 9–30–25; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Direct Investment Surveys: BE–577, Quarterly Survey of U.S. Direct Investment Abroad—Transactions of U.S. Reporter With Foreign Affiliate

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on 07/30/2025 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: Bureau of Economic Analysis (BEA), Commerce.

Title: Quarterly Survey of U.S. Direct Investment Abroad.

OMB Control Number: 0608–0004.

Form Number: BE–577.

Type of Request: Regular submission, reinstatement without change.

Number of Respondents: 1,425 U.S. parents filing for 12,700 foreign affiliates per quarter, 50,800 annually.

Average Hours per Response: 1 hour is the average but may vary considerably among respondents because of differences in company structure and complexity.

Burden Hours: 50,800.

Needs and Uses: The Quarterly Survey of U.S. Direct Investment Abroad (BE–577) is a sample survey that covers all foreign affiliates above a size-exemption level. The sample data are used to derive universe estimates in nonbenchmark years from similar data reported in the BE–10, Benchmark Survey of U.S. Direct Investment Abroad, which is conducted every five years. The data are essential for the preparation of the U.S. international transactions accounts, the national income and product accounts, the input-output accounts, and the international investment position of the United States. The data are needed to measure the size and economic significance of direct investment abroad, measure changes in such investment, and assess its impact on the U.S. and foreign economies.

Affected Public: Businesses or other for-profit organizations.

Frequency: Quarterly.

Respondent's Obligation: Mandatory.

Legal Authority: International Investment and Trade in Services Survey Act (P.L. 94–472, 22 U.S.C. 3101–3108, as amended).

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0608–0004.

Sheleen Dumas,

Departmental PRA Compliance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2025–19191 Filed 9–30–25; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review and Join Annual Inquiry Service List

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

FOR FURTHER INFORMATION CONTACT: Brenda E. Brown, AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482–4735.

Background

Each year during the anniversary month of the publication of an antidumping duty (AD) or countervailing duty (CVD) order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (the Act), may request, in accordance with 19 CFR 351.213, that the U.S. Department of Commerce (Commerce) conduct an administrative review of that AD or CVD order, finding, or suspended investigation.

All deadlines for the submission of comments or actions by Commerce discussed below refer to the number of calendar days from the applicable starting date.

Respondent Selection

In the event Commerce limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, Commerce intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the period of review (POR). We intend to release the CBP data under administrative protective order (APO) to all parties having an APO within five days of publication of the initiation notice and to make our decision regarding respondent selection within 35 days of publication of the initiation **Federal Register** notice. Therefore, we encourage all parties interested in commenting on respondent selection to submit their APO applications on the date of publication of the initiation notice, or as soon thereafter as possible. Commerce invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the review.

In the event Commerce decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

1. In general, Commerce finds that determinations concerning whether particular companies should be ''collapsed'' (*i.e.,* treated as a single entity for purposes of calculating AD rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, Commerce will not conduct collapsing analyses at the respondent selection phase of a review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this AD proceeding (*i.e.,* investigation, administrative review, new shipper review, or changed circumstances review).

2. For any company subject to a review, if Commerce determined, or continued to treat, that company as collapsed with others, Commerce will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, Commerce will not collapse companies for purposes of respondent selection.

3. Parties are requested to: (a) identify which companies subject to review previously were collapsed; and (b) provide a citation to the proceeding in which they were collapsed.

4. Further, if companies are requested to complete a Quantity and Value Questionnaire for purposes of respondent selection, in general, each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of a proceeding where Commerce considered collapsing that entity, complete quantity and value data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that requests a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that Commerce may extend this time if it is reasonable to do so. Determinations by Commerce to extend the 90-day deadline will be made on a case-by-case basis.

Deadline for Particular Market Situation Allegation

Section 504 of the Trade Preferences Extension Act of 2015 amended the Act by adding the concept of particular market situation (PMS) for purposes of constructed value under section 773(e) of the Act.[1] Section 773(e) of the Act states that ''if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.'' When an interested party submits a PMS allegation, pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act nor 19 CFR 351.301(c)(2)(v) set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section

[1] *See* Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015).

773(e) of the Act, it must do so no later than 20 days after submission of initial Section D responses.

Opportunity To Request a Review: Not later than the last day of October 2025,[2] interested parties may request an administrative review of the following orders, findings, or suspended investigations, with anniversary dates in October for the following periods:

	Period
Antidumping Duty Proceedings	
AUSTRALIA: Hot-Rolled Steel Flat Products, A–602–809	10/1/24–9/30/25
BRAZIL: Carbon and Certain Alloy Steel Wire Rod, A–351–832	10/1/24–9/30/25
INDIA: Stainless Steel Flanges, A–533–877	10/1/24–9/30/25
INDONESIA: Carbon and Certain Alloy Steel Wire Rod, A–560–815	10/1/24–9/30/25
JAPAN: Hot-Rolled Steel Flat Products, A–588–874	10/1/24–9/30/25
MEXICO: Carbon and Certain Alloy Steel Wire Rod, A–201–830	10/1/24–9/30/25
MOLDOVA: Carbon and Certain Alloy Steel Wire Rod, A–841–805	10/1/24–9/30/25
REPUBLIC OF KOREA: Hot-Rolled Steel Flat Products, A–580–883	10/1/24–9/30/25
REPUBLIC OF TÜRKIYE: Hot-Rolled Steel Flat Products, A–489–826	10/1/24–9/30/25
SOCIALIST OF VIETNAM: Gas Powered Pressure Washers, A–552–008	10/1/24–9/30/25
TAIWAN: Steel Concrete Reinforcing Bar, A–583–859	10/1/24–9/30/25
THAILAND: Glycine, A–549–837	10/1/24–9/30/25
THE NETHERLANDS: Hot-Rolled Steel Flat Products, A–421–813	10/1/24–9/30/25
THE PEOPLE'S REPUBLIC OF CHINA: Barium Carbonate, A–570–880	10/1/24–9/30/25
THE PEOPLE'S REPUBLIC OF CHINA: Boltless Steel Shelving Units Prepackaged For Sale, A–570–018	10/1/24–9/30/25
THE PEOPLE'S REPUBLIC OF CHINA: Electrolytic Manganese Dioxide, A–570–919	10/1/24–9/30/25
THE PEOPLE'S REPUBLIC OF CHINA: Polyvinyl Alcohol, A–570–879	10/1/24–9/30/25
THE PEOPLE'S REPUBLIC OF CHINA: Steel Wire Garment Hangers, A–570–918	10/1/24–9/30/25
TRINIDAD AND TOBAGO: Carbon and Certain Alloy Steel Wire Rod, A–274–804	10/1/24–9/30/25
UNITED KINGDOM: Hot-Rolled Steel Flat Products, A–412–825	10/1/24–9/30/25
Countervailing Duty Proceedings	
BRAZIL: Carbon and Certain Alloy Steel Wire Rod, C–351–833	1/1/24—12/31/24
INDIA: Stainless Steel Flanges, C–533–878	1/1/24 –12/31/24
IRAN: Roasted In Shell Pistachios, C–507- 601	1/1/24–12/31/24
REPUBLIC OF KOREA: Hot-Rolled Steel Flat Products, C–580–884	1/1/24–12/31/24
THE PEOPLE'S REPUBLIC OF CHINA: Boltless Steel Shelving Units Prepackaged For Sale, C–570–019	1/1/24–12/31/24
Suspension Agreements	
ARGENTINA: Lemon Juice, A–357–818	10/1/24–9/30/25
RUSSIA: Uranium, A–821–802	10/1/24–9/30/25

In accordance with 19 CFR 351.213(b), an interested party as defined by section 771(9) of the Act may request in writing that Commerce conduct an administrative review. For both AD and CVD reviews, the interested party must specify the individual producers or exporters covered by an AD finding or an AD or CVD order or suspension agreement for which it is requesting a review. In addition, a domestic interested party or an interested party described in section 771(9)(B) of the Act must state why it desires Commerce to review those particular producers or exporters. If the interested party intends for Commerce to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which was produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Note that, for any party Commerce was unable to locate in prior segments, Commerce will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for Commerce to determine if the interested party's attempts were reasonable, pursuant to 19 CFR 351.303(f)(3)(ii).

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (June 6, 2003), and *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011), Commerce clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to AD findings and orders.[3]

Commerce no longer considers the non-market economy (NME) entity as an exporter conditionally subject to an AD administrative review.[4] Accordingly, the NME entity will not be under review unless Commerce specifically receives a request for, or self-initiates, a review of the NME entity.[5] In administrative reviews of AD orders on merchandise from NME countries where a review of the NME entity has not been initiated, but where an individual exporter for which a review was initiated does not qualify for a separate rate, Commerce

[2] Or the next business day, if the deadline falls on a weekend, Federal holiday or any other day when Commerce is closed.

[3] *See* Enforcement and Compliance's website at *https://www.trade.gov/us-antidumping-and-countervailing-duties.*

[4] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013).

[5] In accordance with 19 CFR 351.213(b)(1), parties should specify that they are requesting a review of entries from exporters comprising the entity, and to the extent possible, include the names of such exporters in their request.

will issue a final decision indicating that the company in question is part of the NME entity. However, in that situation, because no review of the NME entity was conducted, the NME entity's entries were not subject to the review and the rate for the NME entity is not subject to change as a result of that review (although the rate for the individual exporter may change as a function of the finding that the exporter is part of the NME entity). Following initiation of an AD administrative review when there is no review requested of the NME entity, Commerce will instruct CBP to liquidate entries for all exporters not named in the initiation notice, including those that were suspended at the NME entity rate.

All requests must be filed electronically in Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) on Enforcement and Compliance's ACCESS website at *https://access.trade.gov*.[6] Further, in accordance with 19 CFR 351.303(f)(l)(i), a copy of each request must be served on the petitioner and each exporter or producer specified in the request. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[7]

Commerce will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of October 2025. If Commerce does not receive, by the last day of October 2025, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, Commerce will instruct CBP to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period of the order, if such a gap period is applicable to the period of review.

Establishment of and Updates to the Annual Inquiry Service List

On September 20, 2021, Commerce published the final rule titled ''*Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws*'' in the **Federal Register**.[8] On September 27, 2021, Commerce also published the notice entitled ''*Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions*'' in the **Federal Register**.[9] The *Final Rule* and *Procedural Guidance* provide that Commerce will maintain an annual inquiry service list for each order or suspended investigation, and any interested party submitting a scope ruling application or request for circumvention inquiry shall serve a copy of the application or request on the persons on the annual inquiry service list for that order, as well as any companion order covering the same merchandise from the same country of origin.[10]

In accordance with the *Procedural Guidance,* for orders published in the **Federal Register** before November 4, 2021, Commerce created an annual inquiry service list segment for each order and suspended investigation. Interested parties who wished to be added to the annual inquiry service list for an order submitted an entry of appearance to the annual inquiry service list segment for the order in ACCESS and, on November 4, 2021, Commerce finalized the initial annual inquiry service lists for each order and suspended investigation. Each annual inquiry service list has been saved as a public service list in ACCESS, under each case number, and under a specific segment type called ''AISL-Annual Inquiry Service List.'' [11]

As mentioned in the *Procedural Guidance,* beginning in January 2022, Commerce will update these annual inquiry service lists on an annual basis when the *Opportunity Notice* for the anniversary month of the order or suspended investigation is published in the **Federal Register**.[12] Accordingly, Commerce will update the annual inquiry service lists for the above-listed AD and CVD proceedings. All interested parties wishing to appear on the updated annual inquiry service list must take one of the two following actions: (1) new interested parties who did not previously submit an entry of appearance must submit a new entry of appearance at this time; (2) interested parties who were included in the preceding annual inquiry service list must submit an amended entry of appearance to be included in the next year's annual inquiry service list. For these interested parties, Commerce will change the entry of appearance status from ''Active'' to ''Needs Amendment'' for the annual inquiry service lists corresponding to the above-listed proceedings. This will allow those interested parties to make any necessary amendments and resubmit their entries of appearance. If no amendments need to be made, the interested party should indicate in the area on the ACCESS form requesting an explanation for the amendment that it is resubmitting its entry of appearance for inclusion in the annual inquiry service list for the following year. As mentioned in the *Final Rule,*[13] once the petitioners and foreign governments have submitted an entry of appearance for the first time, they will automatically be added to the updated annual inquiry service list each year.

Interested parties have 30 days after the date of this notice to submit new or amended entries of appearance. Commerce will then finalize the annual inquiry service lists five business days thereafter. For ease of administration, please note that Commerce requests that law firms with more than one attorney representing interested parties in a proceeding designate a lead attorney to be included on the annual inquiry service list.

Commerce may update an annual inquiry service list at any time as needed based on interested parties' amendments to their entries of appearance to remove or otherwise modify their list of members and representatives, or to update contact information. Any changes or announcements pertaining to these

[6] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

[7] *See Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings; Final Rule,* 88 FR 67069 (September 29, 2023).

[8] *See Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws,* 86 FR 52300 (September 20, 2021) (*Final Rule*).

[9] *See Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions,* 86 FR 53205 (September 27, 2021) (*Procedural Guidance*).

[10] *Id.*

[11] This segment has been combined with the ACCESS Segment Specific Information (SSI) field which will display the month in which the notice of the order or suspended investigation was published in the **Federal Register**, also known as the anniversary month. For example, for an order under case number A–000–000 that was published in the **Federal Register** in January, the relevant segment and SSI combination will appear in ACCESS as ''AISL-January Anniversary.'' Note that there will be only one annual inquiry service list segment per case number, and the anniversary month will be pre-populated in ACCESS.

[12] *See Procedural Guidance,* 86 FR at 53206.

[13] *See Final Rule,* 86 FR at 52335.

procedures will be posted to the ACCESS website at *https://access.trade.gov.*

Special Instructions for Petitioners and Foreign Governments

In the *Final Rule,* Commerce stated that, ''after an initial request and placement on the annual inquiry service list, both petitioners and foreign governments will automatically be placed on the annual inquiry service list in the years that follow.'' [14] Accordingly, as stated above and pursuant to 19 CFR 351.225(n)(3), the petitioners and foreign governments will not need to resubmit their entries of appearance each year to continue to be included on the annual inquiry service list. However, the petitioners and foreign governments are responsible for making amendments to their entries of appearance during the annual update to the annual inquiry service list in accordance with the procedures described above.

Notification to Interested Parties

This notice is not required by statute but is published as a service to the international trading community.

Dated: September 23, 2025.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2025–19188 Filed 9–30–25; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–489–830]

Steel Concrete Reinforcing Bar From the Republic of Türkiye: Rescission of Countervailing Duty Administrative Review; 2024

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

SUMMARY: The U.S. Department of Commerce (Commerce) is rescinding the administrative review of the countervailing duty (CVD) order on steel concrete reinforcing bar (rebar) from the Republic of Türkiye (Türkiye), covering the period January 1, 2024, through December 31, 2024, because, as explained below, there are no reviewable suspended entries for the sole company subject to this review.

DATES: Applicable October 1, 2025.

FOR FURTHER INFORMATION CONTACT: Isaiah Kahn, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–8328.

SUPPLEMENTARY INFORMATION:

Background

On June 30, 2025, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the CVD order on rebar from Türkiye.[1] On July 30, 2025, the Rebar Trade Action Coalition (the petitioner) timely requested that Commerce conduct an administrative review of Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S (Habas).[2] We received no other requests for review. On August 1, 2025, we received a no shipment certification from Habas.[3]

On August 22, 2025, Commerce published in the **Federal Register** a notice of initiation of an administrative review with respect to Habas.[4] On September 3, 2025, Commerce issued an intent to rescind memorandum notifying interested parties that import data issued by the U.S. Customs and Border Protection (CBP) indicated that Habas did not have reviewable entries of subject merchandise during the POR for which liquidation is suspended.[5] Accordingly, in the absence of reviewable, suspended entries of subject merchandise during the POR, Commerce is rescinding this administrative review with respect to Habas. Commerce provided all parties with an opportunity to comment. No parties submitted comments.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(3), it is Commerce's practice to rescind an administrative review of a CVD order where it concludes that there were no reviewable entries of subject merchandise during the POR.[6] Normally, upon completion of an administrative review, the suspended entries are liquidated at the CVD assessment rate for the review period.[7] Therefore, for an administrative review to be conducted, there must be a reviewable, suspended entry that Commerce can instruct CBP to liquidate at the calculated CVD assessment rate for the review period.[8] As noted above, CBP confirmed that there were no entries of subject merchandise during the POR with respect to Habas, the only company subject to this review. Accordingly, in the absence of reviewable, suspended entries of subject merchandise during the POR, we are rescinding this administrative review, in its entirety, in accordance with 19 CFR 351.213(d)(3).

Cash Deposit Requirements

As Commerce has proceeded to a final rescission of this administrative review, no cash deposit rates will change. Accordingly, the current cash deposit requirements shall remain in effect until further notice.

Assessment

Commerce will instruct CBP to assess countervailing duties on all appropriate entries. Because Commerce is rescinding this review in its entirety, the entries to which this administrative review pertained shall be assessed at rates equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of this rescission notice in the **Federal Register**.

Notification Regarding Administrative Protective Order

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

[14] *Id.*

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review and Join Annual Inquiry Service List,* 90 FR 27841 (June 30, 2025).

[2] *See* Petitioner's Letter, ''Request for Administrative Review,'' dated July 30, 2025.

[3] *See* Habas' Letter, ''Habaş No Shipment Letter,'' dated August 1, 2025.

[4] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 90 FR 41043 (August 22, 2025).

[5] *See* Memorandum, ''Intent to Rescind Review,'' dated September 3, 2025.

[6] *See, e.g., Certain Hardwood Plywood Products from the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review and Rescission of Review, in Part; 2017–2018,* 84 FR 54844, 54845 and n.8 (October 11, 2019) (citing *Lightweight Thermal Paper from the People's Republic of China: Notice of Rescission of Countervailing Duty Administrative Review; 2015,* 82 FR 14349 (March 20, 2017)).

[7] *See* 19 CFR 351.212(b)(2).

[8] *See* 19 CFR 351.213(d)(3).

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(l) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: September 29, 2025.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2025–19193 Filed 9–30–25; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Review

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

Background

Every five years, pursuant to the Tariff Act of 1930, as amended (the Act), the U.S. Department of Commerce (Commerce) and the U.S. International Trade Commission automatically initiate and conduct reviews to determine whether revocation of an antidumping duty or countervailing duty order or termination of an investigation suspended under section 704 or 734 of the Act would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

Upcoming Sunset Reviews for November 2025

Pursuant to section 751(c) of the Act, the following Sunset Reviews are scheduled for initiation in November 2025 and will appear in that month's *Notice of Initiation of Five-Year Sunset Reviews* (Sunset Review).

	Department contact
Antidumping Duty Proceedings	
Non-Oriented Electrical Steel from China, A–570–996 (2nd Review)	Thomas Martin, (202) 482–3938.
Oil Country Tubular Goods from China, A–570–943 (3rd Review)	Mary Kolberg, (202) 482–1785.
Non-Oriented Electrical Steel from Germany, A–428–843 (2nd Review)	Thomas Martin, (202) 482–3938.
Forged Steel Fittings from India, A–533–891 (1st Review)	Thomas Martin, (202) 482–3938.
Non-Oriented Electrical Steel from Japan, A–588–872 (2nd Review)	Thomas Martin, (202) 482–3938.
Forged Steel Fittings from South Korea, A–580–904 (1st Review)	Thomas Martin, (202) 482–3938.
Non-Oriented Electrical Steel from South Korea, A–580–872 (2nd Review)	Thomas Martin, (202) 482–3938.
Non-Oriented Electrical Steel from Sweden, A–401–809 (2nd Review)	Thomas Martin, (202) 482–3938.
Non-Oriented Electrical Steel from Taiwan, A–583–851 (2nd Review)	Thomas Martin, (202) 482–3938.
Frozen Fish Fillets from Vietnam, A–552–801 (4th Review)	Thomas Martin, (202) 482–3938.
Countervailing Duty Proceedings	
Non-Oriented Electrical Steel from China, C–570–997 (2nd Review)	Mary Kolberg, (202) 482–1785.
Oil Country Tubular Goods from China, C–570–944 (3rd Review)	Mary Kolberg, (202) 482–1785.
Forged Steel Fittings from India, C–533–892 (1st Review)	Thomas Martin, (202) 482–3938.
Non-Oriented Electrical Steel from Taiwan, C–583–852 (2nd Review)	Mary Kolberg, (202) 482–1785.

Suspended Investigations

No Sunset Review of suspended investigations is scheduled for initiation in November 2025.

Commerce's procedures for the conduct of Sunset Reviews are set forth in 19 CFR 351.218. The *Notice of Initiation of Five-Year* (*Sunset) Review* provides further information regarding what is required of all parties to participate in Sunset Reviews.

Pursuant to 19 CFR 351.103(c), Commerce will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact Commerce in writing within 10 days of the publication of the Notice of Initiation.

Note that if Commerce receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation, the review will continue.

Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[1] An electronically filed document must be received successfully in its entirety via Commerce's online e-filing and document management system, Antidumping and Countervailing Duty Electronic Service System (ACCESS) by 5:00 p.m. Eastern Time on the day on which it is due. For further information on procedures for filing information with Commerce through ACCESS, refer to User Guide found at *https://access.trade.gov/login.aspx.*

In prior proceedings we have encouraged interested parties to provide an executive summary of their comments, including footnotes. In these sunset reviews, we request that interested parties provide, at the beginning of their comments, an executive summary for each issue raised in their comments. Further, we request that interested parties limit their public executive summary of each issue to no more than 450 words, not including citations. We intend to use the public executive summaries as the basis of the comment summaries included in the decision memorandum that will accompany the notice to be published in the **Federal Register**. Finally, we request that interested parties include footnotes for relevant citations in the public executive summary of each issue.

Notification to Interested Parties

This notice is not required by statute but is published as a service to the international trading community.

Dated: September 18, 2025.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2025–19187 Filed 9–30–25; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings; Final Rule,* 88 FR 67069 (September 29, 2023).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF234]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting (online).

SUMMARY: The Pacific Fishery Management Council (Pacific Council) will hold an online meeting of its Ad Hoc Highly Migratory Species (HMS) Fisheries Innovation Workgroup (FIW) to discuss items on the Council's November meeting agenda related to the development of new HMS gears and the HMS Roadmap. This meeting is open to the public.

DATES: The online meeting will be held Wednesday, October 29, 2025, from 1 p.m. to 5 p.m. Pacific Daylight Time, or until business for the day has been completed.

ADDRESSES: The meeting will be held online. Specific meeting information, including directions on how to join the meeting and system requirements will be provided in the meeting announcement on the Pacific Council's website (see *https://www.pcouncil.org*). You may send an email to Mr. Kris Kleinschmidt (*kris.kleinschmidt@pcouncil.org*) or contact him at 503–820–2412 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, Oregon 97220–1384.

FOR FURTHER INFORMATION CONTACT: Kerry Griffin, Pacific Council; telephone: 503–820–2409.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to consider exempted fishing permit performance goals and metrics and other related materials in the Council's November meeting Briefing Book. The FIW may produce a supplemental report for Council consideration.

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

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt (*kris.kleinschmidt@pcouncil.org;* 503–820–2412) at least 10 days prior to the meeting date.

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

Dated: September 26, 2025.

Becky J. Curtis,

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

[FR Doc. 2025–19156 Filed 9–30–25; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF233]

Fisheries of the South Atlantic; South Atlantic Fishery Management Council—Public Meetings

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

ACTION: Meeting of the South Atlantic Fishery Management Council's (Council) Citizen Science Operations Advisory Panel via webinar.

SUMMARY: The Council will hold a meeting of its Citizen Science Operations Advisory Panel via webinar October 16, 2025.

DATES: The Citizen Science Operations Advisory Panel meeting will be held via webinar on Thursday, October 16, 2025, from 9 a.m. until 4 p.m.

ADDRESSES:

Meeting address: The meeting will be held via webinar and is open to the public. Webinar registration information and additional meeting details are available from the Council's website at: *https://safmc.net/events/october-2025-citizen-science-operations-ap-meeting/.* There will be an opportunity for public comment at the beginning of the meeting.

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julia Byrd, Citizen Science Program Manager, SAFMC; phone 843/302–8439 or toll free 866/SAFMC–10; FAX 843/769–4520; email: *julia.byrd@safmc.net.*

SUPPLEMENTARY INFORMATION: The Citizen Science Operations Advisory Panel serves as advisors to the Council's Citizen Science Program. Advisory panel members include representatives from the Council's Citizen Science Advisory Panel Pool, NOAA Fisheries' Southeast Regional Office, NOAA Fisheries' Southeast Fisheries Science Center, and the Council's Science and Statistical Committee. Their responsibilities include developing programmatic recommendations, reviewing policies, providing program direction/multi-partner support, identifying citizen science research needs, and providing general advice.

Agenda items for this meeting include: discussion of the Citizen Science Program metrics and ways to measure impact; review of the Citizen Science research priorities and provide recommendations for updates; discussion on Program growth; a Citizen Science Program and Project update; and other business.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the council office (see **ADDRESSES**) 5 days prior to the meeting.

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

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

Dated: September 26, 2025.

Rey Israel Marquez,

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

[FR Doc. 2025–19147 Filed 9–30–25; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF202]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's Mackerel, Squid, and Butterfish Advisory Panel will hold a public meeting.

DATES: The meeting will be held on Thursday, October 16, 2025, from 4 p.m.–6 p.m. For agenda details, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held via webinar. Connection information will be posted to the Council's calendar prior to the meeting at *www.mafmc.org.*

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The Mid-Atlantic Fishery Management Council's Mackerel, Squid, and Butterfish Advisory Panel will meet via webinar on Thursday, October 16, 2025, from 4 p.m. until 6 p.m. The purposes of the meeting are for the Advisory Panel to develop an Atlantic mackerel fishery performance report and provide recommendations regarding a framework adjustment action that will set 2026–2027 Atlantic mackerel specifications and may modify other Atlantic mackerel management measures.

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Shelley Spedden, (302) 526–5251 at least 5 days prior to the meeting date.

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

Dated: September 26, 2025.

Rey Israel Marquez,

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

[FR Doc. 2025–19148 Filed 9–30–25; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF203]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Scientific and Statistical Committee (SSC) of the Mid-Atlantic Fishery Management Council (Council) will hold a meeting.

DATES: The meeting will be held on Thursday, October 23, 2025, from 9 a.m. to 12:30 p.m. See **SUPPLEMENTARY INFORMATION** for agenda details.

ADDRESSES: The meeting will take place over webinar using the Webex platform with a telephone-only connection option. Webinar connection instructions and briefing materials will be available at: *www.mafmc.org/ssc.*

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; website: *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: During this meeting, the SSC will make acceptable biological catch (ABC) recommendations for Atlantic Mackerel for the 2026–2027 fishing years based on the results of the recently completed management track stock assessment. The SSC may take up any other business as necessary.

A detailed agenda and background documents will be made available on the Council's website (*www.mafmc.org*) prior to the meeting.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Shelley Spedden, (302) 526–5251, at least 5 days prior to the meeting date.

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

Dated: September 26, 2025.

Rey Israel Marquez,

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

[FR Doc. 2025–19145 Filed 9–30–25; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF158

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to the Port Everglades Harbor Navigation Improvement Project, Broward County Florida

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

ACTION: Notice; receipt of application for letter of authorization; request for comments and information.

SUMMARY: NMFS has received a request from the United States Army Corps of Engineers (USACE) for authorization to take small numbers of marine mammals incidental to the Port Everglades Harbor Navigation Improvement Project in Broward County, Florida, over the course of 5 years from May 2030 through May 2035. Pursuant to regulations implementing the Marine Mammal Protection Act (MMPA), NMFS is announcing receipt of the USACE's request for the development and implementation of regulations governing the incidental taking of marine mammals. NMFS invites the public to provide information, suggestions, and comments on the USACE's application and request.

DATES: Comments and information must be received no later than October 31, 2025.

ADDRESSES: Comments on the application should be addressed to Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to *ITP.Fleming@noaa.gov.* An electronic copy of the USACE's application may be obtained online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities.* In case of problems accessing these documents, please call the contact listed below.

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

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

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An incidental take authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term ''take'' means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Summary of Request

On May 30, 2024, NMFS received an application from the USACE requesting authorization to take marine mammals incidental to confined underwater blasting associated with the Port Everglades Harbor Navigation and Improvement Project in Port Everglades Harbor (Lake Mabel, Stranahan River, and the Atlantic Ocean) in Broward County, Florida. Following NMFS' review of the application, the USACE submitted a revised application on August 21, 2024. After discussions between NMFS and USACE, particularly with respect to application of the Updated Technical Guidance (NMFS, 2024), USACE submitted subsequent revised applications on August 1, 2025 and again on September 5, 2025. The application was deemed adequate and complete on September 25, 2025. The requested regulations under which we would issue the requested LOA would be valid for 5 years, between May 2030 and May 2035. The USACE plans to conduct confined underwater blasting to deepen and widen the Port Everglades harbor and entrance channel. Blasting may incidentally expose three species of marine mammals to elevated levels of noise resulting in take by Level A harassment and Level B harassment. Therefore, the USACE requests authorization to incidentally take marine mammals. Due to the proposed mitigation and monitoring measures, USACE has not requested that NMFS authorize take by mortality or serious injury from exposure to blasting.

NMFS notes USACE previously submitted an application to NMFS for authorization to take marine mammals incidental to the same project (87 FR 27990, May 10, 2022); however, the application available for public comment here supersedes that 2022 application.

Specified Activities

The USACE is planning to deepen and widen Port Everglades Harbor using confined underwater blasting in areas where dredging or other rock removal methods are expected to be unsuccessful. Blasting would involve the use of conventional (high) explosive materials to breakup rock substrate in six designated areas in the harbor and entrance channel: the Outer Entrance Channel, Inner Entrance Channel, Main Turning Basin, Widener, South Access Channel, and Turning Notch in Lake Mabel, Stranahan River, and the Atlantic Ocean (See figure E–1 in the application). During the 5-year effective period of the requested regulations and LOA, if issued, blasting is expected to occur up to 6 days per week during daylight hours over approximately 280 days.

Blasting would only be implemented between March 15 through November 15, annually, to comply with in-water work windows designed to protect West Indian Manatees (*Trichecus manatus*) which are listed under the U.S. Endangered Species Act (ESA) and are under the jurisdiction of the U.S. Fish and Wildlife Service. The USACE has requested take, by Level B harassment and Level A harassment, of bottlenose dolphins (*Tursiops truncatus*), Tamanend's bottlenose dolphins (*Tursiops erebennus*), and Atlantic spotted dolphins (*Stenella frontalis*). The USACE's application contains proposed mitigation and monitoring measures designed to reduce impacts to marine mammals and avoid mortality or serious injury.

USACE also plans to install a bulkhead comprised of sheet piles in the South Access Channel and Turning Notch using impact driving. However, the USACE has determined that take can be avoided through the implementation of mitigation and monitoring measures such as bubble curtains, shutdown zones, and Protected Species Observers, and therefore has not requested authorization to take marine mammals incidental to this activity. Other components of the project the USACE has determined would not result in the take of marine mammals include drilling blast holes at night, use of alternative rock pre-treatment equipment such as rock breaking chisels, punch barges, clamshell bucket drops, and terrestrial-based activities (*e.g.,* relocation of a land-based Coast Guard station).

Information Solicited

Interested persons may submit information, suggestions, and comments concerning the USACE's request (see **ADDRESSES**). NMFS will consider all information, suggestions, and comments related to the request during the development of proposed regulations governing the incidental taking of marine mammals by the USACE, if appropriate.

Dated: September 26, 2025.

Kimberly Damon-Randall,

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

[FR Doc. 2025–19173 Filed 9–30–25; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF209]

Council Coordination Committee Meeting; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Council Coordination Committee (CCC), consisting of the eight Regional Fishery Management Council (RFMC) chairs, vice chairs, and executive directors, will hold a public virtual meeting from October 15–16, 2025. The intent of this meeting is to discuss issues of relevance to the Councils and NMFS, including issues related to the implementation of the Magnuson-Stevens Fishery Conservation Act (MSA) and Management Reauthorization Act (MSRA), other topics of concern to the RFMCs, and decisions and follow-up activities.

DATES: This meeting will be held from Wednesday, October 15, 2025, to Thursday, October 16, 2025. The meeting will begin at 1 p.m. EDT on Wednesday, October 15, 2025, and recess at 5:30 p.m. or when business is complete. The meeting will reconvene at 1 p.m. EDT on Thursday, October 16, 2025, and adjourn at 5:30 p.m. or when business is complete.

ADDRESSES: This meeting will be held virtually. Webinar registration URL information: *https://nefmc-org.zoom.us/webinar/register/WN_KT2HSTF4SHmyPO1F5uEOow.*

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone (978) 465–0492; *www.nefmc.org.*

FOR FURTHER INFORMATION CONTACT: Cate O'Keefe, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492, ext. 113.; email: *cokeefe@nefmc.org.*

SUPPLEMENTARY INFORMATION: The MSA and 2007 MSRA established the CCC by amending section 302 (16 U.S.C. 1852) of the MSA. The committee consists of the chairs, vice chairs, and executive directors of each of the eight RFMC authorized by the MSA, or their proxies, other Council members or staff. All sessions are open to the public and time will be set aside for public comments at the end of each day and after specific sessions at the discretion of the meeting Chair. The meeting Chair will announce public comment times and instructions to provide comments at the start of each meeting day. There will be opportunities for public comments to be provided in-person and remotely via webinar. Updates to this meeting, briefing materials, public comment instructions, and additional information will be posted when available at *https://www.fisherycouncils.org/ccc-meetings/october-2025-ccc-meeting.*

Agenda

Wednesday, October 15, 2025

- Welcome and introductions; adoption of agenda
- Regional council updates
- 2026 NOAA priorities update
- 2026 status and future outlook; council funding information
- Update on NOAA science programs including survey capability, modernization, planning, budget, and timelines
- Update to current status of the National Environmental Policy Act guidance and Council input
- Public comment

Adjourn for the day.

Thursday, October 16, 2025

- Update on Executive Order 14276
- Legislative updates
- Discussion on Priorities and Future Planning including updates on regional applications of Risk-Value Matrix and decisions on next steps
- Update on international fisheries topics
- Council Member Ongoing Development Workshop report
- Communications plan for 50th anniversary of the MSA and the RFMC
- Marine Resource Education Program update; recent activities and success metrics
- 2026 CCC meeting planning
- 2027 CCC meeting planning
- Public comment

Adjourn

The timing and order in which agenda items are addressed may change as required to effectively address the issues. The CCC will meet as late as necessary to complete scheduled business.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305 (c) of the MSA, provided the public has been notified of the intent to take final action to address the emergency.

The public also should be aware that the meeting will be recorded and a transcript prepared. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is virtual, requests for sign language interpretation or other auxiliary aids should be directed to Cate O'Keefe (see **ADDRESSES**) at least 5 days prior to the meeting date.

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

Dated: September 26, 2025.

Rey Israel Marquez,

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

[FR Doc. 2025–19146 Filed 9–30–25; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF208]

Endangered Species; File No. 20528

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

ACTION: Notice; receipt of application for a permit modification.

SUMMARY: Notice is hereby given that the South Carolina Department of Natural Resources, 217 Fort Johnson Road, Charleston, SC 29412 (Bill Post, Responsible Party), has requested a modification to scientific research Permit No. 20528–05.

DATES: Written comments must be received on or before October 31, 2025.

ADDRESSES: The modification request and related documents are available for review by selecting ''Records Open for Public Comment'' from the Features box on the Applications and Permits for Protected Species home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 20528 mod 15 from the list of available applications. These documents are also available upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

Written comments on this application should be submitted via email to *NMFS.Pr1Comments@noaa.gov.* Please include File No. 20528 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to *NMFS.Pr1Comments@noaa.gov.* The request should set forth

the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Erin Markin, Ph.D., or Shasta McClenahan, Ph.D., (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject modification to Permit No. 20528–05, issued on November 17, 2023 (88 FR 85880, December 11, 2023) is requested under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

Permit No. 20528–05 authorizes the permit holder to conduct research on Atlantic (*Acipenser oxyrinchus*) and shortnose (*A. brevirostrum*) sturgeon to determine their presence, status, health, habitat use, and movements in South Carolina waters. Researchers may use gill nets to capture sturgeon to measure, weigh, passive integrated transponder tag (PIT), dart tag, tissue sample, fin ray sample, and photograph prior to release. A subset of sturgeon may receive internal acoustic transmitters, gonad biopsy, and laparoscopy. Early life stages of each species may be lethally sampled to document occurrence of spawning. Up to two sturgeon of each species may unintentionally die annually during sampling activities. The permit holder requests, using the same methods listed above, authorization to: (1) increase the number of adult shortnose sturgeon from 5 to 20, annually, in the Edisto River, (2) capture and conduct research on 20 sub-adult/adult Atlantic sturgeon and 10 sub-adult/adult shortnose sturgeon, annually, in the Winyah Bay system, (3) translocate up to 20 adult shortnose sturgeon annually from the Cooper River to the Santee River for enhancement purposes to improve recruitment and habitat use, (4) perform gastric lavage on a subset (up to 20) sub-adult/adult shortnose sturgeon in Lakes Moultrie/Marion; and (5) capture and conduct research on up to 25 sub-adult/adult Atlantic sturgeon in Lakes Moultrie/Marion. The permit is valid through March 31, 2027.

Dated: September 25, 2025.

Shannon Bettridge,

Chief, Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2025–19076 Filed 9–30–25; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; NTIA Space Launch Frequency Coordination Portal

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before December 1, 2025.

ADDRESSES: Interested persons are invited to submit written comments by mail to Michael Litwack, Computer Scientist, Spectrum National Security Systems, Office of Spectrum Management 1401 Constitution Avenue NW, Washington, DC 20230, or by email to *mlitwack@ntia.gov.* Please reference NTIA Space Launch Coordination Portal in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Michael Litwack, Computer Scientist, Spectrum National Security Systems, Office of Spectrum Management 1401 Constitution Avenue NW, Washington, DC 20230, 202–821–6532, and *mlitwack@ntia.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

NTIA serves as the President's principal advisor on telecommunications policies and manages the use of the radio-frequency spectrum by federal agencies. See 47 U.S.C. 902(b)(2). The Space Portal effort seeks to simplify spectrum requests for commercial space launch providers. Currently, the process is a manual request coordinated via email. This effort will provide a central portal where a commercial space launch entity will submit a request for a launch. The commercial launch provider will initiate a request, and the request will be coordinated amongst the federal agencies. The portal will provide a transparent view of where spectrum requests are in the federal spectrum approval process. Commercial launch providers will be able to view the status of their requests and respond to actionable items. This portal ensures compliance with Executive Order 12046, which establishes NTIA's spectrum oversight role, and 47 CFR part 300, which requires that federal systems must adhere to the NTIA manual's procedures and data formats.

II. Method of Collection

Information will be collected electronically through a web application. This portal will collect requests and then route those requests to multiple agencies. Multiple dashboards will display information to users. Commercial space launch entities will be able to review their requests and visualize where their request is in the coordination process. Additionally, federal entities will be able to view all aspects of a request including comments from other federal agencies.

III. Data

OMB Control Number: 06XX–XXXX.

Form Number(s): None.

Type of Review: Regular submission, new information collection.

Affected Public: Commercial Space Launch Providers.

Estimated Number of Respondents: 15.

Estimated Time per Response: 3 hours.

Estimated Total Annual Burden Hours: 3,000 hours.

Estimated Total Annual Cost to Public: $194,460.

Respondent's Obligation: Mandatory.

Legal Authority: Executive Order 12046, 47 CFR part 300, 47 U.S.C. 902(b)(2).

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c)

Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this Information Collection Request. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Departmental PRA Compliance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2025–19192 Filed 9–30–25; 8:45 am]

BILLING CODE 3510–60–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: PR25–70–000.

Applicants: Southern California Gas Company.

Description: 284.123 Rate Filing: Offshore Delivery Service Rate Revision September 2025 to be effective 9/1/2025.

Filed Date: 9/26/25.

Accession Number: 20250926–5098.

Comment Date: 5 p.m. ET 10/17/25.

Docket Numbers: RP25–1159–000.

Applicants: Florida Gas Transmission Company, LLC.

Description: 4(d) Rate Filing: Amended Non-Conforming with FP&L—Contract No. 111145 to be effective 10/1/2025.

Filed Date: 9/26/25.

Accession Number: 20250926–5026.

Comment Date: 5 p.m. ET 10/8/25.

Docket Numbers: RP25–1160–000.

Applicants: Double E Pipeline, LLC.

Description: 4(d) Rate Filing: Amendments to FTSA & NRA with ExxonMobil Oil Corp. to be effective 10/1/2025.

Filed Date: 9/26/25.

*Accession Number:*20250926–5049.

Comment Date: 5 p.m. ET 10/8/25.

Docket Numbers: RP25–1161–000.

Applicants: ANR Pipeline Company.

Description: 4(d) Rate Filing: Tourmaline 141537 Non-Conforming Agmt to be effective 11/1/2025.

Filed Date: 9/26/25.

Accession Number: 20250926–5097.

Comment Date: 5 p.m. ET 10/8/25.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *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.

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

Dated: September 26, 2025.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2025–19159 Filed 9–30–25; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP17–66–002]

Venture Global Plaquemines LNG, LLC; Notice of Request for Extension of Time

Take notice that on September 19, 2025, Venture Global Plaquemines LNG, LLC (Plaquemines LNG) requested that the Commission grant an extension of time, until December 31, 2027, to construct and place into service its Plaquemines Export Terminal (Project) located in Plaquemines Parish, Louisiana as authorized in the Order Granting Authorizations Under Sections 3 and 7 of the Natural Gas Act (Order).[1] The Order required Plaquemines LNG to complete construction of the Project and make it available for service within seven years of the date of the Order, or by September 30, 2026.

Plaquemines LNG states that mobilization and site preparation at the Project site began in the summer of 2020, and construction of the terminal facilities commenced on August 18, 2021. Plaquemines LNG states that on March 13, 2023, Venture Global LNG, Inc. (parent company of Plaquemines LNG) announced its final investment decision and the closing of financing for the second phase of the Project. Plaquemines LNG states that, after obtaining the required Commission approvals, it began liquified natural gas (LNG) production and exported its first commissioning cargo in December 2024. In total, Plaquemines LNG states that it has entered into Sale and Purchase Agreements for the full 20 million metric tons per annum nameplate capacity of the terminal, with most of these agreements covering a 20-year term.

Plaquemines LNG states that the COVID–19 pandemic had negative effects on both supply chains and global LNG demand. Plaquemines LNG also notes that severe weather delayed early construction progress on the Project. Additionally, Plaquemines LNG notes that the terminal's modular LNG train components, thousands of automated control systems, and other facilities require longer commissioning and completion timelines compared to more traditional types of LNG trains. Plaquemines LNG anticipates placing all of its Phase 1 facilities in service during the fourth quarter of 2026 and the remaining Phase 2 facilities in service

[1] *Venture Global Plaquemines LNG, LLC,* 168 FERC ¶ 61,204 (2019).

by mid-2027. Therefore, Plaquemines LNG requests an extension of time until December 31, 2027 to place all of its authorized facilities in-service.

This notice establishes a 15-calendar day intervention and comment period deadline. Any person wishing to comment on Plaquemines LNG's request for an extension of time may do so. No reply comments or answers will be considered. If you wish to obtain legal status by becoming a party to the proceedings for this request, you should, on or before the comment date stated below, file 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 Natural Gas Act (NGA) (18 CFR 157.10).

As a matter of practice, the Commission itself generally acts on requests for extensions of time to complete construction for NGA facilities when such requests are contested before order issuance. For those extension requests that are contested,[2] the Commission will aim to issue an order acting on the request within 45 days.[3] The Commission will address all arguments relating to whether the applicant has demonstrated there is good cause to grant the extension.[4] The Commission will not consider arguments that re-litigate the issuance of the certificate order, including whether the Commission properly found the project to be in the public convenience and necessity and whether the Commission's environmental analysis for the certificate complied with the National Environmental Policy Act (NEPA).[5] At the time a pipeline requests an extension of time, orders on certificates of public convenience and necessity are final and the Commission will not re-litigate their issuance.[6] The Director of the Office of Energy Projects, or his or her designee, will act on all of those extension requests that are uncontested.

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

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

The Commission strongly encourages electronic filings of comments in lieu of paper using the ''eFile'' link at *http://www.ferc.gov.* In lieu of electronic filing, you may submit a paper copy which must reference the Project docket number.

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

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

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

Comment Date: 5:00 p.m. Eastern Time on October 14, 2025.

Dated: September 26, 2025.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2025–19160 Filed 9–30–25; 8:45 am]

BILLING CODE 6717–01–P

[2] Contested proceedings are those where an intervenor disputes any material issue of the filing. 18 CFR 385.2201(c)(1).

[3] *Algonquin Gas Transmission, LLC,* 170 FERC ¶ 61,144, at P 40 (2020).

[4] *Id.* at P 40.

[5] Similarly, the Commission will not re-litigate the issuance of an NGA section 3 authorization, including whether a proposed project is not inconsistent with the public interest and whether the Commission's environmental analysis for the permit order complied with NEPA.

[6] *Algonquin Gas Transmission, LLC,* 170 FERC ¶ 61,144, at P 40 (2020).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG25–540–000.
Applicants: SR Adamsville, LLC.
Description: SR Adamsville, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 9/26/25.
Accession Number: 20250926–5082.
Comment Date: 5 p.m. ET 10/17/25.

Docket Numbers: EG25–541–000.
Applicants: BT Cantwell Solar, LLC.
Description: BT Cantwell Solar, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 9/26/25.
Accession Number: 20250926–5116.
Comment Date: 5 p.m. ET 10/17/25.

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

Docket Numbers: ER25–1886–001.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Tariff Amendment: 2025–09–26_Deficiency Response to Demand Response and Emergency Resources Reform to be effective 9/1/2027.
Filed Date: 9/26/25.
Accession Number: 20250926–5129.
Comment Date: 5 p.m. ET 10/17/25.

Docket Numbers: ER25–3352–001.
Applicants: PPL Electric Utilities Corporation.
Description: Tariff Amendment: Amendment PPL Electric Order No. 898 Rate Filing to be effective 10/31/2025.
Filed Date: 9/26/25.
Accession Number: 20250926–5029.
Comment Date: 5 p.m. ET 10/3/25.

Docket Numbers: ER25–3352–002.
Applicants: PPL Electric Utilities Corporation.
Description: Tariff Amendment: Amendment PPL Electric Order No. 898 Rate Filing to be effective 10/31/2025.
Filed Date: 9/26/25.
Accession Number: 20250926–5100.
Comment Date: 5 p.m. ET 10/17/25.

Docket Numbers: ER25–3522–000.
Applicants: Minco Wind I, LLC.
Description: 205(d) Rate Filing: Minco Wind I Certificate of Concurrence to SFA in ER25–3398 to be effective 9/26/2025.
Filed Date: 9/25/25.
Accession Number: 20250925–5135.
Comment Date: 5 p.m. ET 10/16/25.

Docket Numbers: ER25–3523–000.

Applicants: Minco II Energy Storage, LLC.

Description: 205(d) Rate Filing: Minco II ES Certificate of Concurrence to SFA in ER25–3398 to be effective 9/26/2025.

Filed Date: 9/25/25.

Accession Number: 20250925–5138.

Comment Date: 5 p.m. ET 10/16/25.

Docket Numbers: ER25–3524–000.

Applicants: Pacific Gas and Electric Company.

Description: 205(d) Rate Filing: WDT SA 3: Extension to Port of Oakland SA to be effective 11/26/2025.

Filed Date: 9/26/25.

Accession Number: 20250926–5000.

Comment Date: 5 p.m. ET 10/17/25.

Docket Numbers: ER25–3525–000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Original E&P Agreement, SA No. 7739; Project Identifier No. AF2–388/AG1–433 to be effective 9/2/2025.

Filed Date: 9/26/25.

Accession Number: 20250926–5024.

Comment Date: 5 p.m. ET 10/17/25.

Docket Numbers: ER25–3525–001.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Amended E&P Agreement, SA No. 7739; Project Identifier No. AF2–388/AG1–433 to be effective 9/2/2025.

Filed Date: 9/26/25.

Accession Number: 20250926–5090.

Comment Date: 5 p.m. ET 10/17/25.

Docket Numbers: ER25–3526–000.

Applicants: Keystone Wind Marketing LLC.

Description: Tariff Amendment: Keystone Wind Notice of MBR Cancellation Request to be effective 9/27/2025.

Filed Date: 9/26/25.

Accession Number: 20250926–5027.

Comment Date: 5 p.m. ET 10/17/25.

Docket Numbers: ER25–3527–000.

Applicants: American Transmission Systems, Incorporated.

Description: 205(d) Rate Filing: ATSI submits amended IA SA No. 3994 to be effective 11/26/2025.

Accession Number: 20250926–5030.

Comment Date: 5 p.m. ET 10/17/25.

Docket Numbers: ER25–3528–000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Amendment to ISA, SA No. 1365; Queue No. H21_W68/K11 to be effective 11/26/2025.

Filed Date: 9/26/25.

Accession Number: 20250926–5033.

Comment Date: 5 p.m. ET 10/17/25.

Docket Numbers: ER25–3529–000.

Applicants: Louisville Gas and Electric Company.

Description: Tariff Amendment: KYMEA Engineering and Procurement Services Agreement Termination to be effective 9/15/2025.

Filed Date: 9/26/25.

Accession Number: 20250926–5046.

Comment Date: 5 p.m. ET 10/17/25.

Docket Numbers: ER25–3530–000.

Applicants: NorthWestern Corporation.

Description: Tariff Amendment: Cancellation of RS 324 Interface Capacity Settlement Agmt to be effective 12/1/2025.

Filed Date: 9/26/25.

Accession Number: 20250926–5047.

Comment Date: 5 p.m. ET 10/17/25.

Docket Numbers: ER25–3531–000.

Applicants: Louisville Gas and Electric Company.

Description: Tariff Amendment: KYMEA Provisional Large Generator Interconnection Agreement Termination to be effective 9/15/2025.

Filed Date: 9/26/25.

Accession Number: 20250926–5050.

Comment Date: 5 p.m. ET 10/17/25.

Docket Numbers: ER25–3532–000.

Applicants: Northern States Power Company, a Minnesota corporation.

Description: 205(d) Rate Filing: 2025–09–25 NSP—HES—Sioux Falls SISA—776 to be effective 9/29/2025.

Filed Date: 9/26/25.

Accession Number: 20250926–5059.

Comment Date: 5 p.m. ET 10/17/25.

Docket Numbers: ER25–3533–000.

Applicants: Pacific Gas and Electric Company.

Description: 205(d) Rate Filing: TO: Balancing Accounts Update 2026 (TRBAA, RSBAA, ECRBAA) to be effective 1/1/2026.

Filed Date: 9/26/25.

Accession Number: 20250926–5075.

Comment Date: 5 p.m. ET 10/17/25.

Docket Numbers: ER25–3534–000.

Applicants: Northern States Power Company, a Minnesota corporation.

Description: 205(d) Rate Filing: 2025–09–25 NSP—HES—Madelia SISA 777 to be effective 9/29/2025.

Filed Date: 9/26/25.

Accession Number: 20250926–5079.

Comment Date: 5 p.m. ET 10/17/25.

Docket Numbers: ER25–3535–000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Amendment to ISA, Service of Agreement No. 6827; AE1–108 to be effective 11/26/2025.

Filed Date: 9/26/25.

Accession Number: 20250926–5096.

Comment Date: 5 p.m. ET 10/17/25.

Docket Numbers: ER25–3536–000.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Notice of Cancellation of GIA SA No. 7530; Project Identifier No. AG1–239 to be effective 11/26/2025.

Filed Date: 9/26/25.

Accession Number: 20250926–5115.

Comment Date: 5 p.m. ET 10/17/25.

Docket Numbers: ER25–3537–000.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Notice of Cancellation of CSA SA No. 7531; Project Identifier No. AG1–239 to be effective 11/26/2025.

Filed Date: 9/26/25.

Accession Number: 20250926–5121.

Comment Date: 5 p.m. ET 10/17/25.

Docket Numbers: ER25–3538–000.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Notice of Cancellation of CSA SA No. 7532; Project Identifier No. AG1–239 to be effective 11/26/2025.

Filed Date: 9/26/25.

Accession Number: 20250926–5128.

Comment Date: 5 p.m. ET 10/17/25.

Docket Numbers: ER25–3539–000.

Applicants: Southwest Power Pool, Inc.

Description: 205(d) Rate Filing: Revisions to Attachment V GIP for Integration of IBR Performance Requirements to be effective 11/26/2025.

Filed Date: 9/26/25.

Accession Number: 20250926–5130.

Comment Date: 5 p.m. ET 10/17/25.

Docket Numbers: ER25–3540–000.

Applicants: Northern States Power Company, a Wisconsin corporation.

Description: 205(d) Rate Filing: 2025–09–26 NSP–DPC FSA 177 to be effective 9/29/2025.

Filed Date: 9/26/25.

Accession Number: 20250926–5131.

Comment Date: 5 p.m. ET 10/17/25.

Docket Numbers: ER25–3541–000.

Applicants: PJM Interconnection, L.L.C.

Description: Compliance filing: Compliance Filing to Include Details of Calculation of Opportunity Cost Adders to be effective 12/5/2025.

Filed Date: 9/26/25.

Accession Number: 20250926–5142.

Comment Date: 5 p.m. ET 10/17/25.

Docket Numbers: ER25–3542–000.

Applicants: Alliant Energy Corporate Services, Inc.

Description: 205(d) Rate Filing: Amended and Restated System Coordination and Operating Agreement to be effective 11/26/2025.

Filed Date: 9/26/25.

Accession Number: 20250926–5145.

Comment Date: 5 p.m. ET 10/17/25.

Docket Numbers: ER25–3543–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: 205(d) Rate Filing: 2025–09–26_Att X—ERAS Quarterly Study Cycle Expansion to be effective 11/26/2025.

Filed Date: 9/26/25.

Accession Number: 20250926–5169.

Comment Date: 5 p.m. ET 10/17/25.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

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Dated: September 26, 2025.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2025–19158 Filed 9–30–25; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14787–004]

Black Canyon Hydro, LLC; Notice of Availability of the Draft Environmental Impact Statement for the Seminoe Pumped Storage Project and Public Comment Sessions Soliciting Comments

In accordance with the National Environmental Policy Act of 1969 [1] and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380, the Office of Energy Projects has reviewed the application for license for the Seminoe Pumped Storage Project (FERC No. 14787) and has prepared a draft environmental impact statement (EIS) to evaluate the environmental effects of licensing the 972-megawatt project. The project would be located at the U.S. Bureau of Reclamation's (Reclamation) Seminoe Reservoir on the North Platte River in Carbon County, Wyoming, approximately 35 miles northeast of Rawlins, Wyoming. The project would occupy 1,025.94 acres of land managed by Bureau of Land Management (BLM), 77.00 acres managed by Reclamation, and 830 acres of private lands. Reclamation, BLM, the U.S. Fish and Wildlife Service, the U.S. Army Corps of Engineers, the Western Area Power Administration, the Saratoga-Encampment-Rawlins Conservation District, the Medicine Bow Conservation District, and the Carbon County Board of Commissioners participated as cooperating agencies to prepare the EIS.

The draft EIS contains an analysis of the applicant's proposal and the alternatives for licensing the Seminoe Pumped Storage Project. The draft EIS documents the views of governmental agencies, non-governmental organizations, affected Native-American Tribes, the public, the license applicant, and Commission staff.

The Commission provides all interested persons with an opportunity to view and/or print the draft EIS via the internet through the Commission's Home Page (*http://www.ferc.gov/*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field, to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* or toll-free at (866) 208–3676, or for TTY, (202) 502–8659.

You may also register online at *https://ferconline.ferc.gov/FERCOnline.aspx* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

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

All comments must be filed on or before 5:00 p.m. Eastern Time on January 2, 2026.[2]

The Commission strongly encourages electronic filing. Please file comments using the Commission's eFiling system at *https://ferconline.ferc.gov/eFiling.aspx.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *https://ferconline.ferc.gov/QuickComment.aspx.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–14787–004.

Anyone may intervene in this proceeding based on this draft EIS (18 CFR 380.10). You must file your request

[1] National Environmental Policy Act of 1969, amended (Pub. L. 91–190, 42 U.S.C. 4321–4347, as amended by Pub. L. 94–52, July 3, 1975, Pub. L. 94–83, August 9, 1975, Pub. L. 97–258, 4(b), September 13, 1982, Pub. L. 118–5, June 3, 2023, Pub. L. 119–21, July 4, 2025).

[2] The Commission's Rules of Practice and Procedure provide that if a filing deadline falls on a Saturday, Sunday, holiday, or other day when the Commission is closed for business, the filing deadline does not end until the close of business on the next business day. 18 CFR 385.2007(a)(2) (2025). Because the 90-day filing deadline falls on a holiday (*i.e.,* January 1, 2026), the filing deadline is extended until the close of business on Friday, January 2, 2026.

to intervene as specified above.[3] You do not need intervenor status to have your comments considered.

In addition to or in lieu of sending written comments, you are invited to attend a public comment session that will be held to receive comments on the draft EIS. Commission staff will hold two sessions for the purpose of receiving comments on the draft EIS. All interested individuals and entities are invited to attend one or both of the sessions. The dates and times of the sessions are listed below.

Evening Comment Session

Date: Wednesday, November 12, 2025.

Time: 6:00 p.m. to 8:00 p.m., Mountain Time.

Location: Jeffrey Memorial Community Center, 315 West Pine Street, Rawlins, Wyoming 82301.

Daytime Comment Session

Date: Thursday, November 13, 2025.

Time: 1:00 p.m. to 3:00 p.m., Mountain Time.

Location: Laramie County Library in Cheyenne, 2200 Pioneer Avenue, Cheyenne, Wyoming 82001.

The sessions will begin promptly at their respective start times listed above. There will not be a formal presentation by Commission staff when the session opens, and you may arrive any time after the scheduled start time. Individual oral comments will be taken on a one-on-one basis with a court reporter (with Commission staff present). This format is designed to receive the maximum number of oral comments in a convenient way during the timeframe allotted. If you wish to speak, Commission staff will hand out numbers in the order of your arrival. If a significant number of people are interested in providing oral comments with the court reporter, a time limit may be implemented for each commentor. 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. Please see appendix 1 to this notice for additional information on the session format and conduct.[4]

The primary goal of these comment sessions is to identify the specific environmental issues and concerns with the draft EIS. Comments will be recorded by the court reporter and become part of the public record for this proceeding. Transcripts will be publicly available on FERC's eLibrary system.

It is important to note that the Commission provides equal consideration to all comments received, whether filed in writing or provided orally at a public comment session. Interested parties who choose not to speak or who are unable to attend the draft EIS comment sessions may provide written comments and information to the Commission as described above.

For further information, contact Michael Tust at (202) 502–6522, or *michael.tust@ferc.gov.*

Dated: September 26, 2025.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2025–19157 Filed 9–30–25; 8:45 am]

BILLING CODE 6717–01–P

[3] Interventions may also be filed electronically via the internet in lieu of paper. See the previous discussion on filing comments electronically.

[4] The appendix referenced in this notice will not appear in the **Federal Register**. Copies of the attachment were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the ''eLibrary'' link. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll free, (886) 208–3676 or TTY (202) 502–8659.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2376–052]

Eagle Creek Reusens Hydro, LLC; Notice Of Reasonable Period of Time for Water Quality Certification Application

On September 4, 2025, the Virginia Department of Environmental Quality (Virginia DEQ) submitted to the Federal Energy Regulatory Commission (Commission) notice that it received a request for a Clean Water Act section 401(a)(1) water quality certification as defined in 40 CFR 121.5, from Eagle Creek Reusens Hydro, LLC, in conjunction with the above captioned project on August 27, 2025.[1] Pursuant to the Commission's regulations,[2] we hereby notify Virginia DEQ of the following:

Date of Receipt of the Certification Request: August 27, 2025.

Reasonable Period of Time to Act on the Certification Request: One year (August 27, 2026).

If Virginia DEQ fails or refuses to act on the water quality certification request on or before the above date, then the certifying authority is deemed waived pursuant to section 401(a)(1) of the Clean Water Act, 33 U.S.C. 1341(a)(1).

[1] *See* Email correspondence with the Virginia Department of Environmental Quality concerning the status of the Section 401 water quality certification application, filed September 18, 2025.

[2] 18 CFR 4.34(b)(5)(iii).

Dated: September 26, 2025.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2025–19161 Filed 9–30–25; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

TIME AND DATE: Tuesday, October 21, 2025 at 10:30 a.m.

PLACE: 1050 First Street NE, Washington, DC and virtual (this meeting will be a hybrid meeting.)

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Matters concerning participation in civil actions or proceedings or arbitration.

Additional Information: This meeting will be cancelled if the Commission is not open due to a funding lapse.

CONTACT PERSON FOR MORE INFORMATION: Myles Martin, Deputy Press Officer, Telephone: (202) 694–1221.

(Authority: Government in the Sunshine Act, 5 U.S.C. 552b)

Vicktoria J. Allen,

Deputy Secretary of the Commission.

[FR Doc. 2025–19190 Filed 9–29–25; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

TIME AND DATE: Thursday, October 23, 2025, 10 a.m.

PLACE: Hybrid meeting: 1050 First Street NE, Washington, DC (12th floor) and virtual.

STATUS: The October 23, 2025 Open Meeting has been canceled.

CONTACT PERSON FOR MORE INFORMATION: Myles Martin, Deputy Press Officer, Telephone: (202) 694–122.

(Authority: Government in the Sunshine Act, 5 U.S.C. 552b)

Vicktoria J. Allen,

Deputy Secretary of the Commission.

[FR Doc. 2025–19096 Filed 9–29–25; 11:15 am]

BILLING CODE 6715–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

TIME AND DATE: Thursday, December 18, 2025, 10 a.m.

PLACE: Hybrid meeting: 1050 First Street NE, Washington, DC (12th floor) and virtual.

STATUS: The December 18, 2025 Open Meeting has been canceled.

CONTACT PERSON FOR MORE INFORMATION: Myles Martin, Deputy Press Officer, Telephone: (202) 694–1221.

(Authority: Government in the Sunshine Act, 5 U.S.C. 552b)

Vicktoria J. Allen,

Deputy Secretary of the Commission.

[FR Doc. 2025–19097 Filed 9–29–25; 11:15 am]

BILLING CODE 6715–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

TIME AND DATE: Thursday, November 13, 2025, 10 a.m.

PLACE: Hybrid meeting: 1050 First Street NE, Washington, DC (12th floor) and virtual.

STATUS: The November 13, 2025 Open Meeting has been canceled.

CONTACT PERSON FOR MORE INFORMATION: Myles Martin, Deputy Press Officer, Telephone: (202) 694–1221.

(Authority: Government in the Sunshine Act, 5 U.S.C. 552b)

Vicktoria J. Allen,

Deputy Secretary of the Commission.

[FR Doc. 2025–19094 Filed 9–29–25; 11:15 am]

BILLING CODE 6715–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

TIME AND DATE: Thursday, December 4, 2025, 10 a.m.

PLACE: Hybrid meeting: 1050 First Street NE, Washington, DC (12th floor) and virtual.

STATUS: The December 4, 2025 Open Meeting has been canceled.

CONTACT PERSON FOR MORE INFORMATION: Myles Martin, Deputy Press Officer, Telephone: (202) 694–1221.

(Authority: Government in the Sunshine Act, 5 U.S.C. 552b)

Vicktoria J. Allen,

Deputy Secretary of the Commission.

[FR Doc. 2025–19095 Filed 9–29–25; 11:15 am]

BILLING CODE 6715–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments received are subject to public disclosure. In general, comments received will be made available without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would not be appropriate for public disclosure.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than October 16, 2025.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414. Comments can also be sent electronically to *Comments.applications@chi.frb.org:*

1. *The Revocable Living Trust for Robert A. Narmont dated 12/23/1994, as amended, Robert A. Narmont, as trustee, both of Naples, Florida;* to retain voting shares of United Community Bancorp, Inc., and thereby indirectly retain voting shares of United Community Bank, both of Chatham, Illinois.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Associate Secretary of the Board.

[FR Doc. 2025–19171 Filed 9–30–25; 8:45 am]

BILLING CODE;P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0235; Docket No. 2025–0001; Sequence No. 16]

Information Collection; General Services Administration Acquisition Regulation; Federal Supply Schedule Pricing Disclosures and Sales Reporting

AGENCY: Office of Acquisition Policy, General Services Administration (GSA).

ACTION: Notice; request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division is submitting a request to the Office of Management and Budget (OMB) to review and approve an extension of a previously approved information collection requirement regarding OMB Control No. 3090–0235, Federal Supply Schedule Pricing Disclosures and Sales Reporting.

DATES: Submit comments on or before: December 1, 2025.

ADDRESSES: Submit comments identified by ''Information Collection 3090–0235, Federal Supply Schedule Pricing Disclosures and Sales Reporting'' via *http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link ''Comment'' that corresponds with information collection 3090–0235. Follow the instructions provided on the screen. Please include your name, company name (if any), and ''Information Collection 3090–0235, Federal Supply Schedule Pricing Disclosures and Sales Reporting'' on your attached document. If your comment cannot be submitted using *regulations.gov,* call or email the points of contact in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Instructions: Please submit comments only and cite information collection ''3090–0235, Federal Supply Schedule Pricing Disclosures and Sales Reporting'' in all correspondence related to this collection. All comments received will be posted without change to *regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *regulations.gov,* approximately two-to-three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas O'Linn, Procurement Analyst, General Services Acquisition Policy Division, GSA, 202–445–0390 or email *gsarpolicy@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

This information collection is for GSA Federal Supply Schedules (FSS) offerors and contractors subject to certain pricing disclosures and sales reporting requirements (*i.e.,* referred to as CSP/PRC requirements). CSP/PRC requirements are found within the basic version of General Services Administration Acquisition Regulation (GSAR) clause 552.238–80, Industrial Funding Fee and Sales Reporting and the basic version of GSAR clause 552.238–81, Price Reductions; GSAR section 515.408(b) and (c); GSAR clause 552.238–83 Examination of Records by GSA; GSAR clause 552.238–85, Contractor's Billing Responsibilities; and GSAR clause 552.238–120, Economic Price Adjustment—Federal Supply Schedule Contracts. This information collection does not apply to GSA FSS offerors and contractors subject to Transactional Data Reporting (TDR) requirements. The burden associated with TDR requirements is covered under information collection OMB control number 3090–0306, Transactional Data Reporting.

B. Annual Reporting Burden

The total estimated annual public cost burden and total estimated annual public burden hours for this information collection is estimated to be:

Year 1	Year 2	Year 3
$84,629,455 935,622.	$0 Cost ..... 0 hours.	$0 Cost. 0 hours.

These estimates are calculated by adding up the total estimated annual burden cost/hour for each of the GSAR clauses covered by this information collection. Additionally, these estimates take into account the following impacts:

1. During the renewal period of this information collection FSS offerors and contractors will no longer be subject to the aforementioned CSP/PRC requirements and instead will be covered by TDR requirements. The transition to TDR is based on Class Deviation CD–2025–13, *Revised Transactional Data Reporting (TDR) Requirements for the Federal Supply Schedule (FSS) Program,* which was issued on June 26, 2025. The class deviation (CD) amends the GSAR to remove CSP/PRC and make TDR requirements mandatory for the FSS program. As a result of this CD-

a. The FSS solicitation will be amended to remove CSP/PRC requirements.

b. Existing FSS contractors will need to transition to TDR. GSA anticipates the transition to be completed by the end of Year 1 of this renewal period.

2. Alternate I of GSAR clause 552.216–70, Economic Price Adjustment—FSS Multiple Award Schedule Contract, was replaced by GSAR clause 552.238–120, Economic Price Adjustment—Federal Supply Schedule Contracts. This new clause is less burdensome than the prior clause and provides more flexibility.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division, by calling 202–501–4755 or emailing *GSARegSec@gsa.gov.* Please cite ''OMB Control No. 3090–0235, Federal Supply Schedule Pricing Disclosures and Sales Reporting'', in all correspondence.

Jeffrey A. Koses,

Senior Procurement Executive, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2025–19118 Filed 9–30–25; 8:45 am]

BILLING CODE 6820–61–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0306; Docket No. 2025–0001; Sequence No. 17]

Information Collection; General Services Administration Acquisition Regulation; Transactional Data Reporting

AGENCY: Office of Acquisition Policy, General Services Administration (GSA).

ACTION: Notice; request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division is submitting a request to the Office of Management and Budget (OMB) to review and approve an extension of a previously approved information collection requirement regarding OMB Control No. 3090–0306, Transactional Data Reporting.

DATES: Submit comments on or before: December 1, 2025.

ADDRESSES: Submit comments identified by Information Collection 3090–0306, Transactional Data Reporting via *http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link ''Comment'' that corresponds with ''3090–0306, Transactional Data Reporting.'' Follow the instructions provided on the screen. Please include your name, company name (if any), and ''Information Collection 3090–0306, Transactional Data Reporting'' on your attached document. If your comment cannot be submitted using *regulations.gov,* call or email the points of contact in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Instructions: Please submit comments only and cite Information Collection 3090–0306, Transactional Data Reporting, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *regulations.gov,* approximately two-to-three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas O'Linn, Procurement Analyst, General Services Acquisition Policy Division, GSA, 202–445–0390 or email *gsarpolicy@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

This information collection is for GSA Federal Supply Schedules (FSS) and non-FSS offerors and contractors subject to transactional data report (TDR) requirements. Transactional data encompasses the historical details of the products or services delivered by a contractor during the performance of task or delivery orders issued against a contract subject to TDR requirements. TDR requirements are found within Alternate I of General Services Administration Acquisition Regulation (GSAR) clause 552.238–80, Industrial Funding Fee and Sales Reporting; 552.216–75, Transactional Data Reporting; Alternate I of 552.238–81, Price Reductions; 552.238–83 Examination of Records by GSA; 552.238–85, Contractor's Billing Responsibilities; and 552.238–120, Economic Price Adjustment—Federal Supply Schedule Contracts. This information collection does not apply to GSA FSS offerors and contractors subject to pricing disclosures and sales reporting requirements. The burden

associated with pricing disclosures and sales reporting requirements is covered under information collection OMB control number 3090–0235, Federal Supply Schedule Pricing Disclosures and Sales Reporting.

B. Annual Reporting Burden

The total estimated annual public cost burden and total estimated annual public burden hours for this information collection is estimated to be:

Year 1	Years 2 & 3
$121,766,340 Cost .... 1,553,495 hour	$69,731,624 Cost. 1,044,217 hours.

The reason Year 1 numbers are higher than Years 2 & 3 numbers is due to the one-time costs associated with the transition of existing FSS non-TDR contracts to TDR during Year 1 of this renewal period.

These estimates are calculated by adding up the total estimated annual burden cost/hour for each of the GSAR clauses covered by this information collection. Additionally, these estimates take into account the following impacts:

1. During the renewal period of this information collection, all FSS offerors and contractors will fall under TDR (*i.e.,* FSS offerors and contractors will no longer be subject to the aforementioned pricing disclosures and sales reporting requirements). The transition to TDR is based on Class Deviation CD–2025–13, *Revised Transactional Data Reporting (TDR) Requirements for the Federal Supply Schedule (FSS) Program,* which was issued on June 26, 2025. The class deviation (CD) amends the GSAR to remove certain pricing disclosures and sales reporting requirements and makes TDR requirements mandatory for the FSS program. As a result of this CD,—

a. The FSS solicitation will be amended to remove pricing disclosures and sales reporting requirements.

b. Existing FSS contractors will need to transition to TDR. GSA anticipates the transition to be completed by the end of Year 1 of this renewal period.

2. Alternate I of GSAR clause 552.216–70, Economic Price Adjustment—FSS Multiple Award Schedule Contract, was replaced by GSAR clause 552.238–120, Economic Price Adjustment—Federal Supply Schedule Contracts. This new clause is less burdensome than the prior clause and provides more flexibility.

Burden Cost/Hour Calculation

The following provides the basis for calculating the burden cost/hour for GSA clauses 552.216–75, and Alternate I of GSAR clause 552.238–80. These calculations account for the aforementioned transition to TDR during this renewal period.

Initial Setup

○ Estimated hourly rate & job position equivalency. The estimated hourly cost associated with this task is based on the task being accomplished by senior level personnel equivalent to a GS–14, Step 5 employee. A GS–14, Step 5 employee hourly rate for 2025 is $92.15 (''Rest of U.S.'' locality using OPM Salary Table 2025–RUS, Effective January 2025).

○ Estimated hours by system for initial set-up. A contractor complying with TDR requirements will absorb a one-time setup burden for purposes of establishing a reporting system (*i.e.,* automated reporting system vs. manual reporting system). The estimated setup time varies between automated and manual reporting systems. GSA estimates the average one-time initial setup burden is 10 hours for a manual system and 245 hours for an automated system.

Monthly Reporting

○ Estimated hourly rate & job position equivalency. The estimated hourly cost associated with this task is based on the task being accomplished by mid-level personnel equivalent to a GS–12, Step 5 employee. A GS–12, Step 5 employee hourly rate for 2022 is $65.58 (*i.e.,* using ''Rest of U.S.'' locality within the OPM Salary Table for 2022–RUS, Effective January 2025).

○ Categorization of contractors by sales revenue. GSA estimates the likelihood of contractors with lower to no reportable sales will spend relatively little time on reporting. In contrast, contractors with more reportable sales will face a higher reporting burden. To account for this difference, GSA is using the below sales revenue categories:

Category 1: No sales activity/revenue (*i.e.,* $0.00)
Category 2: Sales between $0.01 and $25,000.00
Category 3: Sales between $25,000.01 and $250,000.00
Category 4: Sales between $250,000.01 and $1 million
Category 5: Sales over $1 million

○ Automated system vs. manual reporting system. GSA estimates the likelihood of a contractor creating an automated reporting system increases with a contractor's sales revenue. In contrast, contractors with little to no sales revenue are unlikely to expend the effort needed to establish an automated reporting system. To account for this difference, GSA is using the below table. The below table shows by sales revenue category the estimated percentage of the likelihood of a contractor using a manual reporting system vs automated reporting system:

PERCENTAGE OF CONTRACTORS BY TYPE OF REPORTING SYSTEM

Sales revenue category	Manual system (%)	Automated system (%)
Category 1	100	0
Category 2	100	0
Category 3	90	10
Category 4	50	50
Category 5	10	90

○ Estimated monthly reporting time (hours)—by reporting system and sales revenue category. GSA estimates that the monthly reporting time varies by type of reporting system (*i.e.,* manual or automated) and by respective sales revenue category. The below table shows GSA's estimated monthly reporting times per sales revenue category and system type:

MONTHLY HOURS BY TYPE OF REPORTING SYSTEM AND SALES REVENUE CATEGORY

	Manual systems	Automated systems
Category 1	0.5	2.00
Category 2	2.5	2.5
Category 3	5	3
Category 4	18	4
Category 5	50	5

GSAR Clause 552.216–75, Transactional Data Reporting

Initial Setup.
Total estimated annual burden hours: 1,610.
Total estimated annual cost burden: $148,355.

Monthly Reporting.
Total estimated annual burden hours: 222,018.
Total estimated annual cost burden: $14,559,302.

Alternate I of GSAR Clause 552.238–80, Industrial Funding Fee and Sales Reporting

Initial Setup (new awardees) (both manual and automated).
Total estimated annual burden hours: 35,485.
Total estimated annual cost burden: $3,269,796.
Initial Setup (one time burden to account for existing non-TDR FSS contracts transition to TDR) (both manual and automated).
Total estimated annual burden hours: 706,695.

Total estimated annual cost burden: $65,119,029.

Monthly Reporting.

Year 1 (both manual and automated).

Total estimated annual burden hours: 582,756.

Total estimated annual cost burden: $38,215,463.

Years 2 & 3 (both manual and automated).

Total estimated annual burden hours: 774,966.

Total estimated annual cost burden: $50,820,042.

The total estimated burden (hours/cost) for the remaining clauses covered by this information collection are as follows. These calculations account for the aforementioned transition to TDR during this renewal period as well.

552.238–120, Economic Price Adjustment—Federal Supply Schedule Contracts

Year 1

Estimated # of responses per year: 600.

Estimated burden hours per response: × 4.25.

Total estimated annual burden hours: 2,550.

Estimated cost per hour: ** × $92.15.

Total estimate annual cost burden: $234,972.

Years 2 & 3

Estimated # of responses per year: 1800.

Estimated burden hours per response: × 4.25.

Total estimated annual burden hours: 7,650.

Estimated cost per hour: ** × $92.15.

Total estimate annual cost burden: $704,916.

Alternate I of GSAR Clause 552.238–81, Price Reductions

Year 1

Estimated # of responses per year: 25.

Estimated burden hours per response: × 4.25.

Total estimated annual burden hours: 106.

Estimated cost per hour: ** × $92.15.

Total estimate annual cost burden: $9,790.

Years 2 & 3

Estimated # of responses per year: 50.

Estimated burden hours per response: × 4.25.

Total estimated annual burden hours: 213.

Estimated cost per hour: ** × $92.15.

Total estimate annual cost burden: $19,581.

552.238–83, Examination of Records by GSA

Year 1 Through Year 3

Estimated # of respondents per year: 5.

Estimated burden hours per respondent: × 455.

Total estimated annual burden hours: 2,275.

Estimated cost per hour: ** × $92.15.

Total estimated annual cost burden: $209,632.

552.238–85, Contractor's Billing Responsibilities, is 0 burden hours/$0.00 burden cost for Years 1 through 3. The reason for zero burden being associated with this clause is because the record keeping requirement contained in this clause does not add any additional burden to what is already captured by Alternate I of GSAR clause 552.238–80, which is covered by this information collection.

** The estimated cost per hour is based on the task being accomplished by personnel equivalent to a GS–14, Step 5. A GSA–14, Step 5 employee hourly rate for 2025 is $92.15.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information continues to be necessary and whether it continues to have practical utility; whether GSA's estimate of the public burden of this collection of information is accurate and based on valid assumptions and methodology; and ways to enhance the quality, utility, and clarity of the information to be collected.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division, by calling 202–501–4755 or emailing *GSARegSec@gsa.gov.* Please cite ''Information Collection 3090–0306, Transactional Data Reporting'', in all correspondence.

Jeffrey A. Koses,

Senior Procurement Executive, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2025–19116 Filed 9–30–25; 8:45 am]

BILLING CODE 6820–61–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2025–N–1114]

Jason Oppenheimer: Final Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order under the Federal Food, Drug, and Cosmetic Act (FD&C Act) debarring Jason Oppenheimer for a period of 5 years from importing or offering for import any drug into the United States. FDA bases this order on a finding that Mr. Oppenheimer was convicted of one felony count under Federal law for the offense of possession with intent to distribute Tapentadol. The factual basis supporting Mr. Oppenheimer's conviction, as described below, is conduct relating to the importation into the United States of a drug or controlled substance. Mr. Oppenheimer was given notice of the proposed debarment and was given an opportunity to request a hearing to show why he should not be debarred. As of July 17, 2025 (30 days after receipt of the notice), Mr. Oppenheimer had not responded. Mr. Oppenheimer's failure to respond and request a hearing constitutes a waiver of his right to a hearing concerning this matter.

DATES: This order is applicable October 1, 2025.

ADDRESSES: Any application by Mr. Oppenheimer for termination of debarment under section 306(d)(1) of the FD&C Act (21 U.S.C. 335a(d)(1)) may be submitted at any time as follows:

Electronic Submissions

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

application, that information will be posted on *https://www.regulations.gov.*

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

Written/Paper Submissions

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For a written/paper application submitted to the Dockets Management Staff, FDA will post your application, as well as any attachments, except for information submitted, marked, and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All applications must include the Docket No. FDA–2025–N–1114. Received applications will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit an application with confidential information that you do not wish to be made publicly available, submit your application only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of your application. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852 between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500. Publicly available submissions may be seen in the docket.

FOR FURTHER INFORMATION CONTACT: Jaime Espinosa, Division of Field Enforcement, Office of Field Regulatory Operations, Office of Inspections and Investigations, Food and Drug Administration, 240–402–8743, *debarments@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 306(b)(1)(D) of the FD&C Act permits debarment of an individual from importing or offering for import any drug into the United States if FDA finds, as required by section 306(b)(3)(C) of the FD&C Act, that the individual has been convicted of a felony for conduct relating to the importation into the United States of any drug or controlled substance.

On March 17, 2025, Mr. Oppenheimer was convicted as defined in section 306(l)(1) of the FD&C Act, in the U.S. District Court for the Northern District of California when the court accepted his plea of guilty and entered judgment against him for the offense of possession with intent to distribute Tapentadol in violation of 21 U.S.C. 841(a)(1) and 841(b)(1)(C). The underlying facts supporting the conviction are as follows: As contained in the Indictment from Mr. Oppenheimer's case, to which he pleaded guilty, in return for payment from others he received prescription drugs from foreign countries and held them at his residence. Mr. Oppenheimer made videos showing himself unpacking boxes of the controlled substances in order to confirm receipt of the drugs to others. Mr. Oppenheimer then would receive order information from others and used that information to repack the misbranded drugs and ship them to the customers in the United States who placed the orders.

FDA sent Mr. Oppenheimer, by certified mail, on June 12, 2025, a notice proposing to debar him for a 5-year period from importing or offering for import any drug into the United States. The proposal was based on a finding under section 306(b)(3)(C) of the FD&C Act that Mr. Oppenheimer's felony conviction under Federal law for possession with intent to distribute Tapentadol, was for conduct relating to the importation of any drug or controlled substance into the United States because Mr. Oppenheimer received illegally imported misbranded drugs and then stored them before he repackaged and mailed them in violation of 21 U.S.C. 841(a)(1) and 841(b)(1)(C). In proposing a debarment period, FDA weighed the considerations set forth in section 306(c)(3) of the FD&C Act that it considered applicable to Mr. Oppenheimer's offense and concluded that the offense warranted the imposition of a 5-year period of debarment.

The proposal informed Mr. Oppenheimer of the proposed debarment and offered him an opportunity to request a hearing, providing him 30 days from the date of receipt of the letter in which to file the request, and advised him that failure to request a hearing constituted a waiver of the opportunity for a hearing and of any contentions concerning this action. Mr. Oppenheimer received the proposal and notice of opportunity for a hearing on June 17, 2025. Mr. Oppenheimer failed to request a hearing within the timeframe prescribed by regulation and has, therefore, waived his opportunity for a hearing and waived any contentions concerning his debarment (21 CFR part 12).

II. Findings and Order

Therefore, the Division of Field Enforcement, Office of Inspections and Investigations, under section 306(b)(3)(C) of the FD&C Act, under authority delegated to the Director, Division of Enforcement, finds that Mr. Jason Oppenheimer has been convicted of a felony under Federal law for conduct relating to the importation into the United States of any drug or controlled substance. FDA finds that the offense should be accorded a debarment period of 5 years as provided by section 306(c)(2)(A)(iii) of the FD&C Act.

As a result of the foregoing finding, Mr. Oppenheimer is debarred for a period of 5 years from importing or offering for import any drug into the United States, effective (see **DATES**). Pursuant to section 301(cc) of the FD&C Act (21 U.S.C. 331(cc)), the importing or offering for import into the United States of any drug by, with the assistance of, or at the direction of Mr. Oppenheimer is a prohibited act.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2025–19162 Filed 9–30–25; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2024–N–0604]

Yong Sheng Jiao: Denial of Application for Termination of Debarment

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is denying Yong Sheng Jiao's application for termination of debarment under the Federal Food, Drug, and Cosmetic Act (FD&C Act). Mr. Jiao was given notice of the proposed denial of his application for termination of his debarment and was given an opportunity to request a hearing to show why his application for termination of debarment should be granted. As of June 16, 2025 (30 days after receipt of the notice), Mr. Jiao had not requested a hearing and through his attorney informed FDA he would not be requesting a hearing in this matter. Mr. Jiao's failure to respond and request a hearing constitutes a waiver of his right to a hearing concerning this matter.

DATES: This order is applicable October 1, 2025.

ADDRESSES: Submit comments electronically at *https://www.regulations.gov.* Written comments may be submitted to the Dockets Management Staff, Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Jaime Espinosa, Division of Field Enforcement, Office of Field Regulatory Operations, Office of Inspections and Investigations, Food and Drug Administration, 240–402–8743 or *debarments@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 306(b)(1)(D) of the FD&C Act (21 U.S.C. 335a(b)(1)(D)) permits debarment of an individual from importing or offering for import any drug into the United States if FDA finds, as required by section 306(b)(3)(C) of the FD&C Act, that the individual has been convicted of a felony for conduct relating to the importation into the United States of any drug or controlled substance.

On January 24, 2023, Mr. Jiao, the owner and operator of Santec Chemicals Corporation and Syntec Pharma Corporation, pled guilty to a felony count of causing the delivery of misbranded drugs into interstate commerce in violation of sections 301(a), 303(a)(2), and 502(a) of the FD&C Act (21 U.S.C. 331(a), 333(a)(2), and 352(a)). Then, on January 8, 2024, the U.S. District Court for the Eastern District of New York entered a judgment convicting and sentencing Mr. Jiao to 2 years of probation and fines. Mr. Jiao's conviction stemmed from conduct, occurring on or about and between November 30, 2017, and April 30, 2020, relating to the importation of a drug, dipyrone, which is not approved for use in the United States. Mr. Jiao imported dipyrone from suppliers located in China into the United States, addressed to one of his businesses, Santec Chemicals Corporation. The shipments of dipyrone were misbranded in that they were either not labeled or they were falsely labeled as sebacic acid. Mr. Jiao pled guilty to knowingly and intentionally introducing into interstate commerce, with the intent to defraud and mislead the Federal government, the misbranded drug dipyrone.

By letter dated March 18, 2024, FDA's Office of Regulatory Affairs (ORA) notified Mr. Jiao of its proposal to issue an order under section 306(b)(1)(D) of the FD&C Act debarring him for a period of 5 years from importing or offering to import any drug into the United States. FDA's proposal was based on a finding that Mr. Jiao was convicted, as defined in section 306(l)(1) of the FD&C Act, for conduct relating to the importation of any drug or controlled substance into the United States. Mr. Jiao requested a hearing on the proposed debarment, and on January 8, 2025, FDA issued an order under section 306(b)(1) of the FD&C Act denying the request for a hearing and debarring Mr. Jiao for 5 years from importing or offering for import any drug into the United States.

On February 16, 2025, Mr. Jiao, through his attorney, submitted an application for termination of debarment to FDA pursuant to section 306(d)(1) of the FD&C Act. Pursuant to 306(d)(3)(B)(ii), FDA will grant an application to terminate a debarment if it finds that, as relevant here, termination of that individual's debarment would ''serve[ ] the interests of justice'' and ''adequately protect the integrity of the drug approval process.'' Mr. Jiao's application did not assert or provide a basis to conclude that termination is appropriate here.

By letter dated May 13, 2025, the Office of Inspections and Investigations (OII) (formerly ORA) offered Mr. Jiao an opportunity for a hearing, under 21 CFR part 12, on OII's proposal to deny his application for termination of his debarment. The proposal reflected OII's assessment that, considering all favorable and unfavorable information in light of the remedial public health purposes underlying debarment, terminating Mr. Jiao's debarment would not serve the interests of justice or adequately protect the integrity of the drug approval process.

OII sent Mr. Jiao the letter proposing to deny his application for termination of his debarment, by certified mail, on May 14, 2025. In addition to informing him about OII's proposal, the letter offered Mr. Jiao an opportunity to request a hearing, providing him 30 days from the date of receipt of the letter in which to file the request, and advised him that failure to request a hearing constituted an election not to use the opportunity for a hearing and a waiver of any contentions concerning this action. Mr. Jiao received the proposal and notice of opportunity for a hearing on May 15, 2025. On June 17, 2025, Mr. Jiao's attorney informed FDA that Mr. Jiao was not requesting a hearing in this matter. As such, Mr. Jiao failure to request a hearing within the timeframe prescribed by regulation constitutes a waiver of his opportunity for a hearing and any contentions concerning his application for termination of debarment (21 CFR part 12).

II. Conclusion

Therefore, the Division of Field Enforcement, Office of Inspections and Investigations, under section 306(d) of the FD&C Act, under authority delegated to the Director, Division of Enforcement, denies Mr. Jiao's application for termination of debarment. Mr. Jiao has failed to request a hearing and has waived his right to have a hearing on OII's proposal to deny his application for termination of his debarment. Pursuant to section 301(cc) of the FD&C Act, the importing or offering for import into the United States of any drug by, with the assistance of, or at the direction of Mr. Jiao is a prohibited act.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2025–19163 Filed 9–30–25; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Notice of Request for Comments on Draft Recommendations To Update the HRSA-Supported Women's Preventive Services Guidelines Relating to Screening for Cervical Cancer

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: This notice seeks comment on draft recommendations for the HRSA-supported Women's Preventive Services Guidelines (Guidelines) relating to Screening for Cervical Cancer. Under applicable law, non-grandfathered group health plans and health insurance issuers must include coverage, without cost sharing, for certain preventive services, including those provided for in the HRSA-supported Guidelines. The Departments of Labor, Health and Human Services, and Treasury have issued regulations and policy guidance which describe how group health plans and health insurance issuers apply the coverage requirements.

DATES: Members of the public are invited to provide written comments no later than October 31, 2025. All comments received on or before this date will be reviewed and considered by HRSA in determining the recommended updates that it will support.

ADDRESSES: Public comments must be submitted electronically to HRSA at *wellwomancare@hrsa.gov.*

FOR FURTHER INFORMATION CONTACT: Kimberly Sherman, HRSA, Maternal and Child Health Bureau, at (301) 443–8283 or *wellwomancare@hrsa.gov.*

SUPPLEMENTARY INFORMATION: Under section 1001(5) of the Patient Protection and Affordable Care Act, Public Law 111–148 (*https://www.govinfo.gov/link/plaw/111/public/148*), which added section 2713 to the Public Health Service Act, 42 U.S.C. 300gg–13 (*https://www.govinfo.gov/link/uscode/42/300gg-13*), the preventive care and screenings set forth in the HRSA-Supported Women's Preventive Services Guidelines are required to be covered without cost-sharing by certain group health plans and health insurance issuers. HRSA established the initial Guidelines in 2011.

Since 2016, HRSA has funded cooperative agreements to support the Women's Preventive Services Initiative (WPSI) to convene clinicians, academics, and consumer-focused health professional organizations who are experts in disease prevention and women's health issues to conduct a rigorous review of current scientific evidence and make recommendations to HRSA regarding updates to the Guidelines to improve women's health across the lifespan. After public comment is solicited and considered, HRSA determines whether to support, in whole or in part, the recommended updates to the Guidelines.

Recommended updates to the Guidelines are based on review and synthesis of existing clinical guidelines and new scientific evidence, following robust standards for establishing foundations for and rating strengths of recommendations, articulation of recommendations, and external reviews. Additionally, HRSA requires incorporation of processes to assure opportunity for public comment, including participation by patients and consumers, in the development of its recommendations to update the Guidelines. This notice seeks comment on one draft Guideline:

Screening for Cervical Cancer

The current Guideline for Screening for Cervical Cancer is: ''WPSI recommends cervical cancer screening for average-risk women aged 21 to 65 years. For women aged 21 to 29 years, the Women's Preventive Services Initiative recommends cervical cancer screening using cervical cytology (Pap test) every 3 years. Co-testing with cytology and human papillomavirus testing is not recommended for women younger than 30 years. Women aged 30 to 65 years should be screened with cytology and human papillomavirus testing every 5 years or cytology alone every 3 years. Women who are at average risk should not be screened more than once every 3 years.''

The proposed updated Guideline for Screening for Cervical Cancer is: ''The Women's Preventive Services Initiative recommends cervical cancer screening for average-risk women aged 21 to 65 years. For women aged 21 to 29 years, cervical cancer screening using cervical cytology (Pap test) every 3 years is recommended. Co-testing with cytology and human papillomavirus (hrHPV) testing is not recommended for women younger than 30 years. Women aged 30 to 65 years should be screened with primary hrHPV testing every 5 years (preferred) or cytology and hrHPV testing (co-testing) every 5 years. If hrHPV testing is not available, continue screening with cytology alone every 3 years. Women who are at average risk should not be screened more than once every 3 years. Patient-collected hrHPV testing is an appropriate method and should be offered as an option for cervical cancer screening in women aged 30 to 65 years at average risk. Additional testing may be required to complete the screening process and follow-up findings on the initial screening. If additional testing (*e.g.,* cytology, biopsy colposcopy, extended genotyping, dual stain) and pathologic evaluation are indicated, these services also are recommended to complete the screening process for malignancies.''

Background

WPSI recommends several updates to the language of this Guideline. The first change is the use of the full form of WPSI in the first sentence of the Guideline. The second change occurs in the second sentence of the Guideline and only restructures the sentence for clarity and does not provide any changes to the recommendation. Next, there was a recommendation to add the abbreviation ''hrHPV'' after the term ''human papillomavirus'' for consistency and increased clarity that the recommendation is specific to high-risk HPV types. Corresponding revisions utilizing the abbreviation are provided throughout the remaining text of the updated recommendation. WPSI also recommends updates to the Guideline regarding cervical cancer testing for women aged 30–65 and added ''primary hrHPV testing every 5 years (preferred) or cytology and hrHPV testing (co-testing) every 5 years. If hrHPV testing is not available, continue screening with cytology alone every 3 years.'' This update reflects current evidence-based practice on testing and interval screening. Next, a new sentence was added (''Patient-collected hrHPV testing is an appropriate method and should be offered as an option for cervical cancer screening in women aged 30 to 65 years at average risk.'') to reflect the new evidence and developments supporting the expansion of options for cervical cancer screening through patient-collected hrHPV testing. The last update to the Guideline adds a sentence on the necessity of additional testing to complete the cervical cancer screening process (''If additional testing (*e.g.,* cytology, biopsy colposcopy, extended genotyping, dual stain) and pathologic evaluation are indicated, these services also are recommended to complete the screening process for malignancies.''). This update ensures the screening process for malignancies is complete should additional testing services (*e.g.,* cytology, biopsy colposcopy, extended genotyping, dual stain) and pathologic evaluation be clinically indicated. Additional testing to complete the

screening process covers all cases of cervical cancer screening, regardless if the test was collected by the patient or clinician.

Comments are sought on these proposed updates. Members of the public can view the complete updated draft clinical recommendation, evidence review, as well as the implementation considerations and research recommendations (which are not part of the Guidelines), by accessing *https://www.hrsa.gov/womens-guidelines.*

Thomas J. Engels,

Administrator.

[FR Doc. 2025–19186 Filed 9–30–25; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special Topics in Genomics, Genetic Evolution, and Technology Development.

Date: November 12–13, 2025.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Karin Garabed Jegalian, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 712R, Bethesda, MD 20892, (301) 867–5309, *jegaliak@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Drug Development.

Date: November 17, 2025.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Jennifer Ann Sanders, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496–3553, *jennifer.sanders@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Reproductive Sciences.

Date: November 18–19, 2025.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Baskaran Thyagarajan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 800B, Bethesda, MD 20892, (301) 867–5309, *thyagarajanb2@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Immunology of Hypersensitivity and Host Defense.

Date: November 20, 2025.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Anthony David Foster, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496–3297, *anthony.foster@nih.gov*.

Name of Committee: Infectious Diseases and Immunology A Integrated Review Group; HIV Molecular Virology, Cell Biology, and Drug Development Study Section.

Date: November 20–21, 2025.

Time: 10:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Kenneth A. Roebuck, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5214, MSC 7852, Bethesda, MD 20892, (301) 435–1166, *roebuckk@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Advancing Careers and Workforce Research Education Program Applications.

Date: November 25, 2025.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Victor Henriquez, Ph.D., Scientific Review Officer, National Center for Advancing Translational Sciences (NCATS), National Institutes of Health, 6701 Democracy Boulevard, Democracy 1, Room 1066, Bethesda, MD 20892, (301) 435–0813, *victor.henriquez@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in CNS Infection and Immunology.

Date: December 10–11, 2025.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Iqbal Sayeed, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH NSC, 6001 Executive Boulevard, Suite 3208, MSC 9529, Bethesda, MD 20892, (301) 496–9223, *iqbal.sayeed@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Respiratory Topics B.

Date: December 10, 2025.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Rupali Das, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–0023, *rupali.das@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: September 26, 2025.

Sterlyn H. Gibson,

Program Specialist, Office of Federal Advisory Committee Policy.

[FR Doc. 2025–19109 Filed 9–30–25; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Fogarty International Center; Notice of Partially Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Fogarty International Center Advisory Board.

This will be a hybrid meeting held in-person and virtually and will be open to the public as indicated below. Individuals who plan to attend in-person or view the virtual meeting and need special assistance, such as sign

language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The open session can be accessed from the Fogarty International Center website (*https://www.fic.nih.gov/About/Advisory/Pages/default.aspx*).

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: Fogarty International Center Advisory Board.

Date: February 9–10, 2026.

Closed: February 09, 2026, 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate the second level of grant applications.

Address: Fogarty International Center, National Institutes of Health, Lawton Chiles International House (Stone House), 16 Center Drive, Conference Room, Bethesda, MD 20892.

Meeting Format: In Person and Virtual Meeting.

Open: February 10, 2026, 9:00 a.m. to 12:30 p.m.

Agenda: Update and discussion of current and planned Fogarty International Center activities.

Address: Fogarty International Center, National Institutes of Health, Lawton Chiles International House (Stone House), 16 Center Drive, Conference Room, Bethesda, MD 20892.

Meeting Format: In Person and Virtual Meeting.

Contact Person: Kristen Weymouth, Executive Secretary, Fogarty International Center, 31 Center Drive, Room B2C02, Bethesda, MD 20892, 301–495–1415, *kristen.weymouth@nih.gov*.

Registration is not required to attend the open portion of this meeting.

In the interest of security, NIH has procedures at *https://www.nih.gov/about-nih/visitor-information/campusaccess-security* for entrance into on-campus and off-campus facilities. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors attending a meeting on campus or at an off-campus federal facility will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.fic.nih.gov/About/Advisory/Pages/default.aspx,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.106, Minority International Research Training Grant in the Biomedical and Behavioral Sciences; 93.154, Special International Postdoctoral Research Program in Acquired Immunodeficiency Syndrome; 93.168, International Cooperative Biodiversity Groups Program; 93.934, Fogarty International Research Collaboration Award; 93.989, Senior International Fellowship Awards Program, National Institutes of Health, HHS)

Dated: September 26, 2025.

Denise M. Santeufemio,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2025–19110 Filed 9–30–25; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Secretary; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Muscular Dystrophy Coordinating Committee (MDCC).

The meeting will be held as an online meeting and will be open to the public. Individuals who need special assistance or other reasonable accommodation should notify the Contact Person listed below in advance of the meeting. Information for online viewing is provided below.

Name of Committee: Muscular Dystrophy Coordinating Committee.

Date: October 31, 2025.

Time: 12:00 p.m. to 4:00 p.m. ET.

Agenda: The purpose of this meeting is to bring together committee members, representing government agencies, patient advocacy groups and people with lived experience to discuss topics of interest to the muscular dystrophy communities. The agenda for this meeting features panel discussions inviting industry leaders to comment on priorities for the Action Plan, the MDCC's ten-year strategic plan for research and other strategies to improve the lives of people living with muscular dystrophies. The agenda for this meeting is available on the registration site below and the MDCC website: *https://www.mdcc.nih.gov/*.

Address: National Institutes of Health, National Institutes of Health (NIH), 9000 Rockville Pike, Bethesda, Maryland 20892.

Meeting Format: Virtual Meeting.

Contact Person: Glen Nuckolls, Ph.D., National Institute of Neurological Disorders and Stroke (NINDS), NIH, 6001 Executive Blvd. Bethesda, MD 20892, 301–496–5876, *glen.nuckolls@nih.gov*.

Registration: Registration is required to view the webcast. Registration information is available at *https://events.gcc.teams.microsoft.com/event/1e491494-396e-42b7-874c-ecf6f85e45dc@14b77578-9773-42d5-8507-251ca2dc2b06*.

Any interested person may file written comments with the committee by sending a statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Anyone from the public can register for a link to view the meeting and submit questions, and the meeting can be viewed via the NIH Videocasting website (*http://videocast.nih.gov*). Please check the registration website or the committee website listed below for the most up-to-date information about this meeting.

More information can be found on the Muscular Dystrophy Coordinating Committee website: *https://mdcc.nih.gov/*.

Dated: September 26, 2025.

David W. Freeman,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2025–19108 Filed 9–30–25; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Fogarty International Center; Notice of Partially Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Fogarty International Center Advisory Board.

This will be a hybrid meeting held in-person and virtually and will be open to the public as indicated below. Individuals who plan to attend in-person or view the virtual meeting and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The open session can be accessed from the Fogarty International Center website (*https://www.fic.nih.gov/About/Advisory/Pages/default.aspx*).

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: Fogarty International Center Advisory Board.

Date: June 1–2, 2026.

Closed: June 01, 2026, 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate the second level of grant applications.

Address: Fogarty International Center, National Institutes of Health, Lawton Chiles International House (Stone House), 16 Center Drive, Conference Room, Bethesda, MD 20892.

Meeting Format: In Person and Virtual Meeting.

Open: June 02, 2026, 9:00 a.m. to 12:30 p.m.

Agenda: Update and discussion of current and planned Fogarty International Center activities.

Address: Fogarty International Center, National Institutes of Health, Lawton Chiles International House (Stone House), 16 Center Drive, Conference Room, Bethesda, MD 20892.

Meeting Format: In Person and Virtual Meeting.

Meeting Access: https://www.fic.nih.gov/About/Advisory/Pages/default.

Contact Person: Kristen Weymouth, Executive Secretary, Fogarty International Center, 31 Center Drive, Room B2C02, Bethesda, MD 20892, 301–495–1415, *kristen.weymouth@nih.gov.*

Registration is not required to attend the open portion of this meeting. In the interest of security, NIH has procedures at *https://security.nih.gov/visitors/Pages/visitor-campus-access.aspx* for entrance into on-campus and off-campus facilities. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors attending a meeting on campus or at an off-campus federal facility will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.fic.nih.gov/About/Advisory/Pages/default.aspx,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.106, Minority International Research Training Grant in the Biomedical and Behavioral Sciences; 93.154, Special International Postdoctoral Research Program in Acquired Immunodeficiency Syndrome; 93.168, International Cooperative Biodiversity Groups Program; 93.934, Fogarty International Research Collaboration Award; 93.989, Senior International Fellowship Awards Program, National Institutes of Health, HHS)

Dated: September 26, 2025.

Rosalind M. Niamke,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2025–19107 Filed 9–30–25; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Fogarty International Center; Notice of Partially Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Fogarty International Center Advisory Board.

This will be a hybrid meeting held in-person and virtually and will be open to the public as indicated below. Individuals who plan to attend in-person or view the virtual meeting and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The open session can be accessed from the Fogarty International Center website (*https://www.fic.nih.gov/About/Advisory/Pages/default.aspx*).

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: Fogarty International Center Advisory Board.

Date: September 10–11, 2026.

Closed: September 10, 2026, 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate the second level of grant applications.

Address: Fogarty International Center, National Institutes of Health, Lawton Chiles International House (Stone House), 16 Center Drive, Bethesda, MD 20892.

Meeting Format: In Person and Virtual Meeting.

Open: September 11, 2026, 9:00 a.m. to 12:30 p.m.

Agenda: Update and discussion of current and planned Fogarty International Center activities.

Address: Fogarty International Center, National Institutes of Health, Lawton Chiles International House (Stone House), 16 Center Drive, Bethesda, MD 20892.

Meeting Format: In Person and Virtual Meeting.

Meeting Access: https://www.fic.nih.gov/About/Advisory/Pages/default.

Contact Person: Kristen Weymouth, Executive Secretary, Fogarty International Center, 31 Center Drive, Room B2C02, Bethesda, MD 20892, 301–495–1415, *kristen.weymouth@nih.gov.*

Registration is not required to attend the open portion of this meeting. In the interest of security, NIH has procedures at *https://security.nih.gov/visitors/Pages/visitor-campus-access.aspx* for entrance into on-campus and off-campus facilities. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors attending a meeting on campus or at an off-campus federal facility will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.fic.nih.gov/About/Advisory/Pages/default.aspx,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.106, Minority International Research Training Grant in the Biomedical and Behavioral Sciences; 93.154, Special International Postdoctoral Research Program in Acquired Immunodeficiency Syndrome; 93.168, International Cooperative Biodiversity Groups Program; 93.934, Fogarty International Research Collaboration Award; 93.989, Senior International Fellowship Awards Program, National Institutes of Health, HHS)

Dated: September 29, 2025.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2025–19153 Filed 9–30–25; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Advisory Board on Medical Rehabilitation Research, December 01, 2025, 10:00 a.m. to December 02, 2025, 05:00 p.m., *Eunice Kennedy Shriver* National Institute of Child, 6710 B, Rockledge Drive, Bethesda, MD 20814 which was published in the **Federal Register** on June 04, 2025, 90 FR 24284.

This notice is being amended to change the meeting duration from two days to one day (December 1) and adjust the time from 10 a.m.–5 p.m. to 10 a.m.–4 p.m.

Dated: September 29, 2025.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2025–19154 Filed 9–30–25; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of HHS-Certified Laboratories and Instrumented Initial Testing Facilities Which Meet Minimum Standards To Engage in Urine and Oral Fluid Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) provides notice of the laboratories and Instrumented Initial Testing Facilities (IITFs) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines) using Urine and the laboratories currently certified to meet the standards of the Mandatory Guidelines using Oral Fluid.

FOR FURTHER INFORMATION CONTACT: Anastasia Flanagan, Division of Workplace Programs, SAMHSA/CSAP, 5600 Fishers Lane, Room 16N06B, Rockville, Maryland 20857; 240–276–2600 (voice); *Anastasia.Flanagan@samhsa.hhs.gov* (email).

SUPPLEMENTARY INFORMATION: The Department of Health and Human Services (HHS) publishes a notice listing all HHS-certified laboratories and Instrumented Initial Testing Facilities (IITFs) in the **Federal Register** during the first week of each month, in accordance with Section 9.19 of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines) using Urine and Section 9.17 of the Mandatory Guidelines using Oral Fluid. If any laboratory or IITF certification is suspended or revoked, the laboratory or IITF will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any laboratory or IITF has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end and will be omitted from the monthly listing thereafter.

This notice is also available on the internet at *https://www.samhsa.gov/workplace/drug-testing-resources/certified-lab-list.*

The Mandatory Guidelines using Urine were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908); September 30, 1997 (62 FR 51118); April 13, 2004 (69 FR 19644); November 25, 2008 (73 FR 71858); December 10, 2008 (73 FR 75122); April 30, 2010 (75 FR 22809); January 23, 2017 (82 FR 7920); and on October 12, 2023 (88 FR 70768).

The Mandatory Guidelines using Oral Fluid were first published in the **Federal Register** on October 25, 2019 (84 FR 57554) with an effective date of January 1, 2020, and subsequently revised in the **Federal Register** on October 12, 2023 (88 FR 70814).

The Mandatory Guidelines were initially developed in accordance with Executive Order 12564 and section 503 of Pub. L. 100–71 and allowed urine drug testing only. The Mandatory Guidelines using Urine have since been revised, and new Mandatory Guidelines allowing for oral fluid drug testing have been published. The Mandatory Guidelines require strict standards that laboratories and IITFs must meet in order to conduct drug and specimen validity tests on specimens for Federal agencies. HHS does not allow IITFs to conduct oral fluid testing.

To become certified, an applicant laboratory or IITF must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification, a laboratory or IITF must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories and IITFs in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines using Urine and/or Oral Fluid. An HHS-certified laboratory or IITF must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA), which attests that the test facility has met minimum standards.

HHS-Certified Laboratories Approved To Conduct Oral Fluid Drug Testing

In accordance with the Mandatory Guidelines using Oral Fluid effective October 10, 2023 (88 FR 70814), the following HHS-certified laboratories meet the minimum standards to conduct drug and specimen validity tests on oral fluid specimens:

At this time, there are no laboratories certified to conduct drug and specimen validity tests on oral fluid specimens.

HHS-Certified Instrumented Initial Testing Facilities Approved To Conduct Urine Drug Testing

In accordance with the Mandatory Guidelines using Urine effective February 1, 2024 (88 FR 70768), the following HHS-certified IITFs meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

Dynacare, 6628 50th Street NW, Edmonton, AB Canada T6B 2N7, 780–784–1190, (Formerly: Gamma-Dynacare Medical Laboratories), Note: *DOT does not allow IITFs to test DOT-regulated specimens.*

HHS-Certified Laboratories Approved To Conduct Urine Drug Testing

In accordance with the Mandatory Guidelines using Urine effective February 1, 2024 (88 FR 70768), the following HHS-certified laboratories meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

Alere Toxicology Services, 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823, (Formerly: Kroll Laboratory Specialists, Inc., Laboratory Specialists, Inc.)

Alere Toxicology Services, 450 Southlake Blvd., Richmond, VA 23236, 804–378–9130, (Formerly: Kroll Laboratory Specialists, Inc., Scientific Testing Laboratories, Inc.; Kroll Scientific Testing Laboratories, Inc.)

Clinical Reference Laboratory, Inc., 8433 Quivira Road, Lenexa, KS 66215–2802, 800–445–6917

Desert Tox, LLC, 5425 E Bell Rd, Suite 125, Scottsdale, AZ 85254, 602–457–5411/623–748–5045

DrugScan, Inc., 200 Precision Road, Suite 200, Horsham, PA 19044, 800–235–4890

Dynacare, 245 Pall Mall Street, London, ONT, Canada N6A 1P4, 519–679–1630, (Formerly: Gamma-Dynacare Medical Laboratories)

ElSohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, MS 38655, 662–236–2609

LabOne, Inc. d/b/a Quest Diagnostics, 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–873–8845, (Formerly: Quest Diagnostics Incorporated; LabOne, Inc.; Center for Laboratory Services, a Division of LabOne, Inc.)

Laboratory Corporation of America Holdings, 7207 N Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986, (Formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Corporation of America Holdings, 1904 TW Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984, (Formerly: LabCorp Occupational

Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866–827–8042/ 800–233–6339, (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center)

MedTox Laboratories, Inc., 402 W County Road D, St. Paul, MN 55112, 651–636–7466/800–832–3244

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, MN 55417, 612–725–2088, Testing for Veterans Affairs (VA) Employees Only

Omega Laboratories, Inc., 2150 Dunwin Drive, Unit 1 & 2, Mississauga, ON, Canada L5L 5M8, 289–919–3188

Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800–328–6942, (Formerly: Centinela Hospital Airport Toxicology Laboratory)

Phamatech, Inc., 15175 Innovation Drive, San Diego, CA 92128, 888–635–5840

US Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755–5235, 301–677–7085, Testing for Department of Defense (DoD) Employees Only

Anastasia D. Flanagan,

Public Health Advisor, Division of Workplace Programs.

[FR Doc. 2025–19195 Filed 9–30–25; 8:45 am]

BILLING CODE 4160–20–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–NEW]

Agency Information Collection Activities; New Collection: Generic Clearance for the Collection of Certain Biographic and Employment Identifiers on Immigration Forms

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until October 31, 2025.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be submitted via the Federal eRulemaking Portal website at *http://www.regulations.gov* under e-Docket ID number USCIS–2025–0006. All submissions received must include the OMB Control Number 1615–NEW in the body of the letter, the agency name and Docket ID USCIS–2025–0006.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, John R. Pfirrmann-Powell, Acting Deputy Chief, telephone number (240) 721–3000 (This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

The information collection notice was previously published in the **Federal Register** on May 29, 2025, at 90 FR 22750, allowing for a 60-day public comment period. USCIS received 20 comments in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2025–0006 in the search box. Comments must be submitted in English, or an English translation must be provided. The comments submitted to USCIS via this method are visible to the Office of Management and Budget and comply with the requirements of 5 CFR 1320.12(c). All submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) 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.

Background

E.O. 14161, ''Protecting the United States from Foreign Terrorists and Other National Security and Public Safety Threats,'' directs implementation of uniform vetting standards and necessitates the collection of all information necessary for a rigorous vetting and screening of all grounds of inadmissibility and removability or bases for the denial of immigration-related benefits. *See* 90 FR 8451 (Jan. 20, 2025). Implementation of the directives provided in the E.O. requires U.S. Citizenship and Immigration Services (USCIS) to collect standard data on immigration forms and/or information collection systems. This data will be collected from certain populations of individuals on applications for immigration-related benefits and is necessary for the enhanced identity verification, vetting, and national security screening and inspection conducted by USCIS and required under the E.O.

This collection of information is necessary to comply with section 2 of the E.O. to establish screening and

vetting standards and procedures to enable USCIS to assess an alien's eligibility to receive an immigration-related benefit from USCIS. This data collection is also used to validate an applicant's identity and to help determine whether such grant of a benefit poses a security or public-safety threat to the United States.

USCIS will collect biographic information on immigration information collection instruments and systems. USCIS will update its forms and systems to collect additional information from individuals who seek admissibility or other benefits when that information is not already collected.

New Information To Be Collected

U.S. Government departments and agencies involved in screening and vetting, to include USCIS, identified 24 data elements that would constitute a new baseline threshold of data to be collected for improved identity verification and national security vetting. These 24 core data elements were published in the **Federal Register** at 90 FR 11054 on March 3, 2025, for a 60-Day notice and at 90 FR 42604 on September 3, 2025, for a 30-Day notice. These six (6) new data elements are in addition to and separate from the data elements for which USCIS requested comments in the March 3, 2025, and September 3, 2025, generic clearance notice, but they are also needed for further identification and national security vetting and will be added to certain immigration benefit request forms where the information is not already collected.

The following six (6) data elements are biographic and employment identifiers used to help USCIS confirm both an individual's identity as it relates to the submitted application and to other records. These biographic identifiers are also used by USCIS and screening partners to help confirm or disprove a relevant association between an applicant and information of interest and the strength of that association in the context of the underlying information.

1. Beneficiary/Applicant/Petitioner U.S. Social Security Number
2. Family Member (parent(s), spouse, sibling(s), and child(ren)) U.S. Social Security Number
3. Employer/Business Name(s) from the past five (5) years
4. Employer/Business Mailing Address from the past five (5) years
5. Employer/Business Physical Address from the past five (5) years
6. Business Federal Employer Identification Number from the past five (5) years

Programs Affected, OMB Control Numbers

- OMB No. 1615–0052—Form N–400, Application for Naturalization
- OMB No. 1615–0013—Form I–131, Application for Travel Document
- OMB No. 1615–0017—Form I–192, Application for Advance Permission to Enter as a Nonimmigrant
- OMB No. 1615–0023—Form I–485, Application to Register Permanent Residence or Adjust Status
- OMB No. 1615–0067—Form I–589, Application for Asylum and for Withholding of Removal
- OMB No. 1615–0068—Form I–590, Registration for Classification as Refugee
- OMB No. 1615–0037—Form I–730, Refugee/Asylee Relative Petition
- OMB No. 1615–0038—Form I–751, Petition to Remove Conditions on Residence
- OMB No. 1615–0045—Form I–829, Petition by Investor to Remove Conditions on Permanent Resident Status

Applicant information is collected to maintain a record of persons applying for specific immigration benefits, and to help determine whether these applicants are eligible to receive the benefits for which they are applying. The information provided through USCIS forms is also analyzed—along with other information that the Secretary of Homeland Security determines is necessary, including information about other persons included on the USCIS forms—against various security and law enforcement databases to identify those applicants who may pose a security or public-safety risk to the United States.

Overview of This Information Collection

(1) *Type of Information Collection Request:* New Collection.

(2) *Title of the Form/Collection:* Generic Clearance for the Collection of Certain Biographic and Employment Identifiers on Immigration Forms.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* GC–2025–0006; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. E.O. 14161, ''Protecting the United States from Foreign Terrorists and Other National Security and Public Safety Threats,'' directs implementation of uniform vetting standards and necessitates collection of all information necessary for a rigorous vetting and screening of all grounds of inadmissibility and removability or bases for the denial of immigration-related benefits. Implementation of the directives in the E.O. requires USCIS to collect standard data on immigration forms and/or information collection systems. This data will be collected from certain populations of individuals on applications for immigration-related benefits and is necessary for the enhanced identity verification, vetting and national security screening, and inspection conducted by USCIS and required under the E.O.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:*

- The estimated total number of annual respondents for the information collection N–400 is 909,700 and the estimated hour burden per response is 2 hours.
- The estimated total number of annual respondents for the information collection I–131 is 1,006,844 and the estimated hour burden per response is 2 hours.
- The estimated total number of annual respondents for the information collection I–192 is 68,050 and the estimated hour burden per response is 2.08 hours.
- The estimated total number of annual respondents for the information collection I–485 is 1,060,585 and the estimated hour burden per response is 2 hours.
- The estimated total number of annual respondents for the information collection I–589 is 203,379 and the estimated hour burden per response is 2 hours.
- The estimated total number of annual respondents for the information collection I–590 is 53,100 and the estimated hour burden per response is 2.08 hours.
- The estimated total number of annual respondents for the information collection I–730 is 13,000 and the estimated hour burden per response is 2 hours.
- The estimated total number of annual respondents for the information collection I–751 is 153,000 and the estimated hour burden per response is 2 hours.
- The estimated total number of annual respondents for the information collection I–829 is 1,010 and the estimated hour burden per response is 2 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated total annual hour burden associated with this collection is 6,947,028 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $0. No additional costs to the public are anticipated due to this action. Any costs to the respondents associated with the specific form filed are captured in those approved information collections.

Dated: September 26, 2025.

John R. Pfirrmann-Powell,

Acting Deputy Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2025–19117 Filed 9–30–25; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–ES–2025–N025; FXES11140400000–256–FF04E00000]

Endangered Species; Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received applications for permits to conduct scientific research to promote conservation or other activities intended to enhance the propagation or survival of endangered and threatened species under the Endangered Species Act (ESA). We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

DATES: We must receive written data or comments on the applications by October 31, 2025.

ADDRESSES:

Reviewing Documents: Submit requests for copies of applications and other information submitted with the applications to *permitsr4es@fws.gov* (see **FOR FURTHER INFORMATION CONTACT**). All requests and comments should specify the applicant's name and application number (*e.g.,* Mary Smith, ESPER0001234).

Submitting Comments: If you wish to comment, you may submit comments by one of the following methods:

- *Email (preferred method): permitsr4es@fws.gov.* Please include your name and return address in your email message. If you do not receive a confirmation from the U.S. Fish and Wildlife Service that we have received your email message, contact us directly at the telephone number listed in **FOR FURTHER INFORMATION CONTACT**.
- *U.S. mail:* U.S. Fish and Wildlife Service Regional Office, Ecological Services, 1875 Century Boulevard, Atlanta, GA 30345 (Attn: Kaye London, R4 Recovery Permit Coordinator).

FOR FURTHER INFORMATION CONTACT: Kaye London via telephone at 404–679–7097 or via email at *permitsr4es@fws.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), invite review and comment from the public and local, State, Tribal, and Federal agencies on applications we have received for permits to conduct certain activities with endangered and threatened species under section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and our regulations in the Code of Federal Regulations (CFR) at 50 CFR part 17. Documents and other information submitted with the applications are available for review, subject to the requirements of the Privacy Act of 1974, as amended (5 U.S.C. 552a), and the Freedom of Information Act (5 U.S.C. 552).

Background

With some exceptions, the ESA prohibits take of listed species unless a Federal permit is issued that authorizes such take. The definition of ''take'' in the ESA includes hunting, shooting, harming, wounding, or killing, and also such activities as pursuing, harassing, trapping, capturing, or collecting, or attempting to engage in any such conduct.

A recovery permit issued by us under section 10(a)(1)(A) of the ESA authorizes the permittee to take endangered or threatened species while engaging in activities that are conducted for scientific purposes that promote recovery of species or for enhancement of propagation or survival of species. These activities often include the capture and collection of species, which would result in prohibited take if a permit were not issued. Our regulations implementing section 10(a)(1)(A) of the ESA for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Permit Applications Available for Review and Comment

The ESA requires that we invite public comment before issuing these permits. Accordingly, we invite local, State, Tribal, and Federal agencies, and the public to submit written data, views, or arguments with respect to these applications. The comments and recommendations that will be most useful and likely to influence agency decisions are those supported by quantitative information or studies. Proposed activities in the following permit requests are for the recovery and enhancement of propagation or survival of the species in the wild.

Permit application No.	Applicant	Species	Location	Activity	Type of take	Permit action
ES41955C–2	Anthony Miller; Lexington, KY.	Mammals: Tricolored bat (*Perimyotis subflavus*); Fishes: Cumberland darter (*Etheostoma susanae*), duskytail darter (*Etheostoma percnurum*), Palezone shiner (*Notropis albizonatus*), and relict darter (*Etheostoma chienense*); Crustaceans: Big Sandy crayfish (*Cambarus callainus*).	Kentucky	Presence/probable absence surveys.	Mammals: enter hibernacula and summer roost caves, capture with mist nets or harp traps, handle, identify, band, radio tag, and release; Fishes: capture via hand nets and seines, handle, identify, and release; Crustaceans: capture, handle, and release.	Amendment.

Permit application No.	Applicant	Species	Location	Activity	Type of take	Permit action
ES12174D–1	Joshua Allen; Easton, KS.	Gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), and tricolored bat (*Perimyotis subflavus*).	Throughout the ranges of the species.	Presence/probable absence surveys.	Capture with mist nets, handle, identify, band, radio tag, and release.	Renewal and amendment.
ES16876D–2	Kristen Clemens; Lexington, KY.	Gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), and northern long-eared bat (*Myotis septentrionalis*).	Throughout the ranges of the species.	Presence/probable absence surveys.	Capture with mist nets, handle, identify, band, radio tag, and release.	Renewal.
ES125521–6	Department of Natural and Environmental Resources; San Juan, PR.	Puerto Rican parrot (*Amazona vittata*).	Puerto Rico	Captive propagation, translocation, and reintroduction.	Remove eggs and chicks from the wild, handle, transport, hold in captivity for over 45 consecutive days, and release.	Renewal and amendment.
PER14091004–0	Kelly Wilder; Woodstock, GA.	Gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), and tricolored bat (*Perimyotis subflavus*).	Throughout the ranges of the species.	Presence/probable absence surveys.	Enter hibernacula, maternity roost caves, or other roosts, capture with mist nets, handle, identify, band, radio tag, swab, and release.	New.
ES171594–2	Wetland Sciences, Inc.; Pensacola, FL.	Alabama beach mouse (*Peromyscus polionotus ammobates*), Choctawatchee beach mouse (*Peromyscus polionotus allophrys*), and Perdido Key beach mouse (*Peromyscus polionotus trissyllepsis*).	Alabama and Florida.	Presence/probable absence surveys.	Trap, mark, examine, and release.	Renewal.
ES37663B–2	Rebecca Ijames; Central City, KY.	Gray bat (*Myotis grisescens*) and tricolored bat (*Perimyotis subflavus*).	Indiana, Kentucky, Missouri, Ohio, and Tennessee.	Presence/probable absence surveys.	Enter maternity roost sites, capture, handle, identify, band, radio tag, and release.	Renewal and amendment.
ES35313B–7	Emily Willcox; Knoxville, TN.	Gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), and northern long-eared bat (*Myotis septentrionalis*).	Throughout the ranges of the species.	Bat roosting, foraging ecology, and white-nose syndrome studies.	Enter hibernacula or maternity roost caves, capture, handle, identify, band, tag, collect biological samples, and release.	Renewal.
ES059008–11	CCR Environmental, Inc.; Atlanta, GA.	Fishes: Cape Fear shiner (*Notropis mekistocholas*), Carolina madtom (*Noturus furiosus*), Barrens topminnow (*Fundulus julisia*), Mussels: fluted kidneyshell (*Ptychobranchus subtentus*), Canoe Creek clubshell (*Pleurobema athearni*), Cumberland pigtoe (*Pleuronaia gibber*), and southern elktoe (*Alasmidonta triangulata*); Amphibian: black warrior waterdog (*Necturus alabamensis*).	Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, and Tennessee.	Presence/probable absence surveys.	Capture, handle, identify, release, and salvage relic shells.	Renewal and amendment.
ES100012–7	Alabama Coastal Foundation; Mobile, AL.	Green sea turtle (*Chelonia mydas*), Kemp's ridley sea turtle (*Lepidochelys kempi*), and loggerhead sea turtle (*Caretta caretta*).	Alabama	Monitoring and protecting of nests.	Locate, monitor, excavate, relocate nests, and release nestlings.	Renewal and amendment.
ES63633A–7	Biodiversity Research Institute; Portland, ME.	Gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), and tricolored bat (*Perimyotis subflavus*).	Throughout the ranges of the species.	Presence/probable absence surveys and scientific research.	Enter hibernacula or maternity roost caves, capture, handle, identify, collect biological samples, band, radio tag, and release.	Renewal and amendment.
ES41910B–4	Scott Rush; Starkville, MS.	Gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), and northern long-eared bat (*Myotis septentrionalis*).	Alabama, Mississippi, and Tennessee.	Presence/probable absence surveys and contaminant studies.	Capture, handle, identify, radio tag, and release.	Renewal and amendment.

Permit application No.	Applicant	Species	Location	Activity	Type of take	Permit action
ES56515D–2	Leslie Meade; Richmond, KY.	Gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), Ozark big-eared bat (*Corynorhinus townsendii ingens*), and Virginia big-eared bat (*Corynorhinus townsendii virginianus*).	Throughout the ranges of the species.	Presence/probable absence surveys, studies to document habitat use, population monitoring, and impacts of white-nose syndrome or other threats.	Enter hibernacula or maternity roost caves, capture, handle, identify, band, radio tag, collect biological samples, and release.	Renewal and amendment.
ES02166C–4	Zoe Bryant; St. Augustine, FL.	Gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), Ozark big-eared bat (*Corynorhinus townsendii ingens*), and tricolored bat (*Perimyotis subflavus*).	Throughout the ranges of the species.	Presence/probable absence surveys.	Enter hibernacula or maternity roost caves, capture, handle, identify, band, radio tag, and release.	Amendment.
PER16404210–0	Jesse Corey; Raleigh, NC.	Mammals: gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), tricolored bat (*Perimyotis subflavus*), and Virginia big-eared bat (*Corynorhinus townsendii virginianus*); Carolina northern flying squirrel (*Glaucomys sabrinus coloratus*); Salamanders: eastern hellbender (*Cryptobranchus alleganiensis alleganiensis*); Fishes: Carolina madtom (*Noturus furiousus*).	North Carolina ..	Presence/probable absence surveys and mark-recapture surveys.	Bats: enter hibernacula or maternity roost caves, capture, handle, identify, band, radio tag, collect biological samples, and release; Carolina northern flying squirrel: capture, handle, identify, mark, release, and install and maintain nest boxes; Eastern hellbender: capture, mark, collect biological samples, and release; Carolina madtom: capture, handle, identify, and release.	New.
ES100070–4	USDA Forest Service; Double Springs, AL.	Mammals: gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*); Fish: rush darter (*Etheostoma phytophilum*); Black Warrior waterdog (*Necturus alabamensis*); Mussels: dark pigtoe (*Pleurobema furvum*) and triangular kidneyshell (*Ptychobranchus greenii*); Flowering Plants: fleshy-fruit gladecress (*Leavenworthia crassa*).	National Forests in Alabama.	Presence/probable absence surveys, studies to document habitat use, and population monitoring.	Bats: enter hibernacula or maternity roost caves, capture, handle, identify, band, radio tag, collect biological samples, and release; Black Warrior waterdog and rush darter: capture, handle, and release; Mussels: capture, handle, release, and salvage relic shells; Flowering Plants: reduce and remove to possession (collect).	Renewal and amendment.
ES32394A–2	Florida, Department of Environmental Protection; Apopka, FL.	Anastasia Island beach mouse (*Peromyscus polionotus phasma*) and southeastern beach mouse (*Peromyscus polionotus niveiventris*).	Florida	Presence probable absence surveys.	Trap, mark, examine, and release.	Renewal.
ES62026D–4	Catherine Haase; Clarksville, TN.	Gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), tricolored bat (*Perimyotis subflavus*), and northern long-eared bat (*Myotis septentrionalis*).	Kentucky and Tennessee.	Assess bat community structure and habitat use.	Capture, handle, identify, radio tag, and release.	Renewal and amendment.
ES064856–5	Trent Farris; Gulf Shores, AL.	Alabama beach mouse (*Peromyscus polionotus ammobates*), Choctawatchee beach mouse (*Peromyscus polionotus allophrys*), Perdido Key beach mouse (*Peromyscus polionotus trissyllepsis*), and St. Andrew beach mouse (*Peromyscus polionotus peninsularis*).	Alabama and Florida.	Presence/probable absence surveys.	Trap, mark, examine, and release.	Renewal.

Permit application No.	Applicant	Species	Location	Activity	Type of take	Permit action
ES68616B–4	Carla Atkinson; Tuscaloosa, AL.	Mussels: Alabama hickorynut (*Obovaria unicolor*), Alabama lampmussel (*Lampsilis virescens*), Coosa moccasinshell (*Medionidus parvulus*), cracking pearlymussel (*Hemistena lata*), Cumberlandian combshell (*Epioblasma brevidens*), dark pigtoe (*Pleurobema furvum*), fat threeridge (*Amblema neislerii*), finerayed pigtoe (*Fusconaia cuneolus*), fluted kidneyshell (*Ptychobranchus subtentus*), Georgia pigtoe (*Pleurobema hanleyianum*), Gulf moccasinshell (*Medionidus penicillatus*), heavy pigtoe (*Pleurobema taitianum*), oval pigtoe (*Pleurobema pyriforme*), ovate clubshell (*Pleurobema perovatum*), oyster mussel (*Epioblasma capsaeformis*), pale lilliput (*Toxolasma cylindrellus*), ring pink (*Obovaria retusa*), round ebonyshell (*Reginaia rotulata*), round hickorynut (*Obovaria subrotunda*), shiny pigtoe (*Fusconaia cor*), shinyrayed pocketbook (*Hamiota subangulata*), slabside pearlymussel (*Pleuronaia dolabelloides*), snuffbox mussel (*Epioblasma triquetra*), southern clubshell (*Pleurobema decisum*), southern combshell (*Epioblasma penita*), southern pigtoe (*Pleurobema georgianum*), and triangular kidneyshell (*Ptychobranchus greenii*).	Alabama, Georgia, Mississippi, and Tennessee.	Qualitative and quantitative surveys, population monitoring, genomic sampling, and excretion/respiration studies.	Capture, handle, identify, swab, hold temporarily in containers in stream, and release.	Renewal and amendment.
ES146761–4	Big Cypress National Preserve; Ochopee, FL.	Florida panther (*Puma concolor coryi*).	Florida	Population monitoring, occurrence and monitoring, health and disease surveillance, mark, telemetry, tracking surveys and den surveys.	Capture, handle, chemically immobilize, hold temporarily, transport, mark, identify, radio collar, collect biological samples, and release.	Renewal.

Permit application No.	Applicant	Species	Location	Activity	Type of take	Permit action
ES824723–13	Archbold Expeditions, Inc.; Venus, FL.	Birds: Florida grasshopper Sparrow (*Ammodramus Savannarum floridanus*), Florida scrub jay (*Aphelocoma coerulescens*), and red-cockaded woodpecker (*Dryobates borealis*); Reptiles: eastern indigo snake (*Drymarchon couperi*); Flowering Plants: Florida perforate cladonia (*Cladonia perforate*), Garrett's mint (*Dicerandra christmanii*), Lewton's milkworth (*Polygala lewtonii*), and Florida ziziphus (*Ziziphus celata*).	Florida	Population management and monitoring, genetic analyses, studies on habitat use, germination experiments, propagation, and reintroduction.	Florida grasshopper sparrow:capture, band, radio tag,collect biological samples, salvage non-viable eggs, collect eggs and nestlings to be swapped with captive eggs and/or nestlings; Florida scrub jay: capture, band, collect biological samples, radio tag, provide supplemental food, and administer Ivermectin; Red-cockaded woodpecker: capture, collect biological samples, band, radio tag, construct and monitor artificial nest cavities and restrictors, translocate, and salvage non-viable eggs; Eastern indigo snake: capture, handle, take skin swabs, release, and salvage; Flowering Plants: collect seeds, leaves, stem cuttings, and portions of thallus.	Renewal and amendment.
CS12767274	Christopher Knabel; Lexington, KY.	Gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), tricolored bat (*Perimyotis subflavus*), and Virginia big-eared bat (*Corynorhinus townsendii virginianus*).	Throughout the ranges of the species.	Presence/probable absence surveys.	Enter hibernacula or maternity roost caves, capture, handle, identify, band, radio tag, collect biological samples, and release.	New.
ES011542–12	Conservation Fisheries; Knoxville, TN.	Amber darter (*Percina antesella*), Barrens topminnow (*Fundulus julisia*), bluemask darter (*Etheostoma akatulo),* boulder darter (*Etheostoma wapiti*), Cahaba shiner (*Notropis cahabae*), Cape Fear shiner (*Notropis mekistocholas*), chucky madtom (*Noturus crypticus*), Conasauga logperch (*Percina jenkinsi*), Cumberland darter (*Etheostoma susanae*), diamond darter (*Crystallaria cincotta*), duskytail darter (*Etheostoma percnurum*), laurel dace (*Chrosomus saylori*), Palezone shiner (*Notropis albizonatus*), pygmy madtom (*Noturus stanauli*), Roanoke logperch (*Percina rex*), rush darter (*Etheostoma phytophilum*), smoky madtom (*Noturus baileyi*), vermilion darter (*Elassoma chermocki*), and yellowcheek darter (*Etheostoma moorei*).	Alabama, Arkansas, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.	Presence/probable absence surveys, population monitoring, research, and captive propagation.	Capture, handle, identify, and release.	Renewal with amendment.

Permit application No.	Applicant	Species	Location	Activity	Type of take	Permit action
ES697819–7	U.S. Fish and Wildlife Service; Atlanta, GA.	All endangered species in the Southeast Region.	Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Commonwealth of Puerto Rico, and U.S. Virgin Islands.	All activities in furtherance of the U.S. Fish and Wildlife Service's mission to conserve endangered wildlife and plants and the ecosystems upon which they depend.	Conduct take of endangered species of wildlife wherever found and removal and reduction to possession of endangered species of plants from lands under Federal jurisdiction in the Southeast Region.	Renewal.

Public Availability of Comments

Written comments that we receive will become part of the administrative record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Next Steps

After the comment period closes, we will make decisions regarding permit issuance. If we issue any of the requested permits, we will publish a subsequent notice in the **Federal Register**. The notice announcing the permit issuance may be located by searching *https://www.regulations.gov* for the application number listed above in this document. Enter the search exactly as the application number appears above, with spaces and hyphens as necessary. For example, to find information about the potential issuance of Permit No. PER 1234567–0, go to *https://www.regulations.gov* and enter ''PER 1234567–0'' in the Search field.

An interested party opposed to our issuance of a recovery permit may object by following the requirements in 50 CFR 17.22(d). The Service will notify the interested party of the Service's decision on the permit application under that section.

Authority

We publish this notice under section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Christopher Cooley,

Deputy Assistant Regional Director, Ecological Services, USFWS Southeast Region.

[FR Doc. 2025–19172 Filed 9–30–25; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R4–ES–2025–0770; FXES11140400000–256–FF04EF4000]

Receipt of Three Incidental Take Permit Applications for Participation in the General Conservation Plan for the Alabama beach mouse; Categorical Exclusion; Baldwin County, AL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the Fish and Wildlife Service (Service), announce receipt of three separate incidental take permit (ITP) applications under the Endangered Species Act (ESA): New Era Development, LLC; Daniel Kruse; and Tamyara Gryner (applicant/applicants), under the approved general conservation plan (GCP) and final environmental impact statement (FEIS) for the Alabama beach mouse (ABM; *Peromyscus polionotus ammobates*). A GCP is a mechanism that meets the definition of a conservation plan in section 10(a)(1)(B) of the ESA and enables the programmatic permitting and conservation process to address a defined suite of proposed activities over a defined planning area. Each of the applicants request an ITP to take the federally listed ABM incidental to construction in Baldwin County, Alabama. We request public comment on these applications, which include the applicants' proposed habitat conservation plan (HCP) and on the Service's preliminary determination that each of the proposed permitting actions qualifies under the terms of the ABM GCP. We certify that the applications received are statutorily complete and include the necessary information to enroll in the GCP.

DATES: We must receive your written comments on or before October 31, 2025.

ADDRESSES:

Obtaining Documents: The documents this notice announces, as well as any comments and other materials that we receive, will be available for public inspection online in Docket No. FWS–R4–ES–2025–0770 at *https://www.regulations.gov.*

Submitting Comments: If you wish to submit comments on any of the documents, you may do so in writing by one of the following methods:

- *Online: https://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–R4–ES–2025–0770.
- *U.S. mail:* Public Comments Processing, Attn: Docket No. FWS–R4–ES–2025–0770; U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: William Lynn, by U.S. mail (see **ADDRESSES**), by telephone at 1–251–538–2065, or via email at *william_lynn@fws.gov.* Individuals in the United States who are deaf, blind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the Fish and Wildlife Service, announce receipt of an application, under the approved GCP for the Alabama beach mouse from New Era Development, LLC.; Daniel Kruze; and Tamyara Gryner for three separate ITPs under the

Endangered Species Act, as amended (ESA; 16 U.S.C. 1531 *et seq.*). Each applicant requests an ITP to take the federally listed AMB. One applicant seeks to take the ABM incidental to the construction, maintenance, and operation of a single-family home with pool, deck, and driveway while the other two applicants would take ABM incidental to the construction of deck additions and maintenance in Baldwin County, Alabama. We request public comment on the applications, the applicants' HCPs, and on the Service's preliminary determination that these proposed ITPs may qualify for a categorical exclusion under the GCP and FEIS for the AMB published on March 28, 2012 (FWS–R4–ES–2012–N063).

Proposed Projects

Permit Number: PER19850861

New Era Development, LLC requests a 50-year ITP to take ABM via the conversion of 0.099 acres (ac) of occupied nesting, foraging, and sheltering ABM habitat incidental to the construction of a single-family home with a pool on a 0.494 ac parcel located off Ponce de Leon Court in Gulf Shores, Alabama. The applicant proposes to mitigate for the take of ABM through an in-lieu fee of $9,890.00 to the Alabama Coastal Heritage Trust's ABM conservation fund.

Permit Number: PER19846026

Daniel Kruse requests a 50-year ITP to take ABM via the conversion of approximately 0.017 ac of occupied nesting, foraging, and sheltering ABM habitat via the addition of two decks to an existing home on a 0.459 ac lot. The parcel is located at 3495 Ponce de Leon Court in Gulf Shores, Alabama. The applicant proposes to mitigate for the take of ABM through an in-lieu fee of $1,738.30 to the Alabama Coastal Heritage Trust's ABM conservation fund.

Permit Number: PER20137093

Tamyara Gryner requests a 50-year ITP to take ABM via the conversion of approximately 0.007 ac of occupied nesting, foraging, and sheltering ABM habitat via the addition of a deck to an existing home on a 0.453 ac lot. The parcel is located at 2476 Ponce de Leon Court in Gulf Shores, Alabama. The applicant proposes to mitigate for the take of ABM through an in-lieu fee of $690.00 to the Alabama Coastal Heritage Trust's ABM conservation fund.

Our Preliminary Determination

The Service has made preliminary determinations that reasonably foreseeable effects of the applicants' proposed projects would have a minor effect on ABM and the human environment. Therefore, we have made a preliminary determination that each of the proposed ESA section 10(a)(1)(B) permits would meet the requirements of the GCP and FEIS.

Next Steps

The Service will evaluate each application and the comments to determine whether to issue the requested ITPs. We will also conduct an intra-Service consultation on each application pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the preceding and other matters, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, the Service will issue ITP number PER19850861 to New Era Development, LLC., PER19846026 to Daniel Kruse and PER20137093 to Tamyara Gryner.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, be aware that your entire comment, including your personal identifying information, may be made available to the public. If you submit a comment at *https://www.regulations.gov,* your entire comment, including any personal identifying information, will be posted on the website. If you submit a hardcopy comment that includes personal identifying information, such as your address, phone number, or email address, 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. Moreover, all submissions from organizations or businesses and from individuals identifying themselves as representatives or officials of organizations or businesses will be made available for public disclosure in their entirety.

Authority

The Service provides this notice under section 10(c) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.32), NEPA (42 U.S.C. 4321 *et seq.*), and the Department of the Interior's implementing regulations (43 CFR part 46).

William J. Pearson,

Field Supervisor, Alabama Ecological Service Field Office.

[FR Doc. 2025–19170 Filed 9–30–25; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N6570; NPS–WASO–NAGPRA–NPS0041194; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intended Repatriation: California State University Monterey Bay, Seaside, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), California State University Monterey Bay (CSUMB), intends to repatriate certain cultural items that meet the definition of sacred objects/objects of cultural patrimony and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after October 31, 2025.

ADDRESSES: Send additional, written requests for repatriation of the cultural items in this notice to Jordan Leininger, CSUMB, 100 Campus Center, Seaside, CA 93955, email *jelininger@csumb.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of CSUMB, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of two cultural items have been requested for repatriation. The two sacred objects/objects of cultural patrimony are arrowheads. In 2023, two arrowheads were discovered in the College of Science at CSUMB by Jordan Leininger, Cultural Heritage Collections Manager. The items had been donated with minimal documentation. Upon contacting the donor, it was disclosed that the arrowheads had belonged to his late father. The donor was unable to

confirm their origin but suggested they may have come from New Mexico, a state the family frequently visited. There is no known provenance or provenience information available. No hazardous substances are known to have been applied to the items.

Determinations

CSUMB has determined that:

- The two sacred objects/objects of cultural patrimony described in this notice are, according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization, specific ceremonial objects needed by a traditional Native American religious leader for present-day adherents to practice traditional Native American religion, and have ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision).
- There is a connection between the cultural items described in this notice with the Pueblo of San Felipe, New Mexico.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after October 31, 2025. If competing requests for repatriation are received, CSUMB must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. CSUMB is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: September 18, 2025.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2025–19122 Filed 9–30–25; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–738 and 731–TA–1713–1715 (Final)]

Hexamine From Germany, India, and Saudi Arabia; Supplemental Schedule for the Final Phase of Countervailing Duty and Antidumping Duty Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

DATES: September 23, 2025.

FOR FURTHER INFORMATION CONTACT: Charles Cummings (202–708–1666), 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 at 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: Effective May 6, 2025, the Commission established a general schedule for the conduct of the final phase of its countervailing duty and antidumping duty investigations on hexamethylenetetramine (''hexamine'') from China, Germany, India, and Saudi Arabia (90 FR 21948, May 22, 2025, and as revised in 90 FR 31241, July 14, 2025), following preliminary determinations by the U.S. Department of Commerce (''Commerce'') that imports of hexamine from China were being subsidized by the government of China (90 FR 19182, May 6, 2025) and that imports of hexamine from China were being sold in the United States at less than fair value (90 FR 11508, March 7, 2025). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on May 22, 2025 (90 FR 21948). The Commission conducted its hearing on July 18, 2025. All persons who requested the opportunity were permitted to participate.

Commerce has issued final affirmative countervailing duty and antidumping duty determinations with respect to hexamine from China (90 FR 33923 and 33922, July 18, 2025). The Commission subsequently issued its final determinations that an industry in the United States was materially injured by reason of imports of hexamine from China provided for in subheading 2933.69.50 of the Harmonized Tariff Schedule of the United States (''HTSUS'') that have been found by Commerce to be subsidized by the government of China and sold in the United States at less than fair value (90 FR 43234, September 8, 2025).

Commerce has issued final affirmative countervailing duty determinations with respect to imports of hexamine from India (90 FR 45720, September 23, 2025) and antidumping duty determinations with respect to imports of hexamine from Germany, India, and Saudi Arabia (90 FR 45728, 45725, and 45723, September 23, 2025). Accordingly, the Commission is currently issuing a supplemental schedule for its countervailing duty investigation on imports of hexamine from India and its antidumping duty investigations on imports of hexamine from Germany, India, and Saudi Arabia.

This supplemental schedule is as follows: the deadline for filing supplemental party comments on Commerce's final countervailing duty and antidumping duty determinations is 5:15 p.m. on October 3, 2025. Supplemental party comments may address only Commerce's final countervailing duty determinations regarding imports of hexamine from India and Commerce's final antidumping duty determinations regarding imports of hexamine from Germany, India, and Saudi Arabia. These supplemental final comments may not contain new factual information and may not exceed five (5) pages in length. The supplemental staff report in the final phase of the current investigations will be placed in the nonpublic record on October 17, 2025, and a public version will be issued thereafter.

For further information concerning this proceeding see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A and B

(19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov.*) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

Authority: This proceeding is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: September 29, 2025.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2025–19165 Filed 9–30–25; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1046 (Fourth Review)]

Tetrahydrofurfuryl Alcohol From China; Institution of a Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to the Tariff Act of 1930, as amended, to determine whether revocation of the antidumping duty order on tetrahydrofurfuryl alcohol from China would be likely to lead to continuation or recurrence of material injury. Pursuant to the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission.

DATES: Instituted October 1, 2025. To be assured of consideration, the deadline for responses is October 31, 2025. Comments on the adequacy of responses may be filed with the Commission by December 11, 2025.

FOR FURTHER INFORMATION CONTACT: Alec Resch (202–708–1448), 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 August 6, 2004, the Department of Commerce (''Commerce'') issued an antidumping duty order on imports of tetrahydrofurfuryl alcohol from China (69 FR 47911). Commerce issued a continuation of the antidumping duty order on imports of tetrahydrofurfuryl alcohol from China following Commerce's and the Commission's first five-year reviews, effective December 16, 2009 (74 FR 66616), second five-year reviews, effective April 16, 2015 (80 FR 20470), and third five-year reviews, effective November 9, 2020 (85 FR 71321). The Commission is now conducting a fourth review pursuant to section 751(c) of the Act, as amended (19 U.S.C. 1675(c)), to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. Provisions concerning the conduct of this proceeding may be found in the Commission's Rules of Practice and Procedure at 19 CFR part 201, subparts A and B, and 19 CFR part 207, subparts A and F. The Commission will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full or expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by Commerce.

(2) The *Subject Country* in this review is China.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determination and its expedited first, second, and third five-year review determinations, the Commission defined a single *Domestic Like Product* consisting of all domestically produced tetrahydrofurfuryl alcohol coextensive with Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination and its expedited first, second, and third five-year review determinations, the Commission defined the *Domestic Industry* as all U.S. producers of tetrahydrofurfuryl alcohol.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the proceeding and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of

18 U.S.C. 207, the post-employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Charles Smith, Office of the General Counsel, at 202–205–3408.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that information submitted in response to this request for information and throughout this proceeding or other proceeding may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Written submissions.—Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is 5:15 p.m. on October 31, 2025. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is 5:15 p.m. on December 11, 2025. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings. Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

Please note the Secretary's Office will accept only electronic filings at this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

No response to this request for information is required if a currently valid Office of Management and Budget (''OMB'') number is not displayed; the OMB number is 3117 0016/USITC No. 25–5–655, expiration date June 30, 2026. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436.

Inability to provide requested information.—Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to § 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determination in the review.

Information to be Provided in Response to this Notice of Institution: As used below, the term ''firm'' includes any related firms.

Those responding to this notice of institution are encouraged, but not required, to visit the USITC's website at *https://usitc.gov/reports/response_noi_worksheet,* where one can download and complete the ''NOI worksheet'' Excel form for the subject proceeding, to be included as attachment/exhibit 1 of your overall response.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is an interested party under 19 U.S.C. 1677(9) and if so, how, including whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association (a majority of whose members are interested parties under the statute), or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in § 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2019.

(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 2024 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 the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2024 (report quantity data in pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2024 (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 the *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in the *Subject Country* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* after 2019 and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country,* and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This proceeding is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.61 of the Commission's rules.

By order of the Commission.

Issued: September 24, 2025.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2025–19129 Filed 9–30–25; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–459 and 731–TA–1155 (Third Review)]

Commodity Matchbooks From India; 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, as amended, to determine whether

revocation of the countervailing and antidumping duty orders on commodity matchbooks from India would be likely to lead to continuation or recurrence of material injury. Pursuant to the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission.

DATES: Instituted October 1, 2025. To be assured of consideration, the deadline for responses is October 31, 2025. Comments on the adequacy of responses may be filed with the Commission by December 11, 2025.

FOR FURTHER INFORMATION CONTACT: Juan Carlos Pena Flores (202–205–3169), 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 December 11, 2009, the Department of Commerce (''Commerce'') issued antidumping and countervailing duty orders on imports of commodity matchbooks from India (74 FR 65737 and 65740). Commerce issued a continuation of the antidumping and countervailing duty orders on imports of commodity matchbooks from India following Commerce's and the Commission's first five-year reviews, effective April 30, 2015 (80 FR 24232), and second five-year reviews, effective November 9, 2020 (85 FR 71321). The Commission is now conducting its third five-year reviews pursuant to section 751(c) of the Act, as amended (19 U.S.C. 1675(c)), to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. Provisions concerning the conduct of this proceeding may be found in the Commission's Rules of Practice and Procedure at 19 CFR part 201, subparts A and B, and 19 CFR part 207, subparts A and F. The Commission will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by Commerce.

(2) The *Subject Country* in these reviews is India.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determinations and its expedited first and second five-year review determinations, the Commission found a single *Domestic Like Product* comprised of commodity matchbooks 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 and its expedited first and second five-year review determinations, the Commission defined the *Domestic Industry* as all U.S. producers of commodity matchbooks.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the proceeding and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post-employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Charles Smith, Office of the General Counsel, at 202–205–3408.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that information submitted in response to this request for information and throughout this proceeding or other proceeding may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will

sign appropriate nondisclosure agreements.

Written submissions.—Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is 5:15 p.m. on October 31, 2025. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is 5:15 p.m. on December 11, 2025. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings. Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

Please note the Secretary's Office will accept only electronic filings at this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

No response to this request for information is required if a currently valid Office of Management and Budget (''OMB'') number is not displayed; the OMB number is 3117 0016/USITC No. 25–5–656, expiration date June 30, 2026. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436.

Inability to provide requested information.—Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to § 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determinations in the reviews.

Information to be Provided in Response to this Notice of Institution: As used below, the term ''firm'' includes any related firms.

Those responding to this notice of institution are encouraged, but not required, to visit the USITC's website at *https://usitc.gov/reports/response_noi_worksheet,* where one can download and complete the ''NOI worksheet'' Excel form for the subject proceeding, to be included as attachment/exhibit 1 of your overall response.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is an interested party under 19 U.S.C. 1677(9) and if so, how, including whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandi*se, a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association (a majority of whose members are interested parties under the statute), or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping and countervailing duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2019.

(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 2024, except as noted (report quantity data in cases of matchbooks and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit,

(iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2024 (report quantity data in cases of matchbooks 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 and countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2024 (report quantity data in cases of matchbooks and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping and/or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in the *Subject Country* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* after 2019, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country,* and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This proceeding is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.61 of the Commission's rules.

By order of the Commission.

Issued: September 24, 2025.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2025–19127 Filed 9–30–25; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1203 (Rescission)]

Certain Rolled-Edge Rigid Plastic Food Trays; Notice of Commission Determination to Permanently Rescind a Limited Exclusion Order; Termination of the Rescission Proceeding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to permanently rescind a limited exclusion order (''LEO'') issued in the underlying investigation. The rescission proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Robert Needham, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–5468. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: On June 23, 2020, the Commission instituted this investigation based on a complaint filed on behalf of Clearly Clean Products, LLC of South Windsor, Connecticut, and Converter Manufacturing, LLC of Orwigsburg, Pennsylvania (together, ''Complainants''). 85 FR 37689–90 (Jun. 23, 2020). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain rolled-edge rigid plastic food trays that infringe claim 9 of U.S. Patent No. 9,908,281 (''the '281 patent'') and claims 1, 12, 20, and 21 of U.S. Patent No. 10,562,680 (''the '680 patent''). *Id.* at 37689–90. The complaint also alleged that a domestic industry exists. *Id.* at 37689. The Commission's notice of investigation named as respondents Eco Food Pak (USA), Inc. of Chino,

California (''Eco Food Pak''), and Ningbo Linhua Plastic Co., Ltd. of Xiwu, China (''Ningbo Linhua Plastic''). *Id.* at 37690. The Office of Unfair Import Investigations participated in this investigation. *Id.*

The investigation was terminated with respect to Eco Food Pak based on the entry of a consent order. Order No. 6 (Oct. 1, 2020), *unreviewed by* Comm'n Notice (Oct. 20, 2020).

On October 6, 2020, the Commission found Ningbo Linhua Plastic in default for failing to respond to the complaint, the notice of investigation, and an order to show cause why it should not be found in default. Order No. 7 (Oct. 6, 2020), *unreviewed by* Comm'n Notice (Oct. 20, 2020). On February 25, 2021, the Commission issued a LEO against Ningbo Linhua Plastic with respect to claim 9 of the '281 patent and claims 1, 12, 20, and 21 of the '680 patent, and terminated the investigation.

On December 4, 2024, Ningbo Linhua Plastic filed a petition to rescind the LEO because the subject patent claims were found unpatentable by the United States Patent and Trademark Office's (''USPTO'') Patent Trial and Appeal Board (''PTAB''). Ningbo Linhua Plastic provided the PTAB's final written decisions that found, *inter alia,* that claim 9 of the '281 patent and claims 1, 12, 20, and 21 of the '680 patent are unpatentable, as well as the U.S. Court of Appeals for the Federal Circuit's affirmances of those final written decisions and denials of en banc review. Ningbo Linhua Plastic asserted that the unpatentability of the patent claims in the limited exclusion order was final and unappealable and constituted a changed circumstance that warranted rescission of the limited exclusion order pursuant to 35 U.S.C. 1337(k)(1) and 19 CFR 210.76.

On December 13, 2024, Complainants filed a response opposing the rescission of the LEO. Complainants argued that the patent claims are valid until the USPTO cancels the claims, which cannot occur until after the time for filing a petition for writ of certiorari expires or the completion of a U.S. Supreme Court appeal.

On January 3, 2025, the Commission instituted a rescission proceeding and temporarily suspended enforcement of the LEO pending the outcome of Complainants' appeal. On May 27, 2025, the U.S. Supreme Court denied Complainants' petition for writ of certiorari. On June 26, 2025, the USPTO issued an Inter Partes Review Certificate canceling, *inter alia,* claims 1, 12, 20, and 21 of the '680 patent. On July 8, 2025, the USPTO issued an Inter Partes Review Certificate canceling, *inter alia,* claim 9 of the '281 patent.

The Commission has determined to permanently rescind the LEO. Commission LEOs continue until the conditions that led to the LEO no longer exist or the respondent is no longer in violation of section 337. 19 U.S.C. 1337(k)(1) and (2). Here, the Commission issued the LEO based on the presumption that claim 9 of the '281 patent and claims 1, 12, 20, and 21 of the '680 patent were valid, but the USPTO's cancellation of those claims demonstrates that the condition of validity no longer exists and that Ningo Linhua Plastic no longer violates section 337. The Commission also finds that the requirements of Commission Rule 210.76(a) (19 CFR 210.76(a)) are satisfied. The rescission proceeding is hereby terminated.

The Commission vote for this determination took place on September 26, 2025.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.
Issued: September 26, 2025.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2025–19087 Filed 9–30–25; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1229–1230 (Second Review)]

Monosodium Glutamate From China and Indonesia; 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, as amended, to determine whether revocation of the antidumping duty orders on monosodium glutamate (''MSG'') from China and Indonesia would be likely to lead to continuation or recurrence of material injury. Pursuant to the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission.

DATES: Instituted October 1, 2025. To be assured of consideration, the deadline for responses is October 31, 2025. Comments on the adequacy of responses may be filed with the Commission by December 11, 2025.

FOR FURTHER INFORMATION CONTACT: Rachel Devenney (202–205–3172), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.— On November 26, 2014, the Department of Commerce (''Commerce'') issued antidumping duty orders on imports of MSG from China and Indonesia (79 FR 70505). Following the first, full five-year reviews by Commerce and the Commission, effective November 9, 2020, Commerce issued a continuation of the antidumping duty orders on imports of MSG from China and Indonesia (85 FR 71318). The Commission is now conducting its second reviews pursuant to section 751(c) of the Act, as amended (19 U.S.C. 1675(c)), to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. Provisions concerning the conduct of this proceeding may be found in the Commission's Rules of Practice and Procedure at 19 CFR part 201, subparts A and B, and 19 CFR part 207, subparts A and F. The Commission will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by Commerce.

(2) The *Subject Countries* in these reviews are China and Indonesia.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determinations and its first, full five-year review determinations, the Commission defined a single *Domestic Like Product* consisting of all MSG, 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 and first, full five-year review determinations, the Commission defined the *Domestic Industry* to encompass the sole U.S. producer of MSG, namely Ajinomoto North America, Inc.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the proceeding and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post-employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Charles Smith, Office of the General Counsel, at 202–205–3408.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that information submitted in response to this request for information and throughout this proceeding or other proceeding may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Written submissions.—Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is 5:15 p.m. on October 31, 2025. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is 5:15 p.m. on December 11, 2025. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings. Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

Please note the Secretary's Office will accept only electronic filings at this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

No response to this request for information is required if a currently valid Office of Management and Budget (''OMB'') number is not displayed; the OMB number is 3117 0016/USITC No. 25–5–657, expiration date June 30, 2026. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436.

Inability to provide requested information.—Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse

inference against the party pursuant to § 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determinations in these reviews.

Information to be Provided in Response to this Notice of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country;* or produce *Subject Merchandise* in more than one *Subject Country,* you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country.* As used below, the term ''firm'' includes any related firms.

Those responding to this notice of institution are encouraged, but not required, to visit the USITC's website at *https://usitc.gov/reports/response_noi_worksheet,* where one can download and complete the ''NOI worksheet'' Excel form for the subject proceeding, to be included as attachment/exhibit 1 of your overall response.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is an interested party under 19 U.S.C. 1677(9) and if so, how, including whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandi*se, 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 2019.

(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 2024, except as noted (report quantity data in pounds dry weight MSG 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 2024 (report quantity data in pounds dry weight MSG and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from each *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from each *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in any *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2024 (report quantity data in pounds dry weight MSG 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 2019, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in each *Subject Country,* and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This proceeding is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.61 of the Commission's rules.

By order of the Commission.

Issued: September 24, 2025.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2025–19126 Filed 9–30–25; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–432 and 731–TA–1024–1028 (Fourth Review) and AA1921–188 (Sixth Review)]

Prestressed Concrete Steel Wire Strand From Brazil, India, Japan, Mexico, South Korea, and Thailand; 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, as amended, to determine whether revocation of the antidumping duty orders on prestressed concrete steel wire strand (''PC strand'') from Brazil, India, Mexico, South Korea, and Thailand, and the antidumping finding on PC strand from Japan, as well as revocation of the countervailing duty order on PC strand from India, would be likely to lead to continuation or recurrence of material injury. Pursuant to the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission.

DATES: Instituted October 1, 2025. To be assured of consideration, the deadline for responses is October 31, 2025. Comments on the adequacy of responses may be filed with the Commission by December 11, 2025.

FOR FURTHER INFORMATION CONTACT: Jesse Sanchez (202–205–2402), 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 December 8, 1978, the Department of the Treasury issued an antidumping finding on imports of PC strand from Japan (43 FR 57599). The Department of Commerce (''Commerce'') issued a continuation of the antidumping finding on imports of PC strand from Japan following Commerce's and the Commission's first five-year reviews, effective February 3, 1999 (64 FR 40554, July 27, 1999), and second five-year reviews, effective June 25, 2004 (69 FR 35584). On January 28, 2004, Commerce issued antidumping duty orders on imports of PC strand from Brazil, India, Mexico, South Korea, and Thailand (69 FR 4109–4113). On February 4, 2004, Commerce issued a countervailing duty order on imports of PC strand from India (69 FR 5319). In 2009, the Commission conducted grouped first five-year reviews of the antidumping duty orders on imports of PC strand from Brazil, India, Mexico, South Korea, and Thailand; the first five-year review of the countervailing duty order on imports of PC strand from India; and the third five-year review of the antidumping finding on imports of PC strand from Japan (''2009 reviews''). Following the Commission's 2009 reviews, Commerce issued a continuation of the antidumping duty orders on imports of PC strand from Brazil, India, Mexico, South Korea, and Thailand; the countervailing duty order on imports of PC strand from India; and the antidumping finding on imports of PC strand from Japan, effective December 11, 2009 (74 FR 65739). Following the Commission's grouped second five-year reviews of the antidumping duty orders on imports of PC strand from Brazil, India, Mexico, South Korea, and Thailand; the second five-year review of the countervailing duty order on imports of PC strand from India; and the fourth five-year review of the antidumping finding on imports of PC strand from Japan (''2015 reviews''), Commerce issued a continuation of the antidumping duty orders on imports of PC strand from Brazil, India, Mexico, South Korea, and Thailand; the countervailing duty order on imports of PC strand from India; and the antidumping finding on imports of PC strand from Japan, effective April 23, 2015 (80 FR 22708). Following the Commission's grouped third five-year reviews of the antidumping duty orders on imports of PC strand from Brazil, India, Mexico, South Korea, and Thailand; the third five-year review of the countervailing duty order on imports of PC strand from India; and the fifth five-year review of the antidumping finding on imports of PC strand from Japan (''2020 reviews''), Commerce issued a continuation of the antidumping duty orders on imports of PC strand from Brazil, India, Mexico, South Korea, and Thailand; the countervailing duty order on imports of PC strand from India; and the antidumping finding on imports of PC strand from Japan, effective November

9, 2020 (85 FR 71311). The Commission is now conducting grouped fourth five-year reviews of the antidumping duty orders on imports of PC strand from Brazil, India, Mexico, South Korea, and Thailand; the fourth five-year review of the countervailing duty order on imports of PC strand from India; and the sixth five-year review of the antidumping finding on imports of PC strand from Japan pursuant to section 751(c) of the Act, as amended (19 U.S.C. 1675(c)), to determine whether revocation would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. Provisions concerning the conduct of this proceeding may be found in the Commission's Rules of Practice and Procedure at 19 CFR part 201, subparts A and B, and 19 CFR part 207, subparts A and F. The Commission will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by Commerce.

(2) The *Subject Countries* in these reviews are Brazil, India, Japan, Mexico, South Korea, and Thailand.

(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 expedited first and second five-year reviews of the antidumping finding concerning Japan, the Commission found that the appropriate definition of the *Domestic Like Product* was the same as Commerce's scope: all steel wire strand, other than alloy steel, not galvanized, which has been stress-relieved and is suitable for use in prestressed concrete. (The Commission did not explicitly make a like product determination in its original determination concerning Japan.) In its original determinations concerning Brazil, India, Mexico, South Korea, and Thailand, the Commission found the *Domestic Like Product* to be all PC strand co-extensive with Commerce's scope, that is, steel strand produced from wire of non-stainless, non-galvanized steel that is suitable for use in prestressed concrete (both pre-tensioned and post-tensioned) applications and that encompasses covered and uncovered strand and all types, grades, and diameters of PC strand. In its grouped full 2009 review determinations, its grouped expedited 2015 review determinations, and its grouped expedited 2020 review determinations, the Commission defined the *Domestic Like Product* consistent with its prior determinations, that is, steel strand produced from wire of non-stainless, non-galvanized steel that is suitable for use in prestressed concrete (both pre-tensioned and post-tensioned) applications and that encompasses covered and uncovered strand and all types, grades, and diameters of PC strand. The Commission recognized that the description of the scope of the finding concerning Japan and the scope of the orders concerning Brazil, India, Mexico, South Korea, and Thailand differed in a number of technical respects but found that those differences lacked significance.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination and its expedited first and second reviews of the antidumping finding concerning Japan, the Commission defined the *Domestic Industry* as all producers of PC strand. Likewise, in its original determinations concerning Brazil, India, Mexico, South Korea, and Thailand, the Commission found the *Domestic Industry* to be all producers of PC strand. The Commission also determined that plastic coating did not constitute sufficient production-related activity to qualify coaters as members of the domestic industry producing PC strand. In its grouped full 2009 review determinations, its grouped expedited 2015 review determinations, and its grouped 2020 review determinations, the Commission defined the *Domestic Industry* to include all producers of the *Domestic Like Product.*

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the proceeding and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post-employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Charles Smith, Office of the General Counsel, at 202–205–3408.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter

will acknowledge that information submitted in response to this request for information and throughout this proceeding or other proceeding may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Written submissions.—Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is 5:15 p.m. on October 31, 2025. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is 5:15 p.m. on December 11, 2025. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings. Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

Please note the Secretary's Office will accept only electronic filings at this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

No response to this request for information is required if a currently valid Office of Management and Budget (''OMB'') number is not displayed; the OMB number is 3117 0016/USITC No. 25–5–654, expiration date June 30, 2026. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436.

Inability to provide requested information.—Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to § 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determinations in the reviews.

Information to be Provided in Response to this Notice of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country;* or produce *Subject Merchandise* in more than one *Subject Country,* you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country.* As used below, the term ''firm'' includes any related firms.

Those responding to this notice of institution are encouraged, but not required, to visit the USITC's website at *https://usitc.gov/reports/response_noi_worksheet,* where one can download and complete the ''NOI worksheet'' Excel form for the subject proceeding, to be included as attachment/exhibit 1 of your overall response.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is an interested party under 19 U.S.C. 1677(9) and if so, how, including whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandi*se, 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 finding/orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in § 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in each *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2019.

(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 2024, 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 2024 (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 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 2024 (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 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 2019 and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in each *Subject Country,* and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This proceeding is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.61 of the Commission's rules.

By order of the Commission.

Issued: September 24, 2025.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2025–19130 Filed 9–30–25; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Surplus Area Classification

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The purpose of this notice is to announce the annual Labor Surplus Area (LSA) list for Fiscal Year (FY) 2026.

DATES: The annual LSA list is effective October 1, 2025, for all States, the District of Columbia, and Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Kyle DeMaria, Office of Policy Development and Research, or Donald Haughton, Office of Workforce Investment. Employment and Training Administration, 200 Constitution Avenue NW, Room N–5641, Washington, DC 20210. Email: Kyle DeMaria, *demaria.kyle.b@dol.gov*, or Donald Haughton, *haughton.donald.w@dol.gov.*

SUPPLEMENTARY INFORMATION: The Department of Labor (DOL)'s regulations implementing Executive Orders 12073 and 10582 are set forth at 20 CFR part 654, subpart A. These regulations require the DOL's Employment and Training Administration (ETA) to classify jurisdictions as LSAs pursuant to the criteria specified in the regulations, and to publish annually a list of LSAs. Pursuant to those regulations, ETA is hereby publishing the annual LSA list.

In addition, the regulations provide exceptional circumstance criteria for classifying LSAs when catastrophic events, such as natural disasters, plant closings, and contract cancellations are expected to have a long-term impact on

labor market area conditions, discounting temporary or seasonal factors.

Eligible Labor Surplus Areas

A LSA is a civil jurisdiction that has a civilian average annual unemployment rate during the previous two calendar years of 20 percent or more above the average annual civilian unemployment rate for all states during the same 24-month reference period. ETA uses only official unemployment estimates provided by the Bureau of Labor Statistics in making these classifications. The average unemployment rate for all states includes data for the District of Columbia, and the Commonwealth of Puerto Rico. The LSA classification criteria stipulate a civil jurisdiction must have a ''floor unemployment rate'' of 6 percent or higher to be classified an LSA. Any civil jurisdiction that has a ''ceiling unemployment rate'' of 10 percent or higher is classified an LSA.

Civil jurisdictions are defined as follows:

1. A city of at least 25,000 population on the basis of the most recently available estimates from the Bureau of the Census; or

2. A town or township in the States of Michigan, New Jersey, New York, or Pennsylvania of 25,000 or more population and which possess powers and functions similar to those of cities; or

3. All counties, except for those counties which contain any type of civil jurisdictions defined in ''1'' or ''2'' above; or

4. A ''balance of county'' consisting of a county less any component cities and townships identified in ''1'' or ''2'' above; or

5. A county equivalent which is a town in the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont or a municipio in the Commonwealth of Puerto Rico.

Procedures for Classifying Labor Surplus Areas

DOL issues the LSA list on a fiscal year basis. The list becomes effective each October 1 and remains in effect through the following September 30. The reference period used in preparing the current list was January 2023 through December 2024. The national average unemployment rate (including Puerto Rico) during this period is rounded to 3.84 percent. Twenty percent higher than the national unemployment rate during this period is rounded to 4.61 percent. Since this percent is below the floor rate, the qualifying rate is 6 percent.

To ensure that all areas classified as labor surplus meet the requirements, when a city is part of a county and meets the unemployment qualifier as a LSA, that city is identified in the LSA list. The balance of county, not the entire county, will be identified as a LSA if the balance of county also meets the LSA unemployment criteria. The data on the current and previous years' LSAs are available at *www.dol.gov/agencies/eta/lsa.*

Petition for Exceptional Circumstance Consideration

The classification procedures also provide criteria for the designation of LSAs under exceptional circumstances criteria. These procedures permit the regular classification criteria to be waived when an area experiences a significant increase in unemployment which is not temporary or seasonal and which was not reflected in the data for the 2-year reference period. Under the program's exceptional circumstance procedures, LSA classifications can be made for civil jurisdictions, Metropolitan Statistical Areas, or Combined Statistical Areas, as defined by the U.S. Office of Management and Budget (OMB). In order for an area to be classified as a LSA under the exceptional circumstance criteria, the State Workforce Agency must submit a petition requesting such classification to the ETA. The current criteria for an exceptional circumstance classification are:

1. An area's unemployment rate is at least 6 percent for each of the three most recent months; and

2. A projected unemployment rate of at least 6 percent for each of the next 12 months because of an event.

When submitting such a petition, the State Workforce Agency must provide documentation that the exceptional circumstance event has occurred. The State Workforce Agency may file petitions on behalf of civil jurisdictions, Metropolitan Statistical Areas, or Micropolitan Statistical Areas.

State Workforce Agencies may submit petitions in electronic format to *demaria.kyle.b@dol.gov*, *haughton.donald.w@dol.gov*, or in hard copy to the U.S. Department of Labor, Employment and Training Administration, Office of Policy Development and Research, 200 Constitution Avenue NW, Room N–5641, Washington, DC 20210. Data collection for the petition is approved under OMB 1205–0207, expiration date May 31, 2026.

Susan Frazier,

Acting Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2025–19136 Filed 9–30–25; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; National Longitudinal Survey of Youth 2027 Pre-Test

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Bureau of Labor Statistics (BLS)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before October 31, 2025.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Nicole Bouchet by telephone at 202–693–0213, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The NLSY27 Pretest will include a purposive sample of youth aged 11–16 as of December 31, 2025, and their parents/caregivers. It will collect data for one extended quarter, or 17 weeks.

This Pretest will provide critical information to the BLS to ensure the success of the NLSY27's first round of collection, and in turn, the success of the future of the NLSY27 over the many subsequent rounds that are anticipated. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on April 24, 2025 (90 FRN 17262).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

Agency: DOL–BLS.

Title of Collection: National Longitudinal Survey of Youth 2027 Pre-Test.

OMB Control Number: 1220–0NEW.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 6,088.

Total Estimated Number of Responses: 9,118.

Total Estimated Annual Time Burden: 2,651 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nicole Bouchet,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2025–19134 Filed 9–30–25; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; High-Voltage Continuous Mining Machines Standards for Underground Coal Mines

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Mine Safety and Health Administration (MSHA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before October 31, 2025.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Michael Howell by telephone at 202–693–6782, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This information collection maintains the safe use of high-voltage continuous mining machines (HVCMMs) in underground coal mines by requiring testing, examination and maintenance on machines to reduce fire, electrical shock, ignition and operation hazards. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on July 3, 2025 (90 FR 29579).

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

Agency: DOL–MSHA.

Title of Collection: High-Voltage Continuous Mining Machines Standards for Underground Coal Mines.

OMB Control Number: 1219–0140.

Affected Public: Private Sector.

Number of Respondents: 3.

Number of Responses: 4070.

Annual Burden Hours: 124 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Michael Howell,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2025–19135 Filed 9–30–25; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Displaced Worker, Job Tenure, and Occupational Mobility Supplement to CPS

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Bureau of Labor Statistics (BLS)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before October 31, 2025.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Nicole Bouchet by telephone at 202–693–0213, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The Displaced Worker, Job Tenure, and Occupational Mobility Supplement provides information on people who

have lost or left jobs because their plant or company closed or moved, there was insufficient work for them to do, or their position or shift was abolished. It also gathers the number of years workers have been with their current employer and the economic impact of tenure. The information can be used to assess employment stability, displacement levels, occupational change over the year, and the need for, and scope of, programs serving adult displaced workers. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on July 25, 2025 (90 FRN 35318).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

Agency: DOL–BLS.

Title of Collection: Displaced Worker, Job Tenure, and Occupational Mobility Supplement to CPS.

OMB Control Number: 1220–0104.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 40,000.

Total Estimated Number of Responses: 40,000.

Total Estimated Annual Time Burden: 1,333 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nicole Bouchet,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2025–19137 Filed 9–30–25; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Notice of Termination, Peace Corps Volunteer Authorization for Examination and/or Treatment

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Office of Workers' Compensation Programs (OWCP)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before December 31, 2025.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Nicole Bouchet by telephone at 202–693–0213, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: OWCP administers the Federal Employees' Compensation Act (FECA). A Peace Corps Volunteer who sustains an injury or contracts an illness overseas while in Peace Corps service may be entitled to benefits under the FECA. DOL authorizes the Peace Corps to furnish medical benefits to a volunteer, who is injured during the volunteer's period of service, for a period of 120 days following termination if the service volunteer's injury meets requirements. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on June 5, 2025 (90 FR 23962).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. See 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–OWCP.

Title of Collection: Peace Corps Volunteer Authorization for Examination and/or Treatment.

OMB Control Number: 1240–0059.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 48.

Total Estimated Number of Responses: 48.

Total Estimated Annual Time Burden: 12 hours.

Total Estimated Annual Other Costs Burden: $10.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nicole Bouchet,

Senior PRA Analyst.

[FR Doc. 2025–19133 Filed 9–30–25; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Information Collection Activities; Comment Request

AGENCY: Bureau of Labor Statistics, Department of Labor.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the ''The Consumer Expenditure Surveys:

The Interview and the Diary.'' A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section of this notice on or before December 1, 2025.

ADDRESSES: Send comments to Nora Kincaid, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, 4600 Silver Hill Road, Washington, DC 20212–0002. Written comments also may be transmitted by email to *BLS_PRA_Public@bls.gov.*

FOR FURTHER INFORMATION CONTACT: Nora Kincaid, BLS Clearance Officer, at 202–691–7628 (this is not a toll-free number). (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The Consumer Expenditure (CE) Surveys collect data on consumer expenditures, demographic information, and related data needed by the Consumer Price Index (CPI) and other public and private data users. The continuing surveys provide a constant measurement of changes in consumer expenditure patterns for economic analysis and to obtain data for future CPI revisions. The CE Surveys have been ongoing since 1979. The data from the CE Surveys are used (1) for CPI revisions, (2) to provide a continuous flow of data on income and expenditure patterns for use in economic analysis and policy formulation, and (3) to provide a flexible consumer survey vehicle that is available for use by other Federal Government agencies. Public and private users of price statistics, including Congress and the economic policymaking agencies of the Executive branch, rely on data collected in the CPI in their day-to-day activities. Hence, data users and policymakers widely accept the need to improve the process used for revising the CPI. If the CE Surveys were not conducted on a continuing basis, current information necessary for more timely, as well as more accurate, updating of the CPI would not be available. In addition, data would not be available to respond to the continuing demand from the public and private sectors for current information on consumer spending.

In the Interview Survey, each consumer unit (CU) in the sample is interviewed every three months over four calendar quarters. The sample for each quarter is divided into three panels, with CUs being interviewed every three months in the same panel of every quarter. The Interview Survey is designed to collect data on the types of expenditures that respondents can be expected to recall for a period of three months or longer. In general, the expenses reported in the Interview Survey are either relatively large, such as property, automobiles, or major appliances, or are expenses which occur on a fairly regular basis, such as rent, utility bills, or insurance premiums.

The Diary (or recordkeeping) Survey is completed at home by the respondent family for two consecutive one-week periods. The primary objective of the Diary Survey is to obtain expenditure data on small, frequently purchased items which normally are difficult to recall over longer periods of time.

II. Current Action

Office of Management and Budget clearance is being sought to continue the Consumer Expenditure Surveys: The Interview and the Diary and to make modifications to both.

In the CE Interview Survey, wording changes have been made to clarify answer choices and add examples in the Owned Living Quarters, Appliances, Home Furnishings, Vehicle Operating Expenses, Subscriptions, Memberships, Books, and Entertainment Expenses, Miscellaneous Expenses, and Expense Patterns sections. In the last section of the survey, several questions that assess respondent burden, survey length, time taken by interviewer, and record use which are only used for research have been removed.

Additionally, wording and design changes were made to update the advance letters for the Interview and Diary Surveys to improve readability and clarity. An addition to the paper version an online version has been added for the Information Booklet that provides examples to aid respondent reporting. The Online Information Booklet, which is available on the Census CE web page will allow respondents to access the Information Booklet on their own devices.

III. Desired Focus of Comments

The Bureau of Labor Statistics 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.
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Title of Collection: The Consumer Expenditure Surveys: The Quarterly Interview and the Diary.

OMB Number: 1220–0050.

Type of Review: Revision.

Affected Public: Individuals or Households.

Form	Total respondents	Frequency	Total responses	Average time per response	Estimated total burden
CE Interview Survey	4,250	4	17,000	67	18,983
CE Interview Survey Reinterview	2,040	1	2,040	10	340
CE Diary Survey Recordkeeping	5,700	2	11,400	60	11,400
CE Diary Survey Interview	5,700	2	11,400	19	3,610
CE Diary Survey Reinterview	1,653	1	1,653	10	276
Totals	9,950		43,493		34,609

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 also will become a matter of public record.

Signed on September 26, 2025.

Eric Molina,

Chief, Division of Management Systems, Branch of Policy Analysis.

[FR Doc. 2025–19131 Filed 9–30–25; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Information Collection Activities; Comment Request

AGENCY: Bureau of Labor Statistics, Department of Labor.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed extension of the ''Occupational Requirements Survey.'' A copy of the proposed information collection request can be obtained by contacting the individual listed below in the Addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the Addresses section of this notice on or before December 1, 2025.

ADDRESSES: Send comments to Nora Kincaid, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, by email to *BLS_PRA_Public@bls.gov.*

FOR FURTHER INFORMATION CONTACT: Nora Kincaid, BLS Clearance Officer, at 202–691–7628 (this is not a toll free number). (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The Occupational Requirements Survey (ORS) is a nationwide survey that the Bureau of Labor Statistics (BLS) is conducting at the request of the Social Security Administration (SSA). Three years of data collection and capture for the ORS will start in 2026 and end in mid-2029.

Estimates produced from the data collected by the ORS will be considered by the SSA to update occupational requirements data used in administering the Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) programs.

The ORS occupational information will allow SSA adjudicators to associate the assessment of a claimant's physical and mental functional capacity and vocational profile with work requirements. BLS will compute percentages of workers with various characteristics, such as skill and strength level. SSA will use this information to provide statistical support for the medical-vocational rules used during the assessment process regarding the number of jobs that exist at each occupational requirement level in the national economy.

The Social Security Administration, Members of Congress, and representatives of the disability community have all identified collection of updated information on the requirements of work in today's economy as crucial to the equitable and efficient operation of the Social Security Disability (SSDI) program.

The ORS collects data from a sample of employers. Collected work data consist of occupational task lists, defined as the critical job function and key job tasks, to validate the reported requirements of work.

II. Current Action

Office of Management and Budget clearance is being sought for the Occupational Requirements Survey.

The ORS collects data on the requirements of work, as defined by the SSA's disability program:

(1) Education, Training and Experience, measures include an indicator of ''time to proficiency,'' defined as the minimum amount of preparation time required by a typical worker to learn the techniques, acquire the information, and develop the aptitude needed for performance in a specific job. This indicator is comparable to the Specific Vocational Preparation (SVP) used in the Dictionary of Occupational Titles (DOT).

(2) Physical Demands, characteristics/factors of occupations, measured in such a way to support SSA disability determination needs. These measures are comparable to measures in Appendix C of the Selected Characteristics of Occupations (SCO).

(3) Environmental Conditions, measured in such a way to support SSA disability determination needs, comparable to measures in Appendix D of the SCO.

(4) Mental and Cognitive Demands, measures include work setting, review, pace, in addition to personal contacts.

The ORS also collects the following supporting data to validate reported requirements:

- Occupational task lists, defined as the critical job function and key job tasks, to validate the reported requirements of work. These task lists are comparable to data identified in the Employment and Training Administration's (ETA) Occupational Information Network (O*NET) Program.

BLS will disseminate the data from the ORS on the BLS public website (*www.bls.gov/ors*). The design uses an eight-year rotation with complete estimates published after the full sample has been collected in July 2031 with final estimates published no later than the second quarter of FY 2032. Interim results will be produced and disseminated on an annual basis.

ORS collection uses several forms for private industry and government collection. Only one form version is used per interview based on what best meets an individual field economist's note taking needs for a given interview.

ORS data are defined to balance SSA's adjudication needs with the ability of the respondent to provide data. With this clearance, BLS is continuing collection of existing data.

III. Desired Focus of Comments

The Bureau of Labor Statistics 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.
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Title of Collection: Occupational Requirements Survey.

OMB Number: 1220–0189.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit; not-for-profit institutions; and State, local, and tribal government.

	Respondents	Average responses per year	Total number of responses	Average minutes	Total hours
Total Average	6,346	1.00	6,346	53.46	5,669

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 also will become a matter of public record.

Signed on September 26, 2025.

Eric Molina,

Chief, Division of Management Systems, Branch of Policy Analysis.

[FR Doc. 2025–19132 Filed 9–30–25; 8:45 am]

BILLING CODE 4510–24–P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 25–07]

Notice of Open Meeting

AGENCY: Millennium Challenge Corporation.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Federal Advisory Committee Act, the Millennium Challenge Corporation (MCC) Advisory Council was established as a discretionary advisory committee on July 14, 2016. Its charter was most recently renewed for a fourth term on July 5, 2024. The MCC Advisory Council serves MCC solely in an advisory capacity and provides insight regarding innovations in infrastructure, technology, and sustainability; perceived risks and opportunities in MCC partner countries; new financing mechanisms for developing country contexts; and shared value approaches. The MCC Advisory Council provides a platform for systematic engagement with the private sector and other external stakeholders and contributes to MCC's mission.

DATES: Thursday, October 16, 2024, from 8:30 a.m.–12:00 p.m. EDT.

ADDRESSES: The meeting will be held in a hybrid format, both in-person at 1099 14th Street NW, Suite 700, Washington, DC 20005 and via conference call.

FOR FURTHER INFORMATION CONTACT: Email *MCCAdvisoryCouncil@mcc.gov,* contact Sheena Cooper at (202) 733–7148, or visit *https://www.mcc.gov/about/org-unit/advisory-council* for more information.

SUPPLEMENTARY INFORMATION: *Agenda.* During the Fall 2025 meeting of the MCC Advisory Council will receive updates on the recent MCC board meeting as well as updates on MCC portfolio countries. Additionally, members will engage with MCC's new private sector strategy that is in development.

Public Participation. The meeting will be open to the public. Members of the public may file written statement(s) before or after the meeting. If you plan to attend, please submit your name and affiliation no later than Monday, October 13, 2025, to *MCCAdvisoryCouncil@mcc.gov* to receive instructions on how to attend.

(Authority: Federal Advisory Committee Act, 5 U.S.C. App.)

Dated: September 26, 2025.

Brian Finklestein,

Acting Vice President, General Counsel, and Corporate Secretary.

[FR Doc. 2025–19075 Filed 9–30–25; 8:45 am]

BILLING CODE 9211–03–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NASA Document Number: 25–042; NASA Docket Number: NASA–2025–0201]

Name of Information Collection: NASA Property in the Custody of Award Recipients and Property Management System Analysis (PMSA)

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of reinstatement with change of a previously approved information collection.

SUMMARY: NASA, 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 (PRA).

DATES: Comments are due by December 1, 2025.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 60 days of publication of this notice at *http://www.regulations.gov* and search for NASA Docket [NASA–2025–0201].

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to NASA PRA Clearance Officer, Stayce Hoult, NASA Headquarters, 300 E Street SW, JC0000, Washington, DC 20546, phone 256–714–8575, or email *hq-ocio-pra-program@mail.nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

To ensure accurate reporting of Government-owned, contractor-held property on the financial statements and to provide information necessary for effective property management in accordance with FAR Part 45, NASA obtains summary data annually from the official Government property records maintained by its award recipients with contracts, grants and cooperative agreements. The information is submitted via the NASA Form 1018, at the end of each fiscal year. Additional information submitted to approve the accuracy of the award recipient property management system compliance is submitted via NASA Form 1019, at the beginning of awards with NASA property in the hands of award recipients; and same information gathered by Federal agencies assisting NASA according to risk matrix. Information for property management system in accordance with FAR Part 45, NASA is the agency responsible for contract award administration shall conduct an analysis of the award recipient's property management policies, procedures, practices, and systems.

II. Methods of Collection

Electronic.

III. Data

Title: NASA Property in the Custody of Award Recipients and Property Management System Analysis (PMSA).

OMB Number: 2700–0017.

Type of review: Reinstatement with change of a previously approved information collection.

Affected Public: Business or other for-profit and not-for-profit institutions.

Estimated Annual Number of Activities: 1.

Estimated Number of Respondents per Activity: 726.

Annual Responses: 726.

Estimated Time per Response: 5.8 hours.

Estimated Total Annual Burden Hours: 4,195 hours.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

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

Stayce Hoult,

PRA Clearance Officer, National Aeronautics and Space Administration.

[FR Doc. 2025–19149 Filed 9–30–25; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL CREDIT UNION ADMINISTRATION

2025 Community Development Revolving Loan Fund

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice of funding opportunity.

SUMMARY: NCUA is issuing this Notice of Funding Opportunity (NOFO) to announce the availability of funding for technical assistance grants for low-income-designated credit unions (LIDs) through the Community Development Revolving Loan Fund (CDRLF). The CDRLF provides financial support that helps credit unions support the communities in which they operate.

SUPPLEMENTARY INFORMATION:

Table of Contents

Basic Information
Eligibility
Program Description
Application Contents and Format
Submission Requirements and Deadlines
Application Review Information
Award Notices
Post-Award Requirements and Administration

Basic Information

Funding Opportunity Title: Community Development Revolving Loan Fund (CDRLF) Technical assistance grants.

Announcement Type: Initial announcement.

Funding Opportunity Number: NCUA–CDRLF–2025G.

Assistance Listing Number: 44.002.

Funding Details: We expect the total amount of funding awarded will be approximately $3,465,000. NCUA may fund, in whole or in part, any, all, or none of the applications submitted in response to this NOFO. All grant awards made under this NOFO are subject to funds availability and are at NCUA's discretion.

General information about each grant initiative's purpose and maximum award amount is provided in the Program Description section below. The average grant award for the 2024 CDRLF Grant round was approximately $26,000. Additional grant initiative information will be provided in the 2025 CDRLF Grant Round Application Guidelines found on NCUA's grant website at *https://ncua.gov/support-services/credit-union-resources-expansion/grants-loans/grants.*

Number of Expected Awards: 85–115.

Key Dates: This NOFO is effective on the date of publication in the **Federal Register**. NCUA will accept applications beginning on October 15, 2025, at 12 p.m. Eastern Time. Applications must be submitted by December 16, 2025 at 11:59 p.m. Eastern Time. Applications submitted after the application closing date and time will not be considered. Applicants will be notified of NCUA's decision after the agency's review is completed.

Executive Summary: Through the CDRLF NOFO, NCUA will provide financial support in the form of technical assistance grants to eligible credit unions to modernize, build capacity, and extend outreach to low-income members (as defined in 12 CFR 701.34) and the communities in which they operate. Agency Contact Information: If you need to contact NCUA regarding the CDRLF grant program, please email *CUREAPPS@NCUA.gov* or call (703) 518–6610. Please allow up to 72 business hours for a response.

The last day to contact NCUA with inquiries regarding the grant round is December 9, 2025.

Eligibility

This NOFO is open to low-income-designated credit unions that meet the eligibility requirements defined in 12 CFR part 705 and further detailed in the bulleted list below.

Requirements for a Grant Applicant

- Applicants must have a current low-income designation under 12 CFR 701.34 or 12 CFR 741.204. Applicants that are non-federally insured credit unions must have a low-income designation from a state regulator made under appropriate state standards with the concurrence of NCUA. Services to low-income members must include, at a minimum, offering share accounts and loans.
- Applicants must be a credit union that may be, or has agreed to be, examined by NCUA. See definition of Qualifying Credit Union in 12 CFR 705.2. Each applicant that is a non-federally insured, state-chartered credit union must submit additional application materials and agree to be examined by NCUA. The additional materials are more fully described in 12 CFR 705.7(b)(3). The specific terms and covenants pertaining to the agreement to be examined by NCUA will be provided in the award agreement.
- Applicants must maintain an active registration with the System for Award Management (SAM) at all times during which they have an active federal award as a recipient or an application under consideration by a federal agency. Additional details on SAM registration are listed in the SAM section below.
- Applicants must have and include a valid and current Employer Identification Number (EIN) issued by the U.S. Internal Revenue Service (IRS). NCUA will not consider an application that does not include a valid and current EIN. Information on how to obtain an EIN may be found on the IRS website. The EIN in the applicant's Cybergrants account must match the EIN in the applicant's SAM account. NCUA reserves the right to reject an application if the EIN in the applicant's Cybergrants account does not match the EIN in its SAM account.
- Applicants shall not submit an application on behalf of another organization. This prohibits any application being submitted by a consultant, subsidiary, or parent company of a LID on behalf of a LID. The LID must submit its own application.

• Applicants must meet the grant award standards established by NCUA, including those pertaining to financial viability, as set forth in the application and defined in 12 CFR 705.7(b) and 705.7(c).

• Applicants must adhere to the applicable asset size limitations and/or credit union years of operation requirements detailed in the Funding Initiatives subsection.

• Applicants that have any Capital Adequacy, Asset quality, Management, Earnings, Liquidity, and Sensitivity (CAMELS) component ratings of 4 or 5 will not receive an award of more than $25,000.

• Applicants must adhere to the limitations in the ''Application Submission Limit'' subsection and the asset level and age restrictions in the ''Program Description'' section.

• Applicants must submit applications that adhere to applicable authorizing statutes, regulations, and administrative and national policy requirements, including Executive Orders and other Presidential directives as detailed in the ''Application Contents and Format'' section.

• Consistent with Executive Order 14151 and Executive Order 14173, applicants must not submit comparative statistics or other demographical information on the basis of an individual's or group's race, ethnicity, sex or national origin. Consistent with Executive Order 14218, applicants will adhere to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

• Applicants must submit applications that meet the review and criteria requirements in the ''Application Review Information'' section and the submission deadline requirements in the ''Submission Requirements and Deadlines'' section.

Application Submission Limit

NCUA will review all applications submitted. Applicants can submit up to two applications but can only receive one award. Each application submitted must be for a different initiative. Applicants that submit two applications will be required to designate each application as either their first priority application or their second priority application. If an applicant fails to designate the priority of their two applications, NCUA will use their discretion to designate the priority.

If the first priority application is selected for funding, the second priority application will not be considered for funding. However, if the first priority application is not selected for funding, the second application will be considered for funding.

Cost Sharing

Cost sharing is not required or requested for this funding announcement.

Program Description

The purpose of the CDRLF, as fully described in 12 CFR 705.1, is to assist LIDs with providing basic financial services to their members and to stimulate economic activities in their communities. The CDRLF technical assistance grant program is funded by the 2025 Full-Year Continuing Appropriations and Extensions Act, 2025, Public Law 119–4, 139 Stat. 11.

The initiatives planned for the 2025 CDRLF grant round will help eligible credit unions develop new resources that address challenges. The initiatives will also help eligible credit unions offer safe, fair, and affordable financial products to their members and communities that otherwise might go unserved by the financial system. More detailed information about project impact measurement and examples of initiative award activities are in the 2025 CDRLF Grant Application Guidelines.

Funding Initiatives

Additional details on the funding initiatives can be found in the 2025 CDRLF Grant Round Application Guidelines.

• *New Charter Capacity Building ($50,000 maximum award amount):* This initiative is for eligible credit unions to complete capacity building activities required to grow and meet the unique needs of their members. Eligible project activities include, but are not limited to, expenses related to:

○ Activities to drive operational improvement such as modernizing platforms, increasing efficiencies, and delivering a better customer experience.

○ Activities to increase the availability of safe, fair, and affordable products and services to low-income areas.

This initiative will provide awards to eligible credit unions that have been chartered and in operation for fewer than 10 years and have total assets of $10 million or less.

• Student Internships ($25,000 maximum award amount): This initiative is for eligible credit unions to provide compensation to high school or college students working at the credit union to enhance the credit union's capacity to better serve their members and the communities in which they operate. Eligible project activities include:

○ Costs associated with the implementation of a student internship program, such as a salary or stipend paid directly to the intern(s).

○ Acquiring equipment, software, and other necessary resources for the intern(s) to perform their duties.

To direct grant funds to credit unions with the greatest need for resources, credit unions with assets in excess of $250 million are not eligible for funding under this initiative.

○ Technology, Cybersecurity, and Artificial Intelligence ($25,000 maximum award amount): This initiative will increase low-income members' access to affordable digital financial products and services. This initiative will also be used to implement projects that feature Artificial Intelligence (AI) services and products that can be used by credit unions to improve services to members. Eligible project activities include, but are not limited to:

○ Implementation of new financial services such as bill pay and/or integration of cybersecurity protection software

○ Data analysis to analyze large data sets and identify trends, anomalies, and red flags (Bank Secrecy Act and Anti-Money Laundering)

○ Communication via chatbot or voice response and/or natural language processing offering communications in different languages.

To direct grant funds to credit unions with the greatest need for this resource, credit unions with assets in excess of $250 million are not eligible for funding under this initiative.

• *Training ($25,000 maximum award amount):* This initiative will support credit union activities including management training, board and staff development, and succession planning. For example, credit unions will be able to use funds to develop a management succession plan or enroll an employee in advanced training courses to enhance leadership and/or operational skills and knowledge. In accordance with Executive Order 14151 and Executive Order 14173, grant funds may not be used for training related to diversity, equity, and inclusion (DEI).

To direct grant funds to credit unions with the greatest need for this resource, credit unions with assets in excess of $100 million are not eligible for funding under this initiative.

• *Underserved Outreach ($50,000 maximum award amount):* This initiative will assist credit unions with innovative outreach strategies to address the needs of those who are unbanked

and underbanked in the communities they serve. Applicants will be required to submit documentation of needs based on aggregate data on low-income populations or access to the services of insured depository financial institutions. Examples of project activities include opening a new service facility in a low-income area, creating financial education programs, and offering new or expanded financial products and services to address the needs of the unbanked or underbanked.

To ensure that funds for these activities reach credit unions with the greatest need regardless of size, no asset limitations will be placed on applicants for this initiative.

• *Impact Through Innovation—Pilot ($100,000 maximum award amount):* As part of the 2023 CDRLF Pilot grant initiative, funds for this initiative will be available only to credit unions that received a 2023 CDRLF Pilot grant under the *Impact Through Innovation* initiative. The *Impact Through Innovation* initiative is a multi-year award and is being implemented as a continuation grant. Funds are available for the third and final performance period of these projects, based on availability of funds, project performance, and compliance with reporting requirements. Credit unions are eligible to receive funding up to $100,000 in 2025.

Citations for Authorizing Statutes and Regulations

Authority:

12 U.S.C. 1772c-1, 1756, 1757(5)(D), and (7)(I), 1766, 1782, 1784, 1785 and 1786; 42 U.S.C. 9812, 9822, and 9910 (1981); and Full-Year Continuing Appropriations and Extensions Act, 2025, Sec. 1101(a)(5), Pub. L. 119–4, 139 Stat. 11.

Regulations: 12 CFR part 705 is the governing regulation that sets forth the program requirements for the CDRLF. Additional regulations related to the low-income designation are found at 12 CFR 701.34 and 741.204. For the purposes of this NOFO, an ''applicant'' is a Qualifying Credit Union that submits a complete application to NCUA under the CDRLF. NCUA encourages applicants to review the regulations, this NOFO, the Executive Orders mentioned in this NOFO, the 2025 CDRLF Grant Round Application Guidelines, and other program materials for a complete understanding of the program.

Application Contents and Format

Pre-applications, letters of intent, or white papers are not required or requested.

A complete application will consist of similar components for each funding initiative. At a minimum, each initiative requires a narrative that describes the applicant's proposed use of the CDRLF award. Other application contents that are specific to a particular funding initiative will be defined in the 2025 CDRLF Grant Round Application Guidelines found on NCUA's website. The application must be certified by a credit union official (such as CEO, Manager, or Board Chairperson) authorized to enter agreements with NCUA on behalf of the credit union.

Applications that do not adhere to applicable authorizing statutes, regulations, and administrative and national policy requirements, including Executive Orders and other Presidential directives, will be rejected.

Submission Requirements and Deadline

All applications must be submitted using CyberGrants, NCUA's grant management system. NCUA will accept applications through the grant system beginning October 15, 2025, at 12 p.m. Eastern. Applications must be submitted by December 16, 2025 at 11:59 p.m. Eastern. Late applications will not be considered.

Unique Entity Identifier and System for Award Management (SAM.gov)

Federal regulations require all CDRLF Applicants to have an active registration with (SAM) prior to applying for funding. SAM is a web-based, government-wide application that collects, validates, stores, and disseminates business information about the federal government's trading partners in support of the contract awards, grants, and electronic payment processes. Applicants receive a Unique Entity Identifier (UEI) upon registration in SAM and must provide this UEI with their application. Applicants must continue to maintain an active SAM registration with current information while they have active federal awards or applications or plans under consideration by a federal agency.

SAM users can register or recertify their account by following the instructions for registration (*https://sam.gov/content/entity-registration*). There is no charge for either the SAM registration or a recertification.

NCUA does not authorize any exemption from this active SAM registration requirement under 2 CFR 25.110(c) or (d).

Submission Instructions

Prior to applying, applicants must be registered in CyberGrants, NCUA's grant management system (*https://www.cybergrants.com/pls/cybergrants/ao_login.login?x_gm_id=4469&x_proposal_type_id=27707*). Applicants will also access that grant management system to access the application materials. Applications must be submitted online through that system; applications will not be accepted by mail or email. In the event of systems problems, contact NCUA at *CUREApps@ncua.gov.*

Intergovernmental Review

The CDRLF grant program is not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

Application Review Information

Responsiveness Review

Applications will be analyzed in accordance with the regulations at 12 CFR 705.3 to determine whether they meet the eligibility requirements. NCUA will review applications in accordance with E.O. 14332, ''Improving Oversight of Federal grantmaking.'' Failure to meet these requirements will result in rejection of the application.

Review Criteria

The merit review is conducted by NCUA personnel, and applications are analyzed based on previous experience with the CDRLF program, recent examinations and supervisory information, and the project proposed in the application. Each funding initiative, due to its structure and impact, may have different evaluation criteria assigned. NCUA will review each application to determine whether it is complete and whether the proposed use of the grant is eligible for funding. The evaluation considerations directly below are summaries of the standards used to evaluate applications. Please note that a weighted scoring method will not be used as part of the application review process. Details about the evaluation criteria and rating system are in the 2025 CDRLF Grant Round Application Guidelines.

Program Priority—Credit union asset size and previous participation in the CDRLF will be evaluated as part of NCUA's priority in reaching credit unions most in need of CDRLF funding.

Project Objective—The application will be evaluated based on how well the proposed project objectives meet the purpose of the CDRLF program as fully described in 12 CFR 705.1.

Project Budget—The budget must demonstrate that the applicant clearly understands the expenses required to successfully complete the project. The project budget must support the

applicant's plan to implement the project.

Financial Viability and Examination Reports—Exam and supervisory information may be used during the analysis of the application. NCUA may assess a credit union's recent examinations or audit reports if a reviewer deems it necessary. Factors that will be considered include, but are not limited to: enforcement actions, any ongoing supervisory concerns, supervisory or oversight risks, declining financial position, and compliance risk. Exams may be used to determine the applicant's financial health and its ability to successfully manage a CDRLF grant.

Review and Selection Process

NCUA will determine the grant award amount as applicable for each application in accordance with the regulations at 12 CFR 705.7 and the evaluation process further explained in the 2025 CDRLF Grant Round Application Guidelines.

The agency will award funds to applications as noted above until the funds available are exhausted. Final award decisions are made by the Director of the Office of Credit Union Resources and Expansion (CURE) or their designee.

Risk Review

NCUA will perform a risk assessment as required by 2 CFR 200.206.

Award Notices

NCUA will notify all applicants of its funding decision by email to the contacts designated in the application after completion of its review. Eligible pre-award costs are allowed; additional detail regarding those costs will be provided in the 2025 CDRLF Grant Round Application Guidelines. The Notice of Federal Award notifies the grant applicant that their application was selected for award. The notice of Federal award is signed by the grants officer, or equivalent, and is the official document that obligates program funds. This notice will be provided through electronic means to the point of contact designated in the application. The Authorized Credit Union Official must review, electronically certify, and submit the Grant Agreement to accept the CDRLF award by the provided deadline in the notice of Federal Award. Failure to do so may result in the withdrawal of the grant award from the awardee. In addition, NCUA will announce the successful applications through a press release that includes a list of the awardees. Applicants that are approved for funding will also receive instructions on how to proceed with the post-award activities including submission of payment request and performance reports.

Post-Award Requirements and Administration

Important: The Terms and Conditions, including administrative and national policy requirements, are in the 2025 Grant Application Round Guidelines.

Reporting

Awardees must follow annual reporting requirements stated in 12 CFR 705.9(b) and submit performance reports as detailed in the 2025 CDRLF Grant Round Application Guidelines.

All post-award activities are to be completed online using CyberGrants, NCUA's grant management system.

Other Information

In addition to funding available under this NOFO, NCUA provides funding to LIDs through the CDRLF Revolving Loan and Urgent Need Grant initiatives. More information can be found in the Grants and Loans section of the agency's website.

By the National Credit Union Administration Board.

Melane Conyers-Ausbrooks,

Secretary of the Board.

[FR Doc. 2025–19091 Filed 9–30–25; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB review; comment request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995. This is the second notice for public comment; the first was published in the **Federal Register**, and no comments were received. NSF is forwarding the proposed submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice.

DATES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAmain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314, or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

Comments: Comments regarding (a) whether the proposed collection of information is necessary for the proper performance of the functions of the NSF, including whether the information shall have practical utility; (b) the accuracy of the NSF's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, use, and clarity of the information on respondents; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to the points of contact in the **FOR FURTHER INFORMATION CONTACT** section.

Copies of the submission may be obtained by calling 703–292–7556. NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number, and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

SUPPLEMENTARY INFORMATION: NSF may not conduct or sponsor a collection of information unless (a) the collection of information displays a currently valid OMB control number and (b) the agency informs potential respondents that they are not required to respond unless the information collection displays a currently valid OMB control number.

Title of Collection: NCSES Generic Clearance for Improvement Projects.

OMB Control Number: 3145–0174.

Type of Request: Intent to seek approval to reinstate, with revisions, an information collection for three years.

Abstract. Established within the National Science Foundation by the America COMPETES Reauthorization Act of 2010 § 505, codified in the National Science Foundation Act of

1950, as amended, the National Center for Science and Engineering Statistics (NCSES)—one of 13 principal federal statistical agencies—serves as a central Federal clearinghouse for the collection, interpretation, analysis, and dissemination of objective data on science, engineering, technology, research and development for use by practitioners, researchers, policymakers, and the public. NCSES conducts about a dozen nationally-representative surveys to obtain the data for these purposes. The Generic Clearance will be used to ensure that the highest quality data are obtained from these surveys. State of the art methodology will be used to develop, evaluate, and test questionnaires and survey concepts as well as to research and improve survey and statistical methodologies. This may include field or pilot tests of questions for future large-scale surveys, as needed. The Generic Clearance will also be used to test and evaluate data dissemination tools and methods in an effort to improve access for data users.

Use of the Information. The purpose of these studies is to use the latest and most appropriate methodology to improve NCSES surveys, evaluate new data acquisition and collection efforts, and evaluate data dissemination tools and mechanisms. Methodological findings may be presented externally in technical papers at conferences, published in the proceedings of conferences, or in journals. Improved NCSES surveys, data collections, data procurement, and data dissemination will help policymakers in decisions on research and development funding, graduate education, and the scientific and engineering workforce, as well as contributing to reduced survey costs.

Expected Respondents. The respondents will be from industry, academia, nonprofit organizations, the public, and State, local, and Federal governments. Respondents will be either individuals or institutions, depending on the topic under investigation. NCSES expects to use both qualitative and quantitative procedures, in various modes (*e.g.,* in-person, telephone, web). Up to 20,400 respondents will be contacted across all projects. No respondent will be contacted more than twice in one year under this generic clearance. Every effort will be made to use technology to limit the burden on respondents from small entities.

Estimate of Burden. NCSES estimates that a total reporting and recordkeeping burden of 12,200 hours will result from activities to improve its survey collections and data dissemination tools. The calculation is shown in the following table:

Collection type	Respondents	Total burden (hours)	Annualized burden (hours)
R&D Enterprise Surveys	800	1,050	350
Science and Engineering Workforce Surveys	6,300	1,725	575
STEM Education Surveys	800	1,000	334
Data Dissemination Tools and Methods	2,500	425	142
Other surveys and projects not specified	10,000	8,000	2,667
Total	20,400	12,200	4,067

Dated: September 29, 2025.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2025–19142 Filed 9–30–25; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Center for Science and Engineering Statistics, National Science Foundation.

ACTION: Notice.

SUMMARY: The National Center for Science and Engineering Statistics (NCSES) within the National Science Foundation (NSF) is seeking approval to renew the SAP Portal information collection as a Common Form, OMB control number 3145–0271, to permit other federal agency users to streamline the information collection in coordination with OMB. This is the second notice for public comment. The first notice was published in the **Federal Register** and NCSES did not receive any comments. NCSES is forwarding the proposed SAP Portal information collection as a Common Form to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. The full submission may be found at: *http://www.reginfo.gov/public/do/PRAMain.*

DATES: Written comments on this notice must be received by October 31, 2025 to be assured of consideration. Comments received after that date will be considered to the extent practicable. Send comments to the address below.

Comments: Comments are invited on (a) whether the collection of information is necessary for the proper performance of the functions of the federal statistical agencies, including whether the information has practical utility; (b) the accuracy of the NSF's estimate of the burden of the proposed collection of information; (c) ways to enhance the existing SAP Portal to improve the user experience; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725 17th Street NW, Room 10235, Washington, DC 20503, and Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314, or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

Copies of the submission may be obtained by calling 703–292–7556.

SUPPLEMENTARY INFORMATION: The Foundations for Evidence-Based Policymaking Act of 2018 mandates that OMB establish a Standard Application Process (SAP) for requesting access to certain confidential data assets. While the adoption of the SAP is required for statistical agencies and units designated under CIPSEA, it is recognized that other agencies and organizational units within the Executive branch may benefit from the adoption of the SAP to accept applications for access to confidential

data assets. The SAP is a process through which agencies, the Congressional Budget Office, State, local, and Tribal governments, researchers, and other individuals, as appropriate, may apply to access confidential data assets held by a federal statistical agency or unit for the purposes of developing evidence. With the Interagency Council on Statistical Policy (ICSP) as advisors, the entities upon whom this requirement is levied worked with the SAP Program Management Office (PMO) and with OMB to implement the SAP and continue to work to manage and enhance the overall process. The SAP Portal is a single online common application for the public to request access to confidential data assets from federal statistical agencies and units.

This request is on behalf of the following federal statistical agencies and units, which may use the Common Form:

- Bureau of Economic Analysis (Department of Commerce)
- Bureau of Justice Statistics (Department of Justice)
- Bureau of Labor Statistics (Department of Labor)
- Bureau of Transportation Statistics (Department of Transportation)
- Census Bureau (Department of Commerce)
- Economic Research Service (Department of Agriculture)
- Energy Information Administration (Department of Energy)
- National Agricultural Statistics Service (Department of Agriculture)
- National Center for Education Statistics (Department of Education)
- National Center for Health Statistics (Department of Health and Human Services)
- National Center for Science and Engineering Statistics (National Science Foundation)
- Office of Research, Evaluation, and Statistics (Social Security Administration)
- Statistics of Income Division (Income Revenue Service)
- Microeconomic Surveys Unit (Federal Reserve Board)
- Center for Behavioral Health Statistics and Quality (Department of Health and Human Services)
- National Animal Health Monitoring System (Department of Agriculture)

Title of collection: Standard Application Process (SAP) Portal.

OMB Control Number: 3145–0271.

Expiration Date of Current Approval: December 31, 2025.

Type of Request: Intent to seek approval to collect information from the public through the Standard Application Process (SAP) Portal, as a Common Form.

Abstract: Established within the NSF by the America COMPETES Reauthorization Act of 2010 § 505, codified in the National Science Foundation Act of 1950, as amended, the National Center for Science and Engineering Statistics (NCSES) serves as a central Federal clearinghouse for the collection, interpretation, analysis, and dissemination of objective data on science, engineering, technology, and research and development for use by practitioners, researchers, policymakers, and the public.

Title III of the Foundations for Evidence-Based Policymaking Act of 2018 (hereafter referred to as the Evidence Act) mandates that OMB establish a Standard Application Process (SAP) for requesting access to certain confidential data assets. Specifically, the Evidence Act requires OMB to establish a common application process through which agencies, the Congressional Budget Office, State, local, and Tribal governments, researchers, and other individuals, as appropriate, may apply for access to confidential data assets collected, accessed, or acquired by a statistical agency or unit. This process was implemented with stringent controls to protect confidentiality and privacy, as required by the law.

The Evidence Act requires that each statistical agency or unit establish an identical application process. The Evidence Act further requires that federal statistical agencies establish common criteria for determining whether to approve an application for confidential data, timeframes for prompt determination, an appeals process for adverse determinations, and standards for transparency. In response to these requirements, the statistical agencies and units operate an online portal (referred to as the SAP Portal) on behalf of OMB to provide the common application form to applicants. The objective of the SAP Portal is to increase public access to confidential data for the purposes of evidence building and reduce the burden of applying for confidential data.

Data collected, accessed, or acquired by statistical agencies and units is vital for developing evidence on conditions, characteristics, and behaviors of the public and on the operations and outcomes of public programs and policies. This evidence can benefit the stakeholders in the programs, the broader public, as well as policymakers and program managers at the local, State, Tribal, and National levels. The many benefits of access to data for evidence building notwithstanding, the process of discovering confidential data, applying for access, and, in certain cases, revising an application or appealing an adverse determination through the SAP Portal still places a burden on the public, as outlined below.

The SAP Policy: At the recommendation of the ICSP, the SAP Policy establishes the SAP implemented by statistical agencies and units and incorporates directives from the Evidence Act. The policy is intended to provide guidance as to the application and review processes using the SAP Portal, setting forth clear standards that enable statistical agencies and units to implement a common application form and a uniform review process. The methods of collection outlined below are in accordance with the SAP Policy. The SAP Policy was submitted to the public for comment in January 2022 (87 FR 2459, 2022). The policy was issued by OMB in December of 2022 as M–23–04.

For the purpose of the SAP Policy, the application process begins with an applicant discovering a confidential data asset for which a statistical agency or unit is accepting applications to access for the purpose of building evidence and ends with the agency or unit's determination on whether to grant access. In the case of an adverse determination, the application process ends with the conclusion of an appeals process if the applicant elects to appeal the determination.

The SAP Portal: The SAP Portal is an online interface connecting applicants seeking data with a catalog of data assets owned by the federal statistical agencies and units as well as an application to apply for those assets. The SAP Portal is not a data repository or warehouse; confidential data assets continue to be stored in secure data access facilities owned and hosted by the federal statistical agencies and units. The portal provides a streamlined application process across agencies, reducing redundancies in the application process. This single SAP Portal improves the process for applicants, tracking and communicating the application process throughout its lifecycle. This reduces redundancies and burden on applicants that request access to data from multiple agencies. The SAP Portal automates key tasks to save resources and time and brings agencies into compliance with the Evidence Act statutory requirements.

Data Discovery: Individuals begin the process of accessing restricted use data by discovering confidential data assets through the SAP data catalog,

maintained by federal statistical agencies at *www.researchdatagov.org.* Potential applicants can search by agency, topic, or keyword to identify data of interest or relevance. Once they have identified data of interest, applicants can view metadata outlining the title, description or abstract, scope and coverage, and detailed methodology related to a specific data asset to determine its relevance to their research.

While statistical agencies and units shall endeavor to include metadata in the SAP data catalog on all confidential data assets for which they accept applications, it may not be feasible to include metadata for some data assets (*e.g.,* potential curated versions of administrative data). A statistical agency or unit may still accept an application through the SAP Portal even if all requested data assets are not listed in the SAP data catalog.

SAP Application Process: Individuals who have identified and wish to access confidential data assets can apply for access through the SAP Portal. Applicants must create an account and follow all steps to complete the application. Applicants begin by entering their personal, contact, and institutional information, as well as the personal, contact, and institutional information of all individuals on their research team. Applicants proceed to provide summary information about their proposed project, including project title, duration, funding, timeline, and other details including the data asset(s) they are requesting and any proposed linkages to data not listed in the SAP data catalog, including non-federal data sources. Applicants then proceed to enter detailed information regarding their proposed project, including a project abstract, research question(s), literature review, project scope, research methodology, project products, and anticipated output. Applicants must demonstrate a need for confidential data, outlining why their research question cannot be answered using publicly available information.

Submission for Review: Upon submission of their application, applicants receive a notification that their application has been received and is under review by the data-owning agency or agencies (in the event where data assets are requested from multiple agencies).

In accordance with the Evidence Act and the direction of the ICSP, agencies approve or reject an application within a prompt timeframe. In some cases, agencies may determine that additional clarity, information, or modification is needed and request the applicant to ''revise and resubmit'' their application. This is also in accordance with the SAP Policy.

Appeals Process: In the event of an adverse determination, the applicant is provided justification through the SAP Portal detailing the determination. The SAP Portal provides the applicant with the option to submit an appeal for reconsideration by the data-owning agency or agencies. Applicants can also file an appeal for noncompliance with the SAP Policy.

Access to Restricted Use Data: In the event of a positive determination, applicants are notified that their proposal has been accepted and that application approval does not alone grant access to confidential data, and that applicants must comply with the data-owning agency's security requirements outside of the SAP Portal, which may include a background check. In the event of an adverse determination, the applicant is notified of the decision and their right to appeal the decision. The positive or final adverse determination concludes the SAP-Portal process. In the instance of a positive determination, the data-owning agency (or agencies) will contact the applicant to provide instructions on the agency's security requirements that must be completed to gain access to the confidential data. The completion and submission of the agency's security requirements *occurs* outside of the SAP Portal and is therefore not included in the estimate of burden below.

Estimate of Burden: The amount of time to complete an application within the SAP Portal may vary depending on the number of individuals on the application, the topic of the proposal, and the data assets being requested. To request access to NCSES data assets, it is estimated that the average time to complete and submit an application within the SAP Portal is 60 minutes. This estimate includes the time needed to complete the SAP Portal application fields (applicant information and research proposal); it does not include an estimate of the time needed to develop a research proposal itself. The research proposal is developed outside of the SAP Portal and may be written for multiple audiences (*e.g.,* to solicit funding); therefore, it is not included in the estimate of burden for the SAP Portal.

The expected number of applications submitted to NCSES in a given year may vary. Overall, NCSES estimates it may receive up to 20 application submissions within the SAP Portal per year. NCSES estimates that the total burden for the SAP Portal over the course of the three-year OMB clearance will be about 60 hours and, as a result, an average annual burden of 20 hours.

Dated: September 29, 2025.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2025–19143 Filed 9–30–25; 8:45 am]

BILLING CODE P

NUCLEAR REGULATORY COMMISSION

730th Meeting of the Advisory Committee on Reactor Safeguards (ACRS)

In accordance with the purposes of Sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232(b)), the Advisory Committee on Reactor Safeguards (ACRS) will hold meetings on November 5–7, 2025. In addition, the ACRS is implementing Section 4.(b) of Executive Order (E.O.) 14300, ''Ordering the Reform of the Nuclear Regulatory Commission,'' dated May 23, 2025, which states, in part, that the functions of the ACRS shall be reduced to the minimum necessary to fulfill ACRS's statutory obligations and that review by ACRS of permitting and licensing issues shall focus on issues that are truly novel and noteworthy. The ACRS will only undertake other work as directed by the Commission in accordance with Sections 29 and 182b of the Atomic Energy Act.

The Committee will be conducting meetings that will include some Members being physically present at the headquarters of the U.S. Nuclear Regulatory Commission (NRC) while other Members participate remotely. Interested members of the public are encouraged to participate remotely in any open sessions via Microsoft Teams or via phone at 301–576–2978, passcode 448781828#. A more detailed agenda, including the Microsoft Teams link, may be found at the ACRS public website at *https://www.nrc.gov/reading-rm/doc-collections/acrs/agenda/index.html.* If you would like the Microsoft Teams link forwarded to you, please contact the Designated Federal Officer (DFO) as follows: *Quynh.Nguyen@nrc.gov,* or *Lawrence.Burkhart@nrc.gov.*

Wednesday, November 5, 2025

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.: Kemmerer Construction Permit Application Review (Open/Closed)—The Committee will

have presentations and discussions with the NRC staff and applicant representatives regarding the subject topic. [*NOTE: Pursuant to 5 U.S.C. 552b(c)(4), a portion of this session may be closed in order to discuss and protect information designated as proprietary.*]

10:30 a.m.–1:00 p.m.: Committee Deliberation on the Kemmerer Construction Permit Application Review (Open/Closed)—The Committee will deliberate regarding the subject topic. [*NOTE: Pursuant to 5 U.S.C. 552b(c)(4), a portion of this session may be closed in order to discuss and protect information designated as proprietary.*]

1:00 p.m.–3:00 p.m.: WCAP–18850P, ''Adaptation of the FULL SPECTRUM LOCA (FSLOCA) Evaluation Methodology to Perform Analysis of Cladding Rupture for High Burnup Fuel (HBF)''/Preparation of Reports (Open/Closed)—The Committee will have presentations and discussions with the NRC staff and applicant representatives regarding the subject topic. [NOTE: Pursuant to 5 U.S.C. 552b(c)(4), a portion of this session may be closed in order to discuss and protect information designated as proprietary.]

3:00 p.m.–5:00 p.m.: Committee Deliberation on WCAP–18850P/ Preparation of Reports (Open/Closed)—The Committee will deliberate regarding the subject topic and proceed to preparation of reports. [NOTE: Pursuant to 5 U.S.C. 552b(c)(4), a portion of this session may be closed in order to discuss and protect information designated as proprietary.]

Thursday, November 6, 2025

8:30 a.m.–10:30 a.m.: Palisades Restart Activities—Steam Generator Operational Assessment/Committee Deliberation/Preparation of Reports (Open/Closed)—The Committee will have presentations and discussions with the NRC staff and applicant representatives regarding the subject topic. The Committee will deliberate regarding the subject topic and proceed to preparation of reports. [NOTE: Pursuant to 5 U.S.C. 552b(c)(4), a portion of this session may be closed in order to discuss and protect information designated as proprietary.]

10:30 a.m.–5:00 p.m.: Preparation of reports (Open/Closed)—The Committee will proceed to preparation of reports. [NOTE: Pursuant to 5 U.S.C. 552b(c)(4), a portion of this session may be closed in order to discuss and protect information designated as proprietary.]

Friday, November 7, 2025

8:30 a.m.–5:00 p.m.: Planning and Procedures Session/Future ACRS Activities/Reconciliation of ACRS Comments and Recommendations/ Preparation of Reports (Open/Closed)—The Committee will hear discussion of the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the Full Committee during future ACRS meetings, and/or proceed to preparation of reports. [NOTE: Pursuant to 5 U.S.C. 552b(c)(2), a portion of this meeting may be closed to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of the ACRS.] [NOTE: Pursuant to 5 U.S.C. 552b(c)(4), a portion of this session may be closed in order to discuss and protect information designated as proprietary.]

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on July 22, 2025 (90 FR 34522). 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 and the DFO (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.

An electronic copy of each presentation should be emailed to the cognizant ACRS staff at least three days 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 (PDR) at *pdr.resource@nrc.gov,* the ACRS public website, or by calling the PDR at 1–800–397–4209 *or 301–415–4737, between 8 a.m. and 4 p.m. eastern daylight time (EDT), Monday through Friday, except Federal holidays,* or from the Publicly Available Records System component of NRC's Agencywide Documents Access and Management System, which is accessible from the NRC website at *https://www.nrc.gov/reading-rm/adams.html* or *https://www.nrc.gov/reading-rm/doc-collections/#ACRS/.*

Dated: September 29, 2025.

For the Nuclear Regulatory Commission.

Russell E. Chazell,

Federal Advisory Committee Management Officer, Office of the Secretary.

[FR Doc. 2025–19168 Filed 9–30–25; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

731st Special Meeting of the Advisory Committee on Reactor Safeguards (ACRS)

In accordance with the purposes of Sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232(b)), the Advisory Committee on Reactor Safeguards (ACRS) will hold meetings on November 20, 2025. In addition, the ACRS is implementing Section 4.(b) of Executive Order (E.O.) 14300, ''Ordering the Reform of the Nuclear Regulatory Commission,'' dated May 23, 2025, which states, in part, that the functions of the ACRS shall be reduced to the minimum necessary to fulfill ACRS's statutory obligations and that review by ACRS of permitting and licensing issues shall focus on issues that are truly novel and noteworthy. The ACRS will only undertake other work as directed by the Commission in accordance with Sections 29 and 182b of the Atomic Energy Act.

The Committee will be conducting meetings that will include some Members being physically present at the headquarters of the U.S. Nuclear Regulatory Commission (NRC) while other Members participate remotely. Interested members of the public are encouraged to participate remotely in any open sessions via Microsoft Teams or via phone at 301–576–2978, passcode 578196209#. A more detailed agenda, including the Microsoft Teams link, may be found at the ACRS public website at *https://www.nrc.gov/reading-rm/doc-collections/acrs/agenda/index.html.* If you would like the Microsoft Teams link forwarded to you, please contact the Designated Federal Officer (DFO) as follows: *Quynh.Nguyen@nrc.gov,* or *Lawrence.Burkhart@nrc.gov.*

Thursday, November 20, 2025

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.: Kemmerer Construction Permit Application Review (Open/Closed)—The Committee will have discussions and deliberate regarding the subject topic. [*NOTE: Pursuant to 5 U.S.C 552b(c)(4), a portion of this session may be closed in order to discuss and protect information designated as proprietary.*]

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on July 22, 2025 (90 FR 34522). 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 and the DFO (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.

An electronic copy of each presentation should be emailed to the cognizant ACRS staff at least three days 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 (PDR) at *pdr.resource@nrc.gov,* the ACRS public website, or by calling the PDR at 1–800–397–4209 *or 301–415–4737, between 8 a.m. and 4 p.m. eastern daylight time (EDT), Monday through Friday, except Federal holidays,* or from the Publicly Available Records System component of NRC's Agencywide Documents Access and Management System, which is accessible from the NRC website at *https://www.nrc.gov/reading-rm/adams.html* or *https://www.nrc.gov/reading-rm/doc-collections/#ACRS/.*

Dated: September 29, 2025.

For the Nuclear Regulatory Commission.

Russell E. Chazell,

Federal Advisory Committee Management Officer, Office of the Secretary.

[FR Doc. 2025–19169 Filed 9–30–25; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–266 and 50–301; NRC–2020–0277]

NextEra Energy Point Beach, LLC; Point Beach Nuclear Plant, Units 1 and 2; Subsequent License Renewal and Record of Decision

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued Subsequent Renewed Facility Operating License Nos. DPR–24 and DPR–27 to NextEra Energy Point Beach, LLC (NextEra or the licensee) for Point Beach Nuclear Plant (Point Beach), Units 1 and 2, respectively. In addition, the NRC has prepared a record of decision (ROD) that supports the NRC's decision to issue Subsequent Renewed Facility Operating License Nos. DPR–24 and DPR–27.

DATES: Subsequent Renewed Facility Operating License Nos. DPR–24 and DPR–27 were issued on September 29, 2025.

ADDRESSES: Please refer to Docket ID NRC–2020–0277 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0277. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301–415–1003; email: *Bridget.Curran@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin ADAMS Public Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Angela Wu, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2995; email: *Angela.Wu@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Discussion

Notice is hereby given that the NRC has issued Subsequent Renewed Facility Operating License Nos. DPR–24 and DPR–27 to NextEra for Point Beach. NextEra is the operator of the facility. Subsequent Renewed Facility Operating License Nos. DPR–24 and DPR–27 authorize operation of Point Beach by NextEra at reactor core power levels not in excess of 1,800 megawatts thermal (MWt) for each unit, in accordance with the provisions of the Point Beach subsequent renewed licenses and the technical specifications. Notice is also given that the ROD that supports the NRC's decision to issue Subsequent Renewed Facility Operating License Nos. DPR–24 and DPR–27 is available, and its location is listed in the ''Availability of Documents'' section of this document.

As discussed in the ROD and the final supplemental environmental impact statement (SEIS), published as NUREG–1437, Supplement 23, Second Renewal, ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Supplement 23, Second Renewal, Regarding Subsequent License Renewal for Point Beach Nuclear Plant Units 1 and 2, Final Report,'' dated August 2025, the final SEIS documents the NRC staff's environmental review, including the recommendation that the adverse environmental impacts of subsequent license renewal (SLR) for Point Beach are not so great that preserving the option of SLR for energy-planning decisionmakers would be unreasonable. This recommendation is based on (1) the NRC's Generic Environmental Impact Statement for License Renewal of Nuclear Plants (LR GEIS); (2) information in the

environmental report submitted by NextEra, as supplemented; (3) the staff's consultation with Federal, State, local, and Tribal agencies; (4) the staff's independent environmental review; and (5) the staff's consideration of public comments received during the scoping process and on the 2021 draft SEIS and the 2025 second draft SEIS.

The Point Beach units are pressurized-water reactors located near Two Rivers, Wisconsin. NextEra submitted its application for the subsequent renewed licenses, ''Point Beach Nuclear Plant Units 1 and 2, Application for Subsequent Renewed Facility Operating Licenses,'' on November 16, 2020, as supplemented by letters through April 1, 2025 (see ''Availability of Documents'' section of this document). The NRC staff has determined that NextEra's application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the NRC's regulations. As required by the Act and NRC regulations in title 10 of the *Code of Federal Regulations* (10 CFR), the NRC has made the appropriate findings, which are set forth in the subsequent renewed licenses.

On February 1, 2021, the NRC published a notice in the **Federal Register** (86 FR 7747) informing the public of the NRC staff's intent to conduct an environmental scoping process regarding NextEra's application. In November 2021, the staff issued a draft SEIS. On August 6, 2024, the NRC published a final rule (89 FR 64166) updating its license renewal environmental review requirements at 10 CFR part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions.'' As part of this update, the NRC issued Revision 2 of the LR GEIS. Thereafter, to complete the Point Beach SLR environmental review, the staff prepared a supplement (second draft SEIS) to the 2021 draft SEIS to consider the new and modified environmental issues in the final rule, as applicable, as well as any new and significant information since the 2021 draft SEIS. In April 2025, the staff issued the second draft SEIS for public comment (90 FR 16008). Based on the information gathered during the public comment period and any other new information received, the staff developed a final SEIS by incorporating both the 2021 draft SEIS and the 2025 second draft SEIS, along with any necessary changes made in response to comments and other information. The final SEIS was issued on August 8, 2025. Separately, in February 2022, the staff issued its Safety Evaluation (SE) regarding its Point Beach SLR safety review, as corrected in May 2022. A supplement to this SE was issued in August 2025.

For further details with respect to this action, see (1) NextEra's SLR application for Point Beach, dated November 16, 2020, as supplemented by letters through April 1, 2025; (2) the NRC's SE, dated May 25, 2022, and its supplement dated August 27, 2025; (3) the NRC's final SEIS, dated August 2025; and (4) the NRC's ROD, dated September 29, 2025.

II. Availability of Documents

The documents identified in the following table are available to interested persons through ADAMS, as indicated.

Document description	ADAMS accession no.
Record of Decision, Subsequent License Renewal Application, as Supplemented, for Point Beach Nuclear Plant, Units 1 and 2, dated September 29, 2025.	ML25223A031.
Safety Evaluation Related to the Subsequent License Renewal of Point Beach Nuclear Plant, Units 1 and 2, dated February 23, 2022.	ML22054A108.
Safety Evaluation Related to the Subsequent License Renewal of Point Beach Nuclear Plant, Units 1 and 2, Revision 1, dated May 25, 2022.	ML22140A127.
Point Beach Nuclear Plant, Units 1 and 2—Supplement to the Safety Evaluation for the Subsequent License Renewal Application Review, dated August 27, 2025.	ML25206A017.
NUREG–1437, Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Supplement 23, Second Renewal, Regarding Subsequent License Renewal for Point Beach Nuclear Plant Units 1 and 2, Final Report, dated August 2025.	ML25191A238.
Point Beach Nuclear Plant, Units 1 and 2, Application for Subsequent Renewed Operating License, dated November 16, 2020.	ML20329A292 (Package).
Point Beach Nuclear Plant Units 1 and 2—Subsequent License Renewal Application—Aging Management Supplement 1, dated April 21, 2021.	ML21111A155.
Point Beach Nuclear Plant, Units 1 and 2—Subsequent License Renewal Application, Aging Management Supplement 2, dated May 6, 2021.	ML21126A239.
Point Beach Nuclear Plant Units 1 and 2—Subsequent License Renewal Application, Environmental Report Supplement 1, dated May 10, 2021.	ML21131A105.
Point Beach Nuclear Plant Units 1 and 2—Subsequent License Renewal Application—Aging Management Supplement 3, dated May 27, 2021.	ML21147A115.
Point Beach Nuclear Plant, Units 1 and 2, Subsequent License Renewal Application Environmental Report Review Requests for Confirmation of/Additional Information (RCI/RAI) Set Response, dated June 10, 2021.	ML21161A214.
Point Beach Nuclear Plant, Units 1 and 2—Subsequent License Renewal Application: Aging Management Requests for Confirmation of/Additional Information (RCI/RAI) Set 1 Responses, dated July 8, 2021.	ML21189A173.
Subsequent License Renewal Application—Aging Management Supplement 3 Revision 1, dated July 26, 2021.	ML21207A066.
Point Beach Nuclear Plant, Units 1 and 2—Subsequent License Renewal Application—Aging Management Requests for Additional Information (RAI) Set 2 Responses, dated August 11, 2021.	ML21223A308.
Point Beach, Units 1 and 2—Subsequent License Renewal Application—Aging Management Requests For Confirmation Of/Additional Information (RCI/RAI) Set 3 Responses, dated August 25, 2021.	ML21237A055.
Point Beach Nuclear Plant Units 1 and 2—Subsequent License Renewal Application on Aging Management—Request for Additional Information (RAI), Set 4 Response, dated August 30, 2021.	ML21242A230.
Point Beach Nuclear Plant, Units 1 and 2, Submittal of Subsequent License Renewal Application—Aging Management Requests for Confirmation of/Additional Information (RCI/RAI) Set 1 Responses Supplement 1, dated September 10, 2021.	ML21253A138.
Point Beach Nuclear Plant Units 1 and 2, L–2021–157 Subsequent License Renewal Application—Aging Management Requests For Additional Information (RAI) Set 6 Responses, dated September 10, 2021.	ML21253A140.
Point Beach Nuclear Plant, Units 1 and 2, Subsequent License Renewal Application—Aging Management Requests for Additional Information Set 5 Responses, dated September 13, 2021.	ML21256A129.

Document description	ADAMS accession no.
Point Beach Nuclear Plant, Units 1 and 2—Subsequent License Renewal Application—Aging Management Request for Additional Information (RAI) Set 8 Response, dated September 16, 2021.	ML21259A153.
Point Beach Nuclear Plant, Units 1 and 2, Subsequent License Renewal Application—Aging Management Requirement for Additional Information Set 7, Response, dated September 20, 2021.	ML21263A052.
NextEra Energy Point Beach, LLC—Subsequent License Renewal Application—Aging Management Request For Additional Information (RAI) Set 9 Response, dated October 1, 2021.	ML21274A053.
Point Beach Nuclear Plant Units 1 and 2—Subsequent License Renewal Application—Aging Management Requests for Additional Information (RAI) Set 11 Response, dated October 25, 2021.	ML21298A090.
Subsequent License Renewal Application—Aging Management Requests for Additional Information (RAI) Set 2 Responses Revision 1, dated November 3, 2021.	ML21307A286.
Point Beach Nuclear Plant Units 1 and 2—Subsequent License Renewal Application—Aging Management Requests for Additional Information (RAI) Set 10 Responses, dated November 4, 2021.	ML21308A282.
Subsequent License Renewal Application—Aging Management Requests for Additional Information (RAI) Set 9 Response Supplement 1, dated November 4, 2021.	ML21308A283.
Subsequent License Renewal Application—Aging Management Requests for Additional Information (RAI) Set 11 Response Revision 1, dated November 23, 2021.	ML21327A077.
Point Beach Nuclear Plant—Subsequent License Renewal Application—First Annual Update, dated November 30, 2021.	ML21334A293.
Point Beach Nuclear Plant Units 1 and 2—Subsequent License Renewal Application—Aging Management Requests for Additional Information (RAI) Set 12 Response, dated December 9, 2021.	ML21343A294.
Point Beach Nuclear Plant, Units 1 and 2, Subsequent License Renewal Application—Aging Management Request for Additional Information Set 13 Response, dated January 6, 2022.	ML22006A074.
Point Beach Nuclear Plant Units 1 and 2—Subsequent License Renewal Application Aging Management Requests for Additional Information (RAI) Set 14 Response, dated January 6, 2022.	ML22006A046.
Point Beach Nuclear Plant, Units 1 and 2, Schedule for Subsequent License Renewal Environmental Review, dated June 25, 2024.	ML24177A223.
Point Beach, Units 1 and 2, Subsequent License Renewal Application Environmental Review Supplemental Environmental Audit December 2, 2024 L–2024–182 10 CFR 54 Response to Requests for Confirmation of Information and Requests for Additional Information, dated December 2, 2024.	ML24337A109.
Point Beach Nuclear Plant Units 1 and 2—Subsequent License Renewal Application—Third Annual Update, dated December 13, 2023.	ML23347A094.
Point Beach Nuclear Plant, Units 1 and 2, Subsequent License Renewal Application—Fourth Annual Update, dated November 25, 2024.	ML24330A102.
Point Beach Nuclear Plant, Units 1 and 2, Subsequent License Renewal Application—Fourth Annual Update Revision 1, dated April 1, 2025.	ML25091A077.
NUREG–1437, Revision 2, Volumes 1, 2, and 3, Generic Environmental Impact Statement for License Renewal of Nuclear Plants, dated August 2024.	ML24087A133 (Package).

Dated: September 29, 2025.

For the Nuclear Regulatory Commission.

Michele Sampson,

Director, Division of New and Renewed Licenses, Office of Nuclear Reactor Regulation.

[FR Doc. 2025–19194 Filed 9–30–25; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–237 and 50–249; NRC–2025–1105]

Constellation Energy Generation, LLC; Dresden Nuclear Power Station, Unit Nos. 2 and 3; Exemption

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an exemption from the regulation that would otherwise require the application for subsequent renewal of Facility Operating License Nos. DPR–19 and DPR–25 for Dresden Nuclear Power Station, Unit Nos. 2 and 3, respectively, to be referred to the Advisory Committee on Reactor Safeguards (ACRS) for a review and report, with any report being made part of the record of the application and made available to the public, except to the extent that security classification prevents disclosure. The NRC finds that the required criteria are met due to the special circumstance presented by Executive Order (E.O.) 14300, ''Ordering the Reform of the Nuclear Regulatory Commission,'' section 4(b) (stating that ''[r]eview by ACRS of permitting and licensing issues shall focus on issues that are truly novel or noteworthy'').

DATES: The exemption was issued on September 11, 2025.

ADDRESSES: Please refer to Docket ID NRC–2025–1105 when contacting the NRC staff about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID 2025–1105. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301–415–1003; email: *Bridget.Curran@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin ADAMS Public Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.*
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mark Yoo, Office of Nuclear Reactor

Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–8583; email: *Mark.Yoo@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the exemption is attached.

Dated: September 29, 2025.

For the Nuclear Regulatory Commission.

Mark Yoo,

Senior Project Manager, Division of New and Renewed Licenses, Office of Nuclear Reactor Regulation.

Attachment—Exemption

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–237 and 50–249; NRC–2024–0080]

Constellation Energy Generation, LLC; Dresden Nuclear Power Station Units 2 and 3; Exemption

I. Background

The Constellation Energy Generation, LLC (CEG) is the holder of Facility Operating License Nos. DPR–19 and DPR–25 for Dresden Nuclear Power Station (Dresden), Units 2 and 3, respectively. The licenses provide, among other things, that the licensee is subject to all rules, regulations, and orders of the Commission now or hereafter in effect. The U.S. Nuclear Regulatory Commission (NRC) issued the initial operating licenses for Dresden, Units 2 and 3 on February 20, 1991, and January 12, 1971, respectively. Dresden, Units 2 and 3 are General Electric boiling water reactors with Mark I containments and a licensed thermal power level of 2,957 megawatts thermal each. Dresden, Units 2 and 3 are located in Morris, Illinois.

On April 17, 2024, CEG submitted to the NRC an application for subsequent renewal of Facility Operating License Nos. DPR–19 and DPR–25 for Dresden, Units 2 and 3, pursuant to title 10 of the *Code of Federal Regulations* (10 CFR) Part 54, ''Requirements for Renewal of Operating Licenses for Nuclear Power Plants'' requesting renewal for a period of 20 years beyond the current facility operating license expirations of December 22, 2029, for Unit 2 and January 12, 2031, for Unit 3. A final decision on the application is expected on or before November 13, 2025.

Under 10 CFR 54.25, ''[e]ach renewal application will be referred to the Advisory Committee on Reactor Safeguards for a review and report. Any report will be made part of the record of the application and made available to the public, except to the extent that security classification prevents disclosure.'' The December 31, 1991, rulemaking that promulgated 10 CFR 54.25 (Nuclear Power Plant License Renewal, (56 FR 64943, 64966)) noted that review by the ACRS was desirable but such review was not required by statute.

On May 23, 2025, the President issued Executive Order (E.O.) 14300 (90 FR 22587), ''Ordering the Reform of the Nuclear Regulatory Commission,'' and section 4(b) of E.O. 14300 states that ''[r]eview by ACRS of permitting and licensing issues shall focus on issues that are truly novel or noteworthy.''

On September 9, 2025, the NRC staff issued a Safety Evaluation (SE) (ML25251A146) documenting the NRC staff's review of CEG's subsequent license renewal application for Dresden, Units 2 and 3. Because the NRC staff identified no issues in this license renewal application review that are ''truly novel or noteworthy,'' the NRC is granting an exemption to the requirement in 10 CFR 54.25 to send the application to the ACRS for review.

II. Action

In light of E.O. 14300, the status of the review of the subsequent license renewal application for Dresden, Units 2 and 3, and the fact that the NRC staff found no ''truly novel or noteworthy'' issues in the application that would benefit from an ACRS review, the NRC staff determined that a staff-initiated exemption to 10 CFR 54.25 was warranted and should be granted. Pursuant to 10 CFR 54.15, ''Specific exemptions,'' exemptions from the requirements of 10 CFR part 54 may be granted by the Commission in accordance with 10 CFR 50.12. Per 10 CFR 50.12(a), ''[t]he Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of the regulations of this part,'' when certain conditions are met. Further, per 10 CFR 50.12(a)(2), the Commission will not consider granting an exemption unless special circumstances are present. Under 10 CFR 50.12(b)(vi), special circumstances are present whenever there is present any other material circumstance not considered when the regulation was adopted for which it would be in the public interest to grant an exemption, but if such condition is relied on exclusively for satisfying paragraph (a)(2), then the exemption may not be granted until the Executive Director for Operations (EDO) has consulted with the Commission. The NRC staff has determined that those criteria are met and an exemption from 10 CFR 54.25 may be granted for the reasons explained below.

III. Discussion

As described in 10 CFR 1.13, the ACRS was established by the Atomic Energy Act of 1954 (AEA), as amended. Among other things, the ACRS reviews and reports on safety studies and applications for construction permits as well as facility operating licenses. The ACRS also reviews any generic issues or other matters referred to it by the Commission for advice.

In addition, 10 CFR 54.25, as originally promulgated in 1991, requires that ''[e]ach renewal application will be referred to the Advisory Committee on Reactor Safeguards for a review and report. Any report will be made part of the record of the application and made available to the public, except to the extent that security classification prevents disclosure.'' The December 31, 1991, rulemaking notice explained (56 FR 64966) the background of the requirement thusly:

Section 182.b of the AEA states:

> The ACRS shall review each application under section 103 or section 104b. for a construction permit or an operating license for a facility, any application under section 104c. for a construction permit or an operating license for a testing facility, any application under section 104a. or c. specifically referred to it by the Commission, and any application for an amendment to a construction permit or an amendment to an operating license under section 103 or 104a., b., or c. specifically referred to it by the Commission * * *
>
> Section 182.b does not explicitly refer to applications for renewal of an operating license as requiring ACRS review. However, the Commission believes that review by the ACRS is desirable. Accordingly, § 54.25 of the final rule requires ACRS review of a license renewal application.

The Commission has not changed 10 CFR 54.25 since its initial issuance in 1991. Further, no subsequent amendments of the AEA have set forth a requirement for the ACRS to review an application for a renewed license.

10 CFR 54.15, ''Specific exemptions,'' states that ''[e]xemptions from the requirements of this part may be granted by the Commission in accordance with 10 CFR 50.12.'' Pursuant to 10 CFR 50.12(a)(1), ''Specific exemptions,'' the Commission may, ''upon application by any interested person or upon its own initiative, grant exemptions from the requirements of the regulations of this part, which are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security.''

Exemptions Are Authorized by Law

For an exemption to be authorized by law the item to be exempted cannot be required by statute. The requirement in

10 CFR 54.25 is not required by the AEA, nor required by any other law. As noted by the Commission in 1991 (56 FR 64966), the AEA does not explicitly refer to applications for renewal of an operating license as requiring ACRS review. This remains true today. Accordingly, the NRC finds that the exemption is authorized by law.

Exemption Will Not Present an Undue Risk to the Public Health and Safety

The standards and criteria that must be met before the Commission issues a renewed or subsequent renewed license are not affected by an exemption to 10 CFR 54.25. After an exemption to 54.25, the regulation at 10 CFR 54.29 will continue to set forth the safety criteria that must be met before a renewed or subsequent renewed license may be issued by the Commission. The NRC staff, which has a robust process for reviewing applications for renewed licenses, has completed its detailed review of how the Dresden, Units 2 and 3, subsequent license renewal application addressed the standards of 10 CFR 54.29 (and other relevant regulations). The result of the safety review is documented in a SE. The already-completed reviews by the NRC staff confirmed that the application did not contain anything ''truly novel or noteworthy,'' thereby assuring that an exemption from 10 CFR 54.25's requirement to refer the application to the ACRS will not present an undue risk to public health and safety.

Exemption is Consistent With the Common Defense and Security

The NRC staff has determined that the exemption from an ACRS review of the subsequent license renewal application does not impact common defense and security in large part because the common defense and security are not within the scope of subsequent license renewal review that is concerned with aging effects. When promulgating revisions to the license renewal rules (60 FR 22461, 22463–64) in 1995, the Commission re-affirmed its philosophy that the existing regulatory process is adequate to ensure that the licensing bases of all currently operating plants provides and maintains an acceptable level of safety so that operation will not be inimical to public health and safety or common defense and security. The exemption from an ACRS review, otherwise required by 10 CFR 54.25, does not alter any common defense or security matter or regulation. Thus, the exemption is consistent with common defense and security.

Special Circumstances are Present

Pursuant to 10 CFR 50.12(a)(2), the Commission will not consider granting an exemption unless special circumstances are present. 10 CFR 50.12(a)(2)(vi) states that special circumstances are present when, ''[t]here is present any other material circumstance not considered when the regulation was adopted for which it would be in the public interest to grant an exemption. If such condition is relied on exclusively for satisfying paragraph (a)(2) of this section, the exemption may not be granted until the Executive Director for Operations has consulted with the Commission.''

The 2025 E.O. 14300 did not, of course, exist when 10 CFR 54.25 was promulgated in 1991. Thus E.O. 14300 was not, and could not, be considered when 10 CFR 54.25 was issued with a blanket requirement that all renewal applications be referred to ACRS. Section 4(b) of E.O. 14300 states that ''[r]eview by ACRS of permitting and licensing issues shall focus on issues that are truly novel or noteworthy.'' The NRC staff determined that there were no ''truly novel or noteworthy'' issues in the Dresden, Units 2 and 3, subsequent license renewal application. To make a determination that the subsequent license renewal application for Dresden, Units 2 and 3, contained no novel or noteworthy issues, the NRC staff drew upon its demonstrated past experience with a total of 90 approved license renewal applications and 13 approved subsequent license renewal applications. When those past reviews identified novel or noteworthy issues (*e.g.,* issues related to buried gray cast iron piping), the NRC staff took appropriate action. However, no such issues are present in the subsequent license renewal application for Dresden, Units 2 and 3. The issuance of E.O. 14300 is the material circumstance not considered when 10 CFR 54.25 was adopted, and the NRC has followed the E.O. concerning limiting ACRS review for issues that are truly novel or noteworthy. Thus, it is in the public interest to grant an exemption. In fulfillment of 10 CFR 50.12(a)(2)(vi), the EDO consulted with the Commission on the granting of the 10 CFR 54.25 exemptions.

Environmental Consideration

This exemption removes the requirement in 10 CFR 54.25 to refer the subsequent license renewal application to the ACRS for a review and report, with any report being made part of the record of the application and made available to the public, except to the extent that security classification prevents disclosure. The NRC staff has determined that this exemption does not have an effect on the human environment and, therefore, a categorical exclusion under 10 CFR 51.22 is appropriate.

Under 10 CFR 51.22(c), licensing, regulatory, and administrative actions eligible for categorical exclusion shall meet the following criterion, namely that ''[t]he action belongs to a category of actions which the Commission, by rule or regulation, has declared to be a categorical exclusion, after first finding that the category of actions does not individually or cumulatively have a significant effect on the human environment.'' Under 10 CFR 51.22(c)(25), categories of actions that are categorical exclusions include granting of an exemption from the requirements of any regulation of 10 CFR Chapter I, provided that: (i) there is no significant hazards consideration; (ii) there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite; (iii) there is no significant increase in individual or cumulative public or occupational radiation exposure; (iv) there is no significant construction impact; (v) there is no significant increase in the potential for or consequences from radiological accidents; and (vi) the requirements from which an exemption is sought involving an item listed in 10 CFR 51.22(c)(25)(vi)(A)–(I); 10 CFR 51.22(c)(25)(vi)(A), (B), and (I) are ''recordkeeping requirements,'' ''reporting requirements,'' or ''other requirements of an administrative, managerial, or organizational nature,'' respectively. As explained below, these criteria are satisfied.

An exemption involves no significant hazards consideration if, as provided in 10 CFR 50.92(c), operation of the facility in accordance with the proposed exemption would not: ''(1) [i]nvolve a significant increase in the probability or consequences of an accident previously evaluated; or (2) [c]reate the possibility of a new or different kind of accident from any accident previously evaluated; or (3) [i]nvolve a significant reduction in a margin of safety.'' This exemption has no bearing on the operation of Dresden, Units 2 and 3, and the NRC staff identified no ''truly novel or noteworthy'' issues for an ACRS review. Referring (or declining to refer) the application to the ACRS does not change any manner in which the facility would operate and, accordingly, the factors above are met. The requirement in 10 CFR 54.25 for the application to be referred to the ACRS for review and

report, with any report being made part of the record of the application fits within 10 CFR 51.22(c)(25)(vi)(A), (B), and (I) in that they involve ''recordkeeping requirements,'' ''reporting requirements,'' or ''other requirements of an administrative, managerial, or organizational nature.'' Accordingly, an exemption from 10 CFR 54.25 meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(25). Pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the issuance of the exemption.

IV. Conclusions

Accordingly, the Commission has determined that, pursuant to 10 CFR 54.15, ''Specific exemptions,'' (stating that exemptions from the requirements of 10 CFR part 54 may be granted by the Commission in accordance with 10 CFR 50.12), an exemption from the 10 CFR 54.25 requirement to send the Dresden, Units 2 and 3, subsequent license renewal application to the ACRS for review is granted. The standards of 10 CFR 50.12(a) are met in that the exemption from 10 CFR 54.25 is authorized by law, will not present an undue risk to the public health and safety, is consistent with the common defense and security, special circumstances are present, and the EDO has consulted with the Commission. Therefore, the subsequent license renewal application is no longer required to be referred to the ACRS for a review and report.

The exemption is effective upon issuance.

Dated at Rockville, Maryland, this 11th day of September 2025.

For the Nuclear Regulatory Commission.

Michele Sampson,

Director, Division of New and Renewed Licenses, Office of Nuclear Reactor Regulation.

[FR Doc. 2025–19140 Filed 9–30–25; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974; System of Records

AGENCY: U.S. Office of Personnel Management, Office of the Chief Information Officer.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, and the Office of Management and Budget (OMB) Circular No. A–108, notice is given that the Office of Personnel Management (OPM) proposes to establish a new system of records titled, ''OPM/Internal-3, Information Technology, Information System, and Network Activity and Access Records.'' This new system is established to reflect changes in technology, including the increased ability of OPM to link individuals to information technology, information system, or network activity, and to better describe OPM's records linking individuals to reported cybersecurity incidents or their access to certain OPM information technologies, information systems, and networks through the internet or other authorized connections.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), this notice is effective upon publication, subject to a 30-day period in which to comment on the routine uses, described below. Please submit any comments by October 31, 2025.

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

- Federal Rulemaking Portal: *https://www.regulations.gov.* Follow the instructions for submitting comments. All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at *https://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.
- The public, Office of Management and Budget (OMB), and Congress are invited to submit any comments by mail to the Office of Personnel Management, ATTN: Senior Agency Official for Privacy, Office of the Director, 1900 E St. NW, Washington, DC 20415, or by email to *privacy@opm.gov.*

FOR FURTHER INFORMATION CONTACT: OPM Chief Information Officer, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415, (202) 606–1700 or *ocio@opm.gov.*

SUPPLEMENTARY INFORMATION: In accordance with the Federal Information Security Modernization Act of 2014, among other authorities, OPM is responsible for complying with information security policies and procedures requiring information security protections commensurate with the risk and magnitude of harm resulting from the unauthorized access, use, disclosure, disruption, modification, or destruction of OPM information and information systems. *See, e.g.,* 44 U.S.C. 3554 (2018). Consistent with these requirements, OPM must ensure that it maintains accurate audit and activity records of the observable occurrences on its information systems and networks (also referred to as ''events'') that are significant and relevant to the security of OPM information and information systems. These audit and activity records may include, but are not limited to, information that establishes what type of event occurred, when the event occurred, where the event occurred, the source of the event, the outcome of the event, and the identity of any individuals or subjects associated with the event. Additionally, monitored events— whether detected utilizing information systems maintaining audit and activity records, reported to the OPM by information system users, or reported to the agency by the cybersecurity research community and members of the general public conducting good faith vulnerability discovery activities—may constitute occurrences that (1) actually or imminently jeopardize, without lawful authority, the integrity, confidentiality, or availability of information or an information system; or (2) constitute a violation or imminent threat of violation of law, security policies, security procedures, or acceptable use policies. OPM has developed a formal process to track and document these reported ''incidents,'' which may, in limited circumstances, include records of individuals reporting, or otherwise associated with, an actual or suspected event or incident. This new system of records covers OPM's tracking of all OPM information technology, information system, and/or network activity, including any access, whether authorized or unauthorized, by users to any OPM information technology, OPM information systems, and/or OPM networks. These records assist OPM's information security professionals in protecting OPM data, ensuring the secure operation of OPM information systems, and tracking and documenting incidents reported to the agency. The establishment of this new systems notice reflects the need for OPM to monitor users' connections to OPM's information systems through the internet or other authorized network connections, as well as to link the identity of individuals or subjects associated with an actual or suspected event or incident for security and administrative purposes. In accordance with Privacy Act requirements of 5 U.S.C. 552a(r), OPM has provided a

report to OMB and to Congress on this newly established system of records.

Office of Personnel Management.

Jerson Matias,

Federal Register Liaison.

SYSTEM NAME AND NUMBER:

OPM/Internal-3, Information Technology, Information System, and Network Activity and Access Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records will be maintained electronically at the Office of Personnel Management offices other sites utilized by OPM, and in information technology, information systems, or networks owned, operated by, or operated on behalf of OPM. Most records will be maintained electronically at one or more of OPM's facilities including, but not limited to: 1900 E St. NW, Washington, DC 20415. Records may also be maintained at the individual information technology or end point of activity within the OPM network, and may be located locally on the physical information technology or end point before being consolidated and stored for analysis and investigation. Records within this system of records may be transferred to an OPM authorized cloud service provider, where records would be limited to locations within the Continental United States. Access to these electronic records includes all locations at which OPM System Managers operate or are supported, including but not limited to the Theodore Roosevelt Building, 1900 E St. NW, Washington, DC 20415. Some or all system information may also be duplicated at other locations where OPM has granted direct access to support OPM System Manager operations, system backup, emergency preparedness, and/or continuity of operations. To determine the location of particular records maintained in this system of records, contact the system manager using the contact information listed in the ''SYSTEM MANAGER(S)'' paragraph, below.

SYSTEM MANAGER(S):

OPM Chief Information Officer, *ocio@opm.gov,* 1900 E St. NW, Washington, DC 20415. Correspondence and/or requests from individuals may be referred to the Chief Information Security Officer and/or Chief Information Officer.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Federal Information Security Modernization Act of 2014, 44 U.S.C. 3551 *et seq.;* Executive Order No. 13800, Strengthening the Cybersecurity of Federal Networks and Critical Infrastructure (2017); OMB Circular A–130, Managing Information as a Strategic Resource (2016); OMB Memorandum M–17–12, Preparing for and Responding to a Breach of Personally Identifiable Information (Jan. 3, 2017); OMB Memorandum M–20–32, Improving Vulnerability Identification, Management, and Remediation (Sept. 2, 2020); 5 U.S.C. 301; and 5 U.S.C. 1103.

PURPOSE(S) OF THE SYSTEM:

The purpose of this system of records is to ensure that OPM can track information system access and implement information security protections commensurate with the risk and magnitude of harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of OPM information and information systems. Records in this system of records are used by system administrators and security personnel, persons authorized to assist these personnel, and managers for the purpose of: reviewing and analyzing OPM information and OPM information system activity and access events for indications of inappropriate, unusual, or abnormal activity; tracking, documenting, and handling cybersecurity events and incidents; drafting, reviewing, and revising OPM audit and accountability policies; supporting audit reviews, analyses, reporting requirements, and after-the fact investigations of events; planning and managing system services; and otherwise performing their official duties. Authorized OPM personnel may use the records in this system for the purpose of investigating improper access or other improper activity related to information system access; investigating user activity for disciplinary, conduct, or other such action; or, where the record(s) may appear to indicate a violation or potential violation of the law, referring such record(s) to an appropriate law enforcement agency for investigation.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The categories of individuals covered by this system encompass all individuals who are provided OPM information technology, access OPM information systems, or transmit information across the OPM network. This includes: individuals who use authorized OPM information technology, information systems, and/or networks to send or receive OPM information or OPM related communications, access internet sites, or access any OPM information technologies, information systems, or OPM information; individuals from outside OPM who communicate electronically with OPM users, OPM information technologies, OPM information systems, and/or OPM networks; individuals reporting, tracking, documenting and/or otherwise associated with cybersecurity incident and/or event activities; and any individuals who attempt to access OPM information technologies, OPM information systems, and/or OPM networks, with or without authorization.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system of records may include:

a. Access and activity logs that establish the types of events that occurred on an information system; when the events occurred; where the events occurred; the source of the events; the outcome of the events; and the identity of any individuals or subjects associated with the events.

Such information includes, but is not limited to: time stamps recording the data and time of access or activity; source and destination addresses; user, device, and process identifiers, including internet Protocol (IP) address, Media Access Control (MAC) address, and event descriptions; success/fail indications; filenames involved; full text recording of privileged commands; and/or access control or flow control rules invoked. Such information may be collected and aggregated by the operating system or application software locally within an information technology, information system, or network.

b. Information relating to any individuals accessing OPM information, OPM information technologies, OPM information systems, or OPM networks, including but not limited to: Records contained within OPM/Internal-14, Photo Identification and Visitor Access Control Records, 64 FR 73108 (Dec. 29, 1999); user names; persistent identifiers (such as a User ID); contact information, such as title, office, component, and agency; and the authorization of an individual's access to systems, files, or applications, such as signed consent forms or Rules of Behavior forms, or access authentication information (including but not limited to passwords, challenge questions/answers used to confirm/validate a user's identity, and other authentication factors).

c. Records on the use of electronic mail, instant messaging, other chat services, electronic call detail

information (including name, originating/receiving numbers, duration, and date/time of call), and electronic voicemail.

d. Records of internet access from any information technology connected to an OPM information system, on an OPM network, or through authorized connections to OPM networks and OPM information systems, including the IP address of the information technology being used to initiate the internet connection and the information accessed.

e. Audit reviews, analyses, and reporting, including but not limited to, audits that result from monitoring of account usage, remote access, wireless connectivity, mobile device connection, configuration settings, system component inventory, physical access, and communications at the information system boundaries.

f. Actual or suspected incident or event report information, including but not limited to: Information related to individuals reporting, tracking, documenting and/or otherwise associated with a cybersecurity incident and/or event; information related to reporting, tracking, investigating, and/or addressing an incident or event (*e.g.,* data/time of the incident or event; location of incident or event; type of incident or event; storage medium information; safeguard information; external/internal entity report tracking; data elements associated with the incident or event; information on individuals impacted; information on information system(s) impacted; remediation, response, or notification actions; lessons learned; risk of harm and compliance assessments); and information related to discovering, testing, reporting, tracking, investigating, and/or addressing a security vulnerability or indicator of a security vulnerability.

RECORD SOURCE CATEGORIES:

Records covered by this system of records are generated internally (*i.e.,* information technology, information system, and/or network activity logs) regardless of the location from which an individual accesses OPM information or OPM information systems, manually sourced from OPM personnel, or sourced directly from the individual on whom the record pertains.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system of records may be disclosed outside of OPM as a routine use pursuant to 5 U.S.C. 552a(b)(3) under the circumstances or for the purposes described below, to the extent such disclosures are compatible with the purposes for which the information was collected:

a. To any person, organization, or governmental entity in order to notify them of a serious terrorist threat for the purpose of guarding against or responding to such a threat.

b. To Federal, state, local, territorial, tribal, foreign, or international licensing agencies or associations which require information concerning the suitability or eligibility of an individual for a license or permit.

c. Where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature—the relevant records may be referred to the appropriate Federal, state, local, territorial, tribal, or foreign law enforcement authority or other appropriate entity charged with the for investigating or prosecuting such violation or charged with enforcing or implementing such law.

d. Pursuant to 5 CFR 295, in an appropriate proceeding before a court, grand jury, or administrative or adjudicative body, when OPM determines that the records are arguably relevant to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

e. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, interagency agreement, or other assignment for the Federal government, when necessary to accomplish an agency function related to this system of records.

f. To designated officers and employees of state, local, territorial, or tribal law enforcement or detention agencies in connection with the hiring or continued employment of an employee or contractor, where the employee or contractor would occupy or occupies a position of public trust as a law enforcement officer or detention officer having direct contact with the public or with prisoners or detainees, to the extent that the information is relevant and necessary to the recipient agency's decision.

g. To appropriate officials and employees of a federal agency or entity that requires information relevant to a decision concerning the hiring, appointment, or retention of an employee; the issuance, renewal, suspension, or revocation of a security clearance; the execution of a security or suitability investigation; the letting of a contract; or the issuance of a grant or benefit.

h. To a former employee of OPM for purposes of: responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable agency regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where OPM requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

i. To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

j. To the National Archives and Records Administration for purposes of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

k. To appropriate agencies, entities, and persons when (1) OPM suspects or has confirmed that there has been a breach of the system of records; (2) OPM has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, OPM (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with OPM's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

l. To another Federal agency or entity, when OPM determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

m. To such recipients and under such circumstances and procedures as are mandated by federal statute.

n. To the Department of Justice when (a) OPM, or any component thereof; (b) any OPM employee in their official

capacity; (c) any OPM employee in their individual capacity where the Department of Justice has agreed to represent the employee; or (d) the United States, where OPM determines that litigation is likely to affect OPM or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by OPM to be relevant and necessary to the litigation.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records in this system of records are stored on paper and/or in electronic form. Records are stored securely in accordance with applicable Executive Orders, statutes, and agency implementing recommendations.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are collected in real time from all OPM information technologies and endpoints on the OPM network and aggregated in databases searchable by identifying characteristics, including, but not limited to, name, user ID, email address, or IP address. Records may be retrieved as part of routine network and information system security monitoring, cybersecurity incident response, database activity monitoring, or in support of other administrative or security investigations in accordance with appropriate laws, rules, and policies.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records of verification, authorization, access, and other activities generated by OPM information technologies, OPM information systems, and/or OPM networks shall be retained in accordance with applicable records schedules, including but not limited to General Records Schedule 3.1 and 3.2. After the appropriate retention period, records will be destroyed/deleted, in accordance with appropriate media sanitization procedures.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

OPM security measures are in compliance with the Federal Information Security Modernization Act of 2014, associated OMB policies, and applicable standards and guidance from the National Institute of Standards and Technology (NIST). Access to such information is limited to OPM employees, contractors, and other personnel who have an official need for access in order to perform their duties. Records are maintained in an access-controlled area, with direct access permitted to only authorized personnel. Electronic records are accessed only by authorized personnel with accounts on OPM's network. Additionally, direct access to certain information may be restricted depending on a user's role and responsibility within the organization and system. Paper records are safeguarded in accordance with appropriate laws, rules, and policies.

RECORD ACCESS PROCEDURES:

Individuals seeking notification of and access to their records in this system of records may do so by submitting a request in writing to the Office of Personnel Management, Office of the General Counsel, 1900 E Street NW, Washington, DC 20415–1300 or by emailing *ogcatty@opm.gov.* Individuals must furnish the following information for their records to be located:

1. Full name, including any former name.
2. Date of birth.
3. Social Security Number.
4. Name and address of employing agency or retirement system.
5. Reasonable specification of the requested information.
6. The address to which the information should be sent.
7. Signature.

Individuals requesting access must also comply with OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of records about themselves may do so by writing to the Office of Personnel Management, Office of the General Counsel, 1900 E Street NW, Washington, DC 20415–1300 or by emailing *ogcatty@opm.gov.* Requests for amendment of records should include the words ''PRIVACY ACT AMENDMENT REQUEST'' in capital letters at the top of the request letter; if sending the request by email, include those words in the subject line. Individuals must furnish the following information for their records to be located:

1. Full name, including any former name, and address.
2. Date of birth.
3. Social Security Number.
4. Name and address of employing agency or retirement system.
5. Precise identification of the information to be amended.
6. Signature.

Individuals requesting amendment must also comply with OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297).

NOTIFICATION PROCEDURES:

See ''Record Access Procedure.''

EXEMPTIONS PROMULGATED FOR THE SYSTEM: NONE.

HISTORY: NONE.

[FR Doc. 2025–19092 Filed 9–30–25; 8:45 am]

BILLING CODE 6325–47–P

POSTAL REGULATORY COMMISSION

[Docket Nos. K2025–459; K2025–568; K2025–1009; MC2025–1712 and K2025–1702; MC2025–1713 and K2025–1703; MC2025–1714 and K2025–1704; MC2025–1715 and K2025–1706; MC2025–1716 and K2025–1707; MC2025–1717 and K2025–1708; MC2025–1718 and K2025–1709; MC2025–1719 and K2025–1710; MC2025–1720 and K2025–1711; MC2025–1722 and K2025–1713]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* October 6, 2025.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *https://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Public Proceeding(s)
III. Summary Proceeding(s)

I. Introduction

Pursuant to 39 CFR 3041.405, the Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to Competitive negotiated service agreement(s). The request(s) may propose the addition of a negotiated service agreement from the Competitive product list or the modification of an existing product currently appearing on the Competitive product list.

The public portions of the Postal Service's request(s) can be accessed via

the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

Section II identifies the docket number(s) associated with each Postal Service request, if any, that will be reviewed in a public proceeding as defined by 39 CFR 3010.101(p), the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each such request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 and 39 CFR 3000.114 (Public Representative). The Public Representative does not represent any individual person, entity or particular point of view, and, when Commission attorneys are appointed, no attorney-client relationship is established. Section II also establishes comment deadline(s) pertaining to each such request.

The Commission invites comments on whether the Postal Service's request(s) identified in Section II, if any, are consistent with the policies of title 39. Applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3041. Comment deadline(s) for each such request, if any, appear in Section II.

Section III identifies the docket number(s) associated with each Postal Service request, if any, to add a standardized distinct product to the Competitive product list or to amend a standardized distinct product, the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. Standardized distinct products are negotiated service agreements that are variations of one or more Competitive products, and for which financial models, minimum rates, and classification criteria have undergone advance Commission review. *See* 39 CFR 3041.110(n); 39 CFR 3041.205(a). Such requests are reviewed in summary proceedings pursuant to 39 CFR 3041.325(c)(2) and 39 CFR 3041.505(f)(1). Pursuant to 39 CFR 3041.405(c)–(d), the Commission does not appoint a Public Representative or request public comment in proceedings to review such requests. The comment due date discussed above does not apply to Section III proceedings (Docket Nos. MC2025–1712 and K2025–1702; MC2025–1713 and K2025–1703; MC2025–1716 and K2025–1707; MC2025–1717 and K2025–1708; and MC2025–1718 and K2025–1709).

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

II. Public Proceeding(s)

1. *Docket No(s).:* K2025–459; *Filing Title:* USPS Request Concerning Amendment One to Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 768, with Materials Filed Under Seal; *Filing Acceptance Date:* September 26, 2025; *Filing Authority:* 39 CFR 3035.105 and 39 CFR 3041.505; *Public Representative:* Samuel Robinson; *Comments Due:* October 6, 2025.

2. *Docket No(s).:* K2025–568; *Filing Title:* USPS Request Concerning Amendment One to Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 857, with Materials Filed Under Seal; *Filing Acceptance Date:* September 26, 2025; *Filing Authority:* 39 CFR 3035.105 and 39 CFR 3041.505; *Public Representative:* Samuel Robinson; *Comments Due:* October 6, 2025.

3. *Docket No(s).:* K2025–1009; *Filing Title:* USPS Request Concerning Amendment One to Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 1212, with Materials Filed Under Seal; *Filing Acceptance Date:* September 26, 2025; *Filing Authority:* 39 CFR 3035.105 and 39 CFR 3041.505; *Public Representative:* Evan Wise; *Comments Due:* October 6, 2025.

4. *Docket No(s).:* MC2025–1714 and K2025–1704; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 1421 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 26, 2025; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Kenneth Moeller; *Comments Due:* October 6, 2025.

5. *Docket No(s).:* MC2025–1715 and K2025–1706; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 1422 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 26, 2025; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Kenneth Moeller; *Comments Due:* October 6, 2025.

6. *Docket No(s).:* MC2025–1719 and K2025–1710; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 1423 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 26, 2025; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Maxine Bradley; *Comments Due:* October 6, 2025.

7. *Docket No(s).:* MC2025–1720 and K2025–1711; *Filing Title:* USPS Request to Add Priority Mail Contract 932 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 26, 2025; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Jennaca Upperman; *Comments Due:* October 6, 2025.

8. *Docket No(s).:* MC2025–1722 and K2025–1713; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 1424 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 26, 2025; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Almaroof Agoro; *Comments Due:* October 6, 2025.

III. Summary Proceeding(s)

1. *Docket No(s).:* MC2025–1712 and K2025–1702; *Filing Title:* USPS Request to Add New Fulfillment Standardized Distinct Product, PM–GA Contract 864, and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 26, 2025; *Filing Authority:* 39 U.S.C. 3642 and 3633, 39 CFR 3035.105, and 39 CFR 3041.325.

2. *Docket No(s).:* MC2025–1713 and K2025–1703; *Filing Title:* USPS Request to Add New Fulfillment Standardized Distinct Product, PM–GA Contract 865, and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 26, 2025; *Filing Authority:* 39 U.S.C. 3642 and 3633, 39 CFR 3035.105, and 39 CFR 3041.325.

3. *Docket No(s).:* MC2025–1716 and K2025–1707; *Filing Title:* USPS Request to Add New Fulfillment Standardized Distinct Product, PM–GA Contract 866, and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 26, 2025; *Filing Authority:* 39 U.S.C. 3642 and 3633, 39 CFR 3035.105, and 39 CFR 3041.325.

4. *Docket No(s).:* MC2025–1717 and K2025–1708; *Filing Title:* USPS Request to Add New Fulfillment Standardized Distinct Product, PM–GA Contract 867, and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 26, 2025; *Filing Authority:* 39 U.S.C. 3642 and 3633, 39 CFR 3035.105, and 39 CFR 3041.325.

5. *Docket No(s).:* MC2025–1718 and K2025–1709; *Filing Title:* USPS Request to Add New Fulfillment Standardized Distinct Product, PM–GA Contract 868, and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 26, 2025; *Filing Authority:* 39 U.S.C. 3642 and 3633, 39 CFR 3035.105, and 39 CFR 3041.325.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2025–19164 Filed 9–30–25; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—Priority Mail Express, Priority Mail, and USPS Ground Advantage Negotiated Service Agreements; Priority Mail and USPS Ground Advantage Negotiated Service Agreements; Priority Mail

AGENCY: Postal Service.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* October 1, 2025.

FOR FURTHER INFORMATION CONTACT: Sean C. Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), it filed with the Postal Regulatory Commission the following requests:

Date filed with Postal Regulatory Commission	Negotiated service agreement product category and No.	MC docket No.	K docket No.
09/22/25	PM–GA 861	MC2025–1702	K2025–1692
09/22/25	PM–GA 862	MC2025–1703	K2025–1693
09/22/25	PM–GA 863	MC2025–1704	K2025–1694
09/22/25	PM–929	MC2025–1705	K2025–1695
09/25/25	PME–PM–GA 1417	MC2025–1706	K2025–1696
09/25/25	PME–PM–GA 1418	MC2025–1707	K2025–1697
09/25/25	PM–930	MC2025–1708	K2025–1698
09/25/25	PME–PM–GA 1419	MC2025–1709	K2025–1699
09/25/25	PME–PM–GA 1420	MC2025–1710	K2025–1700
09/25/25	PM–931	MC2025–1711	K2025–1701
09/25/25	PM–GA 864	MC2025–1712	K2025–1702
09/25/25	PM–GA 865	MC2025–1713	K2025–1703
09/25/25	PME–PM–GA 1421	MC2025–1714	K2025–1704
09/25/25	PME–PM–GA 1422	MC2025–1715	K2025–1706
09/25/25	PM–GA 866	MC2025–1716	K2025–1707
09/25/25	PM–GA 867	MC2025–1717	K2025–1708
09/25/25	PM–GA 868	MC2025–1718	K2025–1709
09/26/25	PME–PM–GA 1423	MC2025–1719	K2025–1710
09/26/25	PM–932	MC2025–1720	K2025–1711
09/26/25	PM–GA 869	MC2025–1721	K2025–1712

Documents are available at *www.prc.gov.*

Sean C. Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2025–19090 Filed 9–30–25; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104105; File No. SR–CboeBZX–2025–135]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fidelity Wise Origin Bitcoin Fund, VanEck Bitcoin ETF, 21Shares Ethereum ETF, Fidelity Ethereum Fund, and the VanEck Ethereum ETF, Shares of Which Were Approved To List and Trade on the Exchange Pursuant to BZX Rule 14.11(e)(4)

September 26, 2025.

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 September 26, 2025, Cboe 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 and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder.[4] 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

Cboe BZX Exchange, Inc. (''BZX'' or the ''Exchange'') is filing with the Securities and Exchange Commission (''Commission'' or ''SEC'') a proposed rule change to amend the Fidelity Wise Origin Bitcoin Fund, VanEck Bitcoin ETF,[5] 21Shares Ethereum ETF,[6] Fidelity Ethereum Fund, and the VanEck Ethereum ETF,[7] (collectively, the ''Funds''), shares ('' Fund Shares'') of which have been approved by the Commission to list and trade on the Exchange pursuant to BZX Rule 14.11(e)(4) under an approval order, to permit the Funds to list and trade under the generic listing standards of that rule effective October 1, 2025.

The text of the proposed rule change is also available on the Commission's website (*https://www.sec.gov/rules/sro.shtml*), the Exchange's website (*https://www.cboe.com/us/equities/*

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] The Exchange notes that the name of the VanEck Bitcoin ETF changed from the ''VanEck Bitcoin Trust'' to the ''VanEck Bitcoin ETF''.

[6] The Exchange notes that the name of the 21Shares Ethereum ETF changed from the ''21Shares Core Ethereum ETF'' to the ''21Shares Ethereum ETF''.

[7] The Exchange notes that the name of the VanEck Ethereum ETF changed from the ''VanEck Ethereum Trust'' to the ''VanEck Ethereum ETF''.

regulation/rule_filings/bzx/), and at the principal office of the Exchange.

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 Commission has previously approved the listing and trading of shares for each of the Funds under Rule 14.11(e)(4),[8] and all Funds currently list and trade on the Exchange. The Exchange now proposes to transition these Funds to operate under the recently Commission-approved generic listing standards for Commodity-Based Trust Shares pursuant to Rule 14.11(e)(4) (''Amended Rule 14.11(e)(4)'') effective October 1, 2025.[9]

The Funds will meet the requirements of Amended Rule 14.11(e)(4) and will be required to comply with the continued listing requirements set forth in such Rule

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[10] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [11] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [12] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes the proposed rule change is designed to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest because it would provide for the transition of the Funds from being listed pursuant to the Original Approval Orders to Amended Rule 14.11(e)(4) instead. The proposed change would allow each of the Fund Shares to continue listing and trading on the Exchange and permit the Funds to operate in reliance on the generic listing standards in Amended Rule 14.11(e)(4) instead of the terms of the Original Approval Orders, thereby facilitating the continued listing and trading of exchange-traded products that will enhance competition among market participants, to the benefit of investors and the marketplace. Each of the Funds will meet the requirements of Amended Rule 14.11(e)(4) and will be required to comply with the continued listing standards set forth in Amended Rule 14.11(e)(4).

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 purpose of the Act. As discussed above, the proposed change is intended to facilitate the continued listing and trading of the Funds on the Exchange, thereby promoting competition among exchange-traded products to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [13] and Rule 19b–4(f)(6) [14] thereunder. 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; or (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [15] and Rule 19b–4(f)(6) [16] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [17] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[18] the Commission may designate a shorter time if such action is consistent with protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to implement the proposed rule change without delay and does not introduce any novel regulatory issues. Accordingly, the Commission designates the proposed rule change to be operative upon filing.[19]

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[8] *See* Securities Exchange Act Nos. 99306 (January 10, 2024) 89 FR 3008 (January 17, 2024) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, To List and Trade Bitcoin-Based Commodity-Based Trust Shares and Trust Units) (the ''Bitcoin ETP Approval Order''); 100224 (May 23, 2024) 89 FR 46937 (May 30, 2024) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, To List and Trade Shares of Ether-Based Exchange-Traded Products) (the ''Ethereum ETP Approval Order'', and together with the Bitcoin ETP Approval Order the ''Original Approval Orders'').

[9] *See* Securities Exchange Act No. 103995 (September 17, 2025) 90 FR 45414 (September 22, 2025) (SR–CboeBZX–2025–104) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, To Adopt Generic Listing Standards for Commodity-Based Trust Shares).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] *Id.*

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6).

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange requested waiver of the five-day prefiling requirement for this proposal for the reasons stated in its filing, which the Commission hereby grants.

[17] 17 CFR 240.19b–4(f)(6).

[18] 17 CFR 240.19b–4(f)(6)(iii).

[19] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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 (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–CboeBZX–2025–135 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–CboeBZX–2025–135. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CboeBZX–2025–135 and should be submitted on or before October 22, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–19100 Filed 9–30–25; 8:45 am]

BILLING CODE 8011–01–P

[20] 17 CFR 200.30–3(a)(12) and (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104103; File No. SR–NYSEARCA–2025–74]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Bitwise Ethereum ETF Shares

September 26, 2025.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on September 26, 2025, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Bitwise Ethereum ETF (the ''Trust''), shares of which are currently listed and traded on the Exchange pursuant to Rule 8.201–E (Non-Generic), to list and trade on the Exchange pursuant to Rule 8.201–E (Generic). The proposed rule change is available on the Exchange's website at *www.nyse.com* and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Trust, shares of which currently list and trade on the Exchange pursuant to Rule 8.201–E (Non-Generic),[4] to list and trade on the Exchange pursuant to Rule 8.201–E (Generic).

The shares of the Trust (''Shares'') will meet the requirements of Rule 8.201–E (Generic) and will be required to comply with the continued listing requirements set forth in such Rule.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) [5] of the Act. Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [6] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes the proposed rule change is designed to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest because it would provide for the transition of the Trust from being listed under Rule 8.201–E (Non-Generic) to Rule 8.201–E (Generic) instead. The proposed change would allow the Shares to continue listing and trading on the Exchange and permit the Trust to operate in reliance on the generic listing standards in Rule 8.201–E (Generic) instead of the terms of the Original Approval Order, thereby facilitating the continued listing and

[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. 100224 (May 23, 2024), 89 FR 46937 (May 30, 2024) (SR–NYSEARCA–2023–70; SR–NYSEARCA–2024–31; SR–NASDAQ–2023–045; SR–CboeBZX–2023–069; SR–CboeBZX–2023–070; SR–CboeBZX–2023–087; SR–CboeBZX–2023–095; SR–CboeBZX–2024–018) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, to List and Trade Shares of Ether-Based Exchange-Traded Products) (''Original Approval Order''). In connection with the adoption of new NYSE Arca Rule 8.201–E (Generic), the Exchange renamed Rule 8.201–E as Rule 8.201–E (Non-Generic). *See* Securities Exchange Act Release No. 103995 (September 17, 2025) (SR–NASDAQ–2025–056; SR–CboeBZX–2025–104; SRNYSEARCA–2025–54) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, to Adopt Generic Listing Standards for Commodity-Based Trust Shares).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78f(b)(5).

trading of an exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. The Shares will meet the requirements of Rule 8.201–E (Generic) and will be required to comply with the continued listing standards set forth in Rule 8.201–E (Generic).

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 purpose of the Act. As discussed above, the proposed change is intended to facilitate the continued listing and trading of the Shares on the Exchange, thereby promoting competition among exchange-traded products to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii)[9] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[10] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[11] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to implement the proposed rule change without delay and does not introduce any novel regulatory issues. Accordingly, the Commission designates the proposed rule change to be operative upon filing.[12]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[13] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include file number SR–NYSEARCA–2025–74 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–2025–74. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NYSEARCA–2025–74 and should be submitted on or before October 22, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–19098 Filed 9–30–25; 8:45 am]

BILLING CODE 8011–01–P

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange requested waiver of the five-day prefiling requirement for this proposal for the reasons stated in its filing, which the Commission hereby grants.

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] For purposes only of waiving the 30-day operative delay, the Commission also 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. 78s(b)(2)(B).

[14] 17 CFR 200.30–3(a)(12) and (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104124; File No. SR–NYSEARCA–2025–70]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Ordering Window Deposit Requirement in Colocation Note 8

September 29, 2025.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on September 25, 2025, NYSE Arca, Inc. (''NYSE Arca'' or the ''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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Ordering Window deposit requirement in Colocation Note 8 of the Connectivity

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

Fee Schedule. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Ordering Window deposit requirement in Colocation Note 8 of the Connectivity Fee Schedule.

Background

In November 2023, the Commission approved the Exchange's proposal to amend the Connectivity Fee Schedule to provide, in Colocation Note 8, an alternative procedure by which the Exchange can allocate power in the colocation hall at the Mahwah Data Center (''MDC'') [4] via deposit-guaranteed orders from Users made within a 90-day ''Ordering Window.'' [5] Under that procedure, during an Ordering Window, each User may submit a single order for its anticipated power needs, without regard to the provision of Colocation Note 7 that prohibits the Exchange from accepting orders for more than four dedicated cabinets and/or 32 kW of power. Orders submitted during the Ordering Window are currently subject to deposits equal to two months' worth of the monthly recurring costs of the amount of power ordered, and such orders are not finalized until the User's signed order form and deposit are received by the Exchange. After the Ordering Window closes, space and power are allocated by the Exchange according to a formula described in Colocation Note 8.

As the Exchange explained in its original proposal, the purpose of the Ordering Window procedure is to permit the Exchange to obtain a real indication of Users' true demands for power both now and in the future. At the time of the original proposal, ICE was in the process of developing a new colocation hall—Hall 5—at the MDC, yet lacked any way to gauge Users' true demand for space and power given Users' inability to place orders for more than four dedicated cabinets and/or 32 kW of power. In addition, ICE sought firm, guaranteed commitments from Users that they would actually purchase the additional space and power if it was offered to them, thereby justifying ICE's investment in building out additional colocation halls. The Exchange developed the Ordering Window procedure to address these issues.

To date, the Exchange has used the Ordering Window procedure once, in early 2024, before the opening of the MDC's Hall 5. While the procedure worked as intended, the Exchange did observe behavior on the part of some Users that impacted the allocation of space and power. Seven Users submitted orders for 32 kW or less, and were all allocated the full amount of their orders under ''Step 2'' of the allocation procedure in Colocation Note 8. An additional nine Users ordered more than 32 kW. The Exchange has learned from discussions with those nine firms that five of them placed orders for the amount of power they actually wished to receive, while the other four firms placed orders for three to six times their desired amount of power—and, in some cases, more than all the power that was actually available in all of Hall 5.[6] When power was allocated to these nine firms pursuant to ''Step 3'' of the allocation procedure in Colocation Note 8, the result was that the five firms that ordered their actual desired amount of power received approximately 60% of their requested amounts, while the four firms that ordered several times more power than they actually wanted received an amount of power closer to their actual desired amount.

Proposed Change

ICE is currently developing an additional colocation hall at the MDC—Hall 6—and seeks to evaluate customer demand for the space and power in that Hall, as well as whether customer demand would support additional expansion projects beyond Hall 6. The Exchange plans to use the Ordering Window procedure to assist in evaluating these issues, but proposes one change to the procedure before doing so.

Specifically, the Exchange proposes to increase the deposit that Users must provide when submitting orders for more than 32 kW during the Ordering Window to six months' worth of the monthly recurring costs of the amount of power ordered, up from two months' worth. There would be no change to the deposit requirement for Users ordering 32 kW or less, who would continue to provide a deposit equal to two months' worth of the monthly recurring costs of the amount of power ordered. Similarly, there would be no change to the use of the deposit: it would continue to be applied to the User's first and subsequent months' invoices after the power is delivered until it is completely depleted. If the User withdraws its order during the Ordering Window, the deposit will be returned.

The Exchange believes that increasing the deposit requirement for orders of more than 32 kW during the Ordering Window would discourage Users seeking more than 32 kW of power from acting opportunistically and placing orders for amounts of power several times their actual desired amount. The Exchange believes that increasing the deposit amount for orders exceeding 32 kW by a multiple of three will have a material effect on the ordering behavior of these Users, since ordering several times more power than their actual desired amount would tie up sizeable amounts of capital as deposits. By way of example, during the Ordering Window in early 2024, the four firms that placed orders for significantly more power than they needed paid deposits totaling $17 million; under the proposed rule change, similar orders would require deposits of $51 million. The Exchange believes from discussions with several Users that such a deposit requirement would dissuade Users from submitting such inflated orders for power.

The Exchange believes that increasing the deposit requirement to six months from two months for orders more than 32 kW is the best way to meet the goals

[4] Through its Fixed Income and Data Services (''FIDS'') business, Intercontinental Exchange, Inc. (''ICE'') operates the MDC. The Exchange and its affiliates New York Stock Exchange LLC, NYSE American LLC, NYSE National, Inc., and NYSE Texas, Inc. (the ''Affiliate SROs'') are indirect subsidiaries of ICE. Each of the Exchange's Affiliate SROs has submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSE–2025–36, SR–NYSEAMER–2025–59, SR–NYSENAT–2025–22, and SR–NYSETEX–2025–33.

[5] *See* Securities Exchange Act Release No. 98937 (November 14, 2023), 88 FR 80793 (November 20, 2023) (SR–NYSE–2023–29, SR–NYSEAMER–2023–39, SR–NYSEARCA–2023–53, SR–NYSECHX–2023–16, SR–NYSENAT–2023–18).

[6] One User submitted an order for 2,700 kW, which was more than the total amount of power available in all of Hall 5 during the Ordering Window, while another User submitted an order for 5,500 kW, nearly double that amount.

of the Ordering Window procedure while dissuading certain Users' opportunistic ordering behavior. In addition, the proposal would have no impact on Users ordering less than 32 kW of power, whose deposit requirement would not change and who would continue to be allocated power in ''Step 2'' of the allocation procedure, before any orders larger than 32 kW are considered.

Application and Impact of the Proposed Changes

The proposed change is not targeted at, or expected to be limited in applicability to, market participants of any specific type or size. Rather, the proposed change would apply equally to any User ordering more than 32 kW of power during an Ordering Window.

Users with more modest power needs would not be disadvantaged by the proposed change. This proposal would not change the deposit requirement for Users finalizing orders during the Ordering Window of 32 kW or less. Nor would this proposal change the fact that in ''Step 2,'' each User that finalized an order during the Ordering Window would be allocated up to 32 kW of power (subject to sufficient power being available) before any User's order for more than 32 kW would be filled.

The proposed changes are not otherwise intended to address any other issues relating to colocation services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[8] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities, is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, and does not unfairly discriminate between customers, issuers, brokers or dealers.

The proposed rule change is designed to mitigate the opportunistic behavior of Users who submitted Ordering Window orders for significantly more power than their actual desired amounts. The Exchange believes that increasing the deposit requirement for orders of more than 32 kW during the Ordering Window to six months' worth of the monthly recurring costs of the amount of power ordered, up from two months' worth, would discourage Users seeking more than 32 kW of power from acting opportunistically and placing orders for amounts of power several times their actual desired amount. The Exchange believes that increasing the deposit amount for orders exceeding 32 kW by a multiple of three will have a material effect on the ordering behavior of these Users, since ordering several times more power than their actual desired amount would tie up sizeable amounts of capital as deposits. By way of example, during the Ordering Window in early 2024, the four firms that placed orders for significantly more power than they needed paid deposits totaling $17 million; under the proposed rule change, similar orders would require deposits of $51 million. The Exchange believes from discussions with several Users that such a deposit requirement would dissuade Users from submitting such inflated orders for power.

The Exchange believes that increasing the deposit requirement to six months from two months for orders more than 32 kW is the best way to meet the goals of the Ordering Window procedure while dissuading certain Users' opportunistic ordering behavior. In addition, the proposal would have no impact on Users ordering less than 32 kW of power, whose deposit requirement would not change and who would continue to be allocated power in ''Step 2'' of the allocation procedure, before any orders larger than 32 kW are considered. The Exchange's proposal is thus specifically tailored to dissuade Users from submitting orders for significantly more power than their actual desired amounts.

The proposed rule change would protect investors and the public interest in that it would provide the Exchange with more accurate insight into Users' true power requirements. It is in the public interest for the Exchange to take User demand into account and to make reasoned, informed decisions about whether and how to expand the MDC.

At the same time, there would be no change to the use of the deposit: it would continue to be applied to the User's first and subsequent months' invoices after the power is delivered until it is completely depleted. If the User withdraws its order during the Ordering Window, the deposit will be returned. Accordingly, a User would continue to benefit from the deposit.

The proposed rule change provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The proposed change is not targeted at, or expected to be limited in applicability to, market participants of any specific type or size. Rather, the proposed change would apply equally to any User ordering more than 32 kW of power during an Ordering Window. Users with more modest power needs would not be disadvantaged by the proposed change. This proposal would not change the deposit requirement for Users finalizing orders during the Ordering Window of 32 kW or less. Nor would this proposal change the fact that in ''Step 2,'' each User that finalized an order during the Ordering Window would be allocated up to 32 kW of power (subject to sufficient power being available) before any User's order for more than 32 kW would be filled.

For all these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act, the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change would increase the deposit requirement for orders for more than 32 kW submitted during an Ordering Window in order to mitigate the opportunistic behavior of Users ordering significantly more power than their actual desired amounts. The Exchange does not expect the proposed rule change to impact intra-market or intermarket competition between exchanges, Users, or any other market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to Section 19(b)(3)(A)(ii) of the Act,[9] and Rule 19b–4(f)(2) thereunder [10] the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed on any person, whether or not the person is a member of the self-

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4) and (5).

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 17 CFR 240.19b–4.

regulatory organization, which renders the proposed rule change effective upon filing. 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 (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NYSEARCA–2025–70 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–2025–70. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NYSEARCA–2025–70 and should be submitted on or before October 22, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–19181 Filed 9–30–25; 8:45 am]

BILLING CODE 8011–01–P

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104121; File No. SR–NYSE–2025–36]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Ordering Window Deposit Requirement in Colocation Note 8

September 29, 2025.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on September 25, 2025, New York Stock Exchange LLC (''NYSE'' or the ''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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Ordering Window deposit requirement in Colocation Note 8 of the Connectivity Fee Schedule. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Ordering Window deposit requirement in Colocation Note 8 of the Connectivity Fee Schedule.

Background

In November 2023, the Commission approved the Exchange's proposal to amend the Connectivity Fee Schedule to provide, in Colocation Note 8, an alternative procedure by which the Exchange can allocate power in the colocation hall at the Mahwah Data Center (''MDC'')[4] via deposit-guaranteed orders from Users made within a 90-day ''Ordering Window.''[5] Under that procedure, during an Ordering Window, each User may submit a single order for its anticipated power needs, without regard to the provision of Colocation Note 7 that prohibits the Exchange from accepting orders for more than four dedicated cabinets and/or 32 kW of power. Orders submitted during the Ordering Window are currently subject to deposits equal to two months' worth of the monthly recurring costs of the amount of power ordered, and such orders are not finalized until the User's signed order form and deposit are received by the Exchange. After the Ordering Window closes, space and power are allocated by the Exchange according to a formula described in Colocation Note 8.

As the Exchange explained in its original proposal, the purpose of the Ordering Window procedure is to permit the Exchange to obtain a real indication of Users' true demands for power both now and in the future. At the time of the original proposal, ICE was in the process of developing a new colocation hall—Hall 5—at the MDC, yet lacked any way to gauge Users' true demand for space and power given Users' inability to place orders for more than four dedicated cabinets and/or 32

[4] Through its Fixed Income and Data Services (''FIDS'') business, Intercontinental Exchange, Inc. (''ICE'') operates the MDC. The Exchange and its affiliates NYSE American LLC, NYSE Arca, Inc., NYSE National, Inc., and NYSE Texas, Inc. (the ''Affiliate SROs'') are indirect subsidiaries of ICE. Each of the Exchange's Affiliate SROs has submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSEAMER–2025–59, SR–NYSEARCA–2025–70, SR–NYSENAT–2025–22, and SR–NYSETEX–2025–33.

[5] *See* Securities Exchange Act Release No. 98937 (November 14, 2023), 88 FR 80793 (November 20, 2023) (SR–NYSE–2023–29, SR–NYSEAMER–2023–39, SR–NYSEARCA–2023–53, SR–NYSECHX–2023–16, SR–NYSENAT–2023–18).

kW of power. In addition, ICE sought firm, guaranteed commitments from Users that they would actually purchase the additional space and power if it was offered to them, thereby justifying ICE's investment in building out additional colocation halls. The Exchange developed the Ordering Window procedure to address these issues.

To date, the Exchange has used the Ordering Window procedure once, in early 2024, before the opening of the MDC's Hall 5. While the procedure worked as intended, the Exchange did observe behavior on the part of some Users that impacted the allocation of space and power. Seven Users submitted orders for 32 kW or less, and were all allocated the full amount of their orders under ''Step 2'' of the allocation procedure in Colocation Note 8. An additional nine Users ordered more than 32 kW. The Exchange has learned from discussions with those nine firms that five of them placed orders for the amount of power they actually wished to receive, while the other four firms placed orders for three to six times their desired amount of power—and, in some cases, more than all the power that was actually available in all of Hall 5.[6] When power was allocated to these nine firms pursuant to ''Step 3'' of the allocation procedure in Colocation Note 8, the result was that the five firms that ordered their actual desired amount of power received approximately 60% of their requested amounts, while the four firms that ordered several times more power than they actually wanted received an amount of power closer to their actual desired amount.

Proposed Change

ICE is currently developing an additional colocation hall at the MDC—Hall 6—and seeks to evaluate customer demand for the space and power in that Hall, as well as whether customer demand would support additional expansion projects beyond Hall 6. The Exchange plans to use the Ordering Window procedure to assist in evaluating these issues, but proposes one change to the procedure before doing so.

Specifically, the Exchange proposes to increase the deposit that Users must provide when submitting orders for more than 32 kW during the Ordering Window to six months' worth of the monthly recurring costs of the amount of power ordered, up from two months' worth. There would be no change to the deposit requirement for Users ordering 32 kW or less, who would continue to provide a deposit equal to two months' worth of the monthly recurring costs of the amount of power ordered. Similarly, there would be no change to the use of the deposit: it would continue to be applied to the User's first and subsequent months' invoices after the power is delivered until it is completely depleted. If the User withdraws its order during the Ordering Window, the deposit will be returned.

The Exchange believes that increasing the deposit requirement for orders of more than 32 kW during the Ordering Window would discourage Users seeking more than 32 kW of power from acting opportunistically and placing orders for amounts of power several times their actual desired amount. The Exchange believes that increasing the deposit amount for orders exceeding 32 kW by a multiple of three will have a material effect on the ordering behavior of these Users, since ordering several times more power than their actual desired amount would tie up sizeable amounts of capital as deposits. By way of example, during the Ordering Window in early 2024, the four firms that placed orders for significantly more power than they needed paid deposits totaling $17 million; under the proposed rule change, similar orders would require deposits of $51 million. The Exchange believes from discussions with several Users that such a deposit requirement would dissuade Users from submitting such inflated orders for power.

The Exchange believes that increasing the deposit requirement to six months from two months for orders more than 32 kW is the best way to meet the goals of the Ordering Window procedure while dissuading certain Users' opportunistic ordering behavior. In addition, the proposal would have no impact on Users ordering less than 32 kW of power, whose deposit requirement would not change and who would continue to be allocated power in ''Step 2'' of the allocation procedure, before any orders larger than 32 kW are considered.

Application and Impact of the Proposed Changes

The proposed change is not targeted at, or expected to be limited in applicability to, market participants of any specific type or size. Rather, the proposed change would apply equally to any User ordering more than 32 kW of power during an Ordering Window.

Users with more modest power needs would not be disadvantaged by the proposed change. This proposal would not change the deposit requirement for Users finalizing orders during the Ordering Window of 32 kW or less. Nor would this proposal change the fact that in ''Step 2,'' each User that finalized an order during the Ordering Window would be allocated up to 32 kW of power (subject to sufficient power being available) before any User's order for more than 32 kW would be filled.

The proposed changes are not otherwise intended to address any other issues relating to colocation services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[8] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities, is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, and does not unfairly discriminate between customers, issuers, brokers or dealers.

The proposed rule change is designed to mitigate the opportunistic behavior of Users who submitted Ordering Window orders for significantly more power than their actual desired amounts. The Exchange believes that increasing the deposit requirement for orders of more than 32 kW during the Ordering Window to six months' worth of the monthly recurring costs of the amount of power ordered, up from two months' worth, would discourage Users seeking more than 32 kW of power from acting opportunistically and placing orders for amounts of power several times their actual desired amount. The Exchange believes that increasing the deposit amount for orders exceeding 32 kW by a multiple of three will have a material effect on the ordering behavior of these Users, since ordering several times more power than their actual desired amount would tie up sizeable amounts of capital as deposits. By way of example, during the Ordering Window in early 2024, the four firms that placed orders for significantly more power than they needed paid deposits totaling $17 million; under the proposed rule change, similar orders would require deposits of $51 million. The Exchange

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[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4) and (5).

believes from discussions with several Users that such a deposit requirement would dissuade Users from submitting such inflated orders for power.

The Exchange believes that increasing the deposit requirement to six months from two months for orders more than 32 kW is the best way to meet the goals of the Ordering Window procedure while dissuading certain Users' opportunistic ordering behavior. In addition, the proposal would have no impact on Users ordering less than 32 kW of power, whose deposit requirement would not change and who would continue to be allocated power in ''Step 2'' of the allocation procedure, before any orders larger than 32 kW are considered. The Exchange's proposal is thus specifically tailored to dissuade Users from submitting orders for significantly more power than their actual desired amounts.

The proposed rule change would protect investors and the public interest in that it would provide the Exchange with more accurate insight into Users' true power requirements. It is in the public interest for the Exchange to take User demand into account and to make reasoned, informed decisions about whether and how to expand the MDC.

At the same time, there would be no change to the use of the deposit: it would continue to be applied to the User's first and subsequent months' invoices after the power is delivered until it is completely depleted. If the User withdraws its order during the Ordering Window, the deposit will be returned. Accordingly, a User would continue to benefit from the deposit.

The proposed rule change provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The proposed change is not targeted at, or expected to be limited in applicability to, market participants of any specific type or size. Rather, the proposed change would apply equally to any User ordering more than 32 kW of power during an Ordering Window. Users with more modest power needs would not be disadvantaged by the proposed change. This proposal would not change the deposit requirement for Users finalizing orders during the Ordering Window of 32 kW or less. Nor would this proposal change the fact that in ''Step 2,'' each User that finalized an order during the Ordering Window would be allocated up to 32 kW of power (subject to sufficient power being available) before any User's order for more than 32 kW would be filled.

For all these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act, the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change would increase the deposit requirement for orders for more than 32 kW submitted during an Ordering Window in order to mitigate the opportunistic behavior of Users ordering significantly more power than their actual desired amounts. The Exchange does not expect the proposed rule change to impact intra-market or intermarket competition between exchanges, Users, or any other market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to Section 19(b)(3)(A)(ii) of the Act,[9] and Rule 19b–4(f)(2) thereunder [10] the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing. 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 (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NYSE–2025–36 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–2025–36. 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 website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NYSE–2025–36 and should be submitted on or before October 22, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–19179 Filed 9–30–25; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104120; File No. SR–MRX–2025–23]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing of a Proposed Rule Change To Amend the Amended and Restated Certificate of Incorporation and By-Laws of Its Parent Corporation, Nasdaq, Inc.

September 29, 2025.

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 September 26, 2025, Nasdaq MRX, LLC (''MRX'' or ''Exchange'') filed with the

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 17 CFR 240.19b–4.

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Amended and Restated Certificate of Incorporation (''Certificate'') and By-Laws (''By-Laws'') of its parent corporation, Nasdaq, Inc. (''NASDAQ'' or ''Corporation''). The proposed changes would align the Certificate with certain amendments to the Delaware General Corporation Law as well as update the By-Laws to reflect recent changes in law and best practices, as discussed below.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/mrx/rulefilings* and at the principal office of the Exchange.

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 is proposing to update the Certificate to reflect certain amendments to the Delaware General Corporation Law. The Exchange is also proposing to update the By-Laws to reflect recent changes in law and best practices as discussed below.

(a) Proposed Amendments to the Certificate

(1) Background

On April 23, 2025, NASDAQ's Board of Directors approved proposed amendments to the Certificate to provide for limited officer exculpation. On June 11, 2025, NASDAQ held its Annual Meeting of Stockholders, during which its stockholders considered and approved the Certificate amendments. In 2022, Delaware amended the Delaware General Corporation Law to enable companies incorporated in Delaware, such as NASDAQ, to limit the liability of certain of their officers in narrow circumstances. This change was made to address situations where directors would be dismissed from litigation, but the officers, who were not exculpated, had to continue in the litigation to show their actions were not grossly negligent. Generally, this issue arises in the mergers and acquisitions context and often relates to claims that a particular disclosure document was deficient.

The Certificate amendment would exculpate covered officers from monetary liability for breach of the duty of care in a manner similar to that already permitted for directors. However, it would not exculpate such officers in connection with derivative actions. Failing to adopt the Certificate amendment could potentially expose the Company to higher litigation expenses associated with lawsuits, regardless of merit, and/or impact the Company's recruitment and retention of exceptional officer candidates who conclude that the potential exposure to liabilities, costs of defense, and other risks of proceedings exceed the benefits of serving as one of the Company's officers. The Exchange notes that amendments providing for officer exculpation are increasingly common for public companies, and that the number of shareholder proposals calling for such amendments—the majority of which have been approved by wide margins—have continued to increase since 2022 when the Delaware law was passed.[3]

Under NASDAQ's Certificate and By-Laws, the Exchange must determine whether proposed amendments to the Certificate must be filed with the Commission prior to taking effect. On April 30, 2025, the Board of the Exchange determined that the proposed amendments to the Certificate must be filed with the Commission.

(2) Proposed Amendments

To effect the changes discussed above, the Exchange proposes to amend Article Sixth of NASDAQ's Amended and Restated Certificate of Incorporation as follows. Paragraph A of Article Sixth of the Certificate provides that ''[a] director of Nasdaq shall not be liable to Nasdaq or its stockholders for monetary damages for breach of fiduciary duty as a director, except to the extent that such exemption from liability or limitation thereof is not permitted under the General Corporation Law of the State of Delaware as the same exists or may hereafter be amended.'' Paragraph B of Article Sixth provides that ''[a]ny repeal or modification of paragraph A shall not adversely affect any right or protection of a director of Nasdaq existing hereunder with respect to any act or omission occurring prior to such repeal or modification.'' In each of these provisions, the Exchange proposes to add, after each instance of the word ''director,'' the words ''or officer.'' [4]

The Exchange believes the proposed changes to paragraphs A and B of Article Sixth of the Certificate would update the Certificate to reflect amendments to the Delaware General Corporation Law [5] that enable companies incorporated in Delaware, such as NASDAQ, to limit the liability of certain of their officers in narrow circumstances, as discussed above.

(b) Proposed Amendments to the By-Laws

(1) Background

On April 23, 2025, NASDAQ's Board of Directors approved proposed amendments to the By-Laws to reflect changes in law and best practices that have occurred since the most recent amendments to the By-Laws in 2016. As discussed above, under NASDAQ's Certificate and By-Laws, the Exchange must determine whether proposed amendments to the By-Laws must be filed with the Commission prior to taking effect. On April 30, 2025, the Exchange determined that the proposed amendments to the By-Laws must be filed with the Commission.

(2) Proposed Amendments

To effect the changes discussed above, the Exchange proposes to amend the By-Laws as follows.

(i) Article III Meetings of Stockholders

Section 3.1(b) of Article III of the By-Laws sets forth the requirements for a stockholder's notice to NASDAQ of

[3] *See, e.g.,* Andrew J. Noreuil and Andrew J. Stanger, *Developments and Trends in Delaware Officer Exculpation Charter Amendments,* Harv. L. Sch. F. On Corp. Governance (June 14, 2024), *https://corpgov.law.harvard.edu/2024/06/14/developments-and-trends-in-delaware-officer-exculpation-charter-amendments/;* Megan W. Shaner, *Understanding Officer Exculpation Under the MBCA Amendments,* Bus. L. Today (Nov. 19, 2024) *https://businesslawtoday.org/2024/11/understanding-officer-exculpation-mbca-amendments/.*

[4] *See* proposed Article Sixth of the Certificate.

[5] *See* 8 Del. C. Section 102(b)(7).

nominations or other business to be considered at an annual meeting. Section 3.1(b)(i) of the By-Laws currently sets forth the information that a stockholder must provide to NASDAQ about each person whom the stockholder proposes to nominate for election as a director. Section 3.1(b)(i) of the By-Laws provides in part that the Corporation may require any proposed nominee to furnish such other information it may reasonably require to determine the eligibility of such proposed nominee to serve as director of the Corporation or that could be material to a reasonable stockholder's understanding of the independence, or lack of independence, of such proposed nominee.[6] The Exchange proposes to amend Section 3.1(b)(i) to narrow the scope of information that may be requested under this provision. Specifically, the Exchange proposes to provide that the Corporation may require any proposed nominee to furnish such other information as it may reasonably require to determine whether the-proposed nominee is qualified under the Restated Certificate of Incorporation, the By-Laws, the rules and regulations of any stock exchange applicable to the Corporation, or any law or regulation applicable to the Corporation to serve as a director and/or independent director of the Corporation.[7] The Exchange believes that the proposed changes address concerns that the current provision is unnecessarily open-ended by limiting the information that may be requested to information on the nominee's qualifications to serve as director and/or independent director of the Corporation. The Exchange also proposes certain clarifying changes to Section 3.1(b)(i) of the By-Laws. Specifically, the Exchange proposes to insert, in its first full sentence, the word ''Corporation's'' and the words ''of such Proposing Person and in the accompanying proxy card.'' [8] The Exchange believes these proposed non-substantive changes would facilitate the application of this provision by rendering it more specific and clearer to understand.

Section 3.1(b) of the By-Laws sets forth requirements for notices from a Proposing Person [9] to NASDAQ regarding nominations or other business to be considered at an annual meeting. Section 3.1(b)(iii) of the By-Laws sets out the information required to be provided with respect to each Proposing Person. Information required to be provided under current Section 3.1(b)(iii)(C) includes ''a description of any agreement, arrangement or understanding with respect to the nomination or proposal between or among such stockholder and/or such beneficial owner, any of their respective affiliates or associates, and any others acting in concert with any of the foregoing.'' [10] The Exchange proposes to amend Section 3.1(b)(iii)(C) to delete the reference to others ''acting in concert with any of the foregoing.'' [11] The Exchange believes this proposed change is appropriate to conform the By-Laws to current practices because the ''acting in concert'' language has been challenged by plaintiffs or otherwise used in search of potential litigation targets. The Exchange thus believes it is appropriate to delete such language from the advance notice requirements under this section of the By-Laws.[12]

Section 3.1(b)(iii)(I) requires that a Proposing Person describe any significant equity interest or any Synthetic Equity Interest or Short Interest in any principal competitor of the Corporation held by such Proposing Person. The Exchange proposes to add a parenthetical stating the term ''principal competitor'' as used in this subsection shall be ''as defined for purposes of Section 8 of the Clayton Antitrust Act of 1914.'' [13] The Exchange believes that the proposed change would address a textual ambiguity in this subsection by providing greater clarity with respect to the scope of the term ''principal competitor,'' which the current subsection does not define.

Section 3.1(b)(iii)(J) further requires a Proposing Person to describe any direct or indirect interest of such Proposing Person in any contract with the Corporation, any affiliate of the Corporation, or any principal competitor of the Corporation (including, in any such case, any employment agreement, collective bargaining agreement or consulting agreement.[14] The Exchange proposes adding two parentheticals to this subsection. The first parenthetical would state that an ''affiliate,'' as that term is used in this subsection, would be ''as reflected on the most recent Form 10–K of the Corporation.'' [15] The second parenthetical would clarify that ''principal competitor,'' as provided in this subsection, would be ''as defined for purposes of Section 8 of the Clayton Antitrust Act of 1914.'' [16] The Exchange believes that the proposed changes would address textual ambiguities in this subsection by providing greater clarity with respect to the scope of the terms ''affiliate'' and ''principal competitor,'' which terms the current subsection does not define.

Section 3.1(b)(iii)(K) further requires Proposing Persons to describe any pending or threatened litigation in which such Proposing Person is a party or material participant involving the Corporation or any of its officers or Directors, or any affiliate of the

[6] *See* Section 3.1(b)(1) of the By-Laws. As discussed below, the Exchange is also proposing a non-substantive change to Section 3.1(a) of the By-Laws to delete the term ''shareholder'' and substitute therefor the word ''stockholder'' to more closely track established terminology of the By-Laws and thus make them clearer and easier to understand. *See* proposed Section 3.1(a) of the By-Laws.

[7] To effect these changes, the Exchange proposes to delete, from the final sentence of Section 3.1(b)(i) the following: (1) the romanette (i); (2) the words ''eligibility of such''; and (3) the phrase ''or (ii) that could be material to a reasonable stockholder's understanding of the independence, or lack of independence, of such proposed nominee.'' Further, the Exchange proposes to amend the final sentence of Section 3.1(b)(i) of the By-Laws as follows: (1) insert, immediately after the words ''to determine'' the word ''whether''; (2) insert, immediately after ''proposed nominee, the words ''is qualified under the Restated Certificate of Incorporation, these By-Laws, the rules and regulations of any stock exchange applicable to the Corporation, or any law or regulation applicable to the Corporation''; and (3) insert, immediately after the words ''to serve as a director'' the phrase ''and/or independent director.'' *See* proposed Section 3.1(b)(i) of the By-Laws. As discussed below, the Exchange is also proposing a non-substantive change to Section 3.1(a) of the By-Laws to delete therefrom the word ''shareholder'' and substitute therefor the word ''stockholder.'' *See* proposed Section 3.1(a) of the By-Laws.

[8] *See* proposed Section 3.1(b)(i) of the By-Laws. The Exchange also proposes a non-substantive change to Section 3.1(b)(i) to replace the term ''Requesting Person'' with ''Proposing Person'' as that term and not ''Requesting Person,'' is defined in the Section 3.1(c) of the By-Laws.

[9] The term '' Proposing Person'' means ''(i) the stockholder providing the notice of business or the notice of the nomination, as applicable, proposed to be brought before an annual meeting, (ii) any beneficial owner or beneficial owners, if different, on whose behalf such business is proposed to be brought before the meeting or the notice of the nomination proposed to be made at the meeting is made, as applicable, and (iii) any affiliate or associate (each within the meaning of Rule 12b–2 under the Act for purposes of these By-Laws) of such stockholder or beneficial owner.'' *See* Section 3.1(c) of the By-Laws.

[10] *See* Section 3.1(b)(iii)(C) of the By-Laws.

[11] *See* proposed Section 3.1(b)(iii)(C) of the By-Laws. The Exchange is also proposing conforming changes to express ''others'' in the singular ''other'' and to add, immediately thereafter, the word ''person.''

[12] As proposed, Section 3.1(b)(iii)(C) would require the Proposing Person to describe ''any agreement, arrangement or understanding with respect to the nomination or proposal between or among such stockholder and/or such beneficial owner, any of their respective affiliates or associates, and any other person.'' *See* proposed Section 3.1(b)(iii)(C) of the By-Laws.

[13] *See* proposed Section 3.1(b)(iii)(I) of the By-Laws.

[14] *See* Section 3.1(b)(iii)(J) of the By-Laws.

[15] *See* proposed Section 3.1(b)(iii)(J) of the By-Laws.

[16] *See id.*

Corporation.[17] The Exchange proposes to add a parenthetical to clarify, consistent with proposed changes to Section 3.1(b)(iii)(J), that an ''affiliate,'' as used in this subsection, shall be ''as reflected on the most recent Form 10–K of the Corporation.'' [18]

Section 3.1(b)(iii)(L) of the By-Laws requires Proposing Persons to describe any material transaction occurring, in whole or in part, during the then immediately preceding 12-month period between such Proposing Person, on the one hand, and the Corporation, any affiliate of the Corporation or any principal competitor of the Corporation. Consistent with proposed changes to Section 3.1(iii)(b)(I)–(K), the Exchange proposes adding two parentheticals: the first stating that an ''affiliate,'' as that term is used in this subsection, would be ''as reflected on the most recent Form 10–K of the Corporation;'' [19] the second would clarify that ''principal competitor,'' as provided in this subsection, would be ''as defined for purposes of Section 8 of the Clayton Antitrust Act of 1914.'' [20] The Exchange believes that these proposed changes to Section 3.1(b)(iii)(L) would—consistent with similarly proposed changes to Section 3.1(b)(iii)(I)–(K)—provide greater clarity with respect to the meaning of the terms ''affiliate'' and ''principal competitor,'' which terms the current Section 3.1(b)(iii)(L) does not define.

Section 3.1(b)(iii)(O) requires notice to the Corporation if a Proposing Person intends to act as part of a group to solicit or deliver proxies in support of a proposal or the election of a nominee under specified circumstances. Specifically, Section 3.1(b)(iii)(O) of the By-Laws requires a representation as to whether the Proposing Person intends or is part of a group which intends (1) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to approve or adopt the proposal or elect the nominee and/or (2) otherwise to solicit *proxies* from stockholders in support of such proposal or nomination.[21] The Exchange proposes to amend to Section 3.1(b)(iii)(O) to clarify, in Section 3.1(b)(iii)(O)(2), that the representation required to be provided under that subsection would extend to the solicitation of proxies *or votes* from stockholders in support of any proposal or proposed nominee.[22] As further proposed, new Section 3.1(b)(iii)(O)(3) would specify that the representation required under Section 3.1(b)(iii) extends to whether the Proposing Person intends or is part of a group which intends ''to solicit proxies or votes in support of any proposed nominee in accordance with Rule 14a–19 promulgated under the Act.'' [23] The Exchange believes that the proposed changes to Section 3.1(iii)(O) enhance the transparency of this provision by providing greater specificity with respect to the content of representations required to be provided under this subsection. Similarly, proposed Section 3.1(iii)(O)(3) would enhance the clarity of this provision by specifying that the representation required under this section extends to whether the stockholder intends to act as part of a group to solicit proxies under the SEC's universal proxy rule.

Section 3.1(d) of the By-Laws addresses stockholder notice requirements with respect to nominees for additional directorships if the number of directors to be elected to the Board at an annual meeting is increased effective at the annual meeting.[24] Section 3.1(d) provides no limitations on the number of nominees that may be nominated under such circumstances.[25] The Exchange proposes to amend Section 3.1(d) to set limits on the number of nominees that may be nominated in such cases to not exceed the number of directors to be elected at the subject annual meeting. Specifically, the Exchange proposes to provide, in a new final sentence to Section 3.1(d) of the By-Laws, that the number of nominees a Proposing Person may nominate for election at the annual meeting on its own behalf (or in the case of a Proposing Person giving the notice on behalf of a beneficial owner, the number of nominees a Proposing Person may nominate for election at the annual meeting on behalf of such beneficial owner) shall not exceed the number of directors to be elected at such annual meeting.[26]

The Exchange believes that the proposed changes to Section 3.1(d) of the By-Laws would align the By-Laws with current practices by safeguarding against the practice of proposing multiple nominees and then deciding—at the last minute—which nominees will actually stand for election. This in turn would spare the Corporation and its stockholders from needless expenditure of time and resources to vet the surplus nominees.

Section 3.2(a) of the By-Laws addresses requirements for requesting a special meeting of the stockholders, including procedures for determining the requisite percentage of stockholders necessary to support a special meeting request. The Exchange proposes to amend Section 3.2(a) of the By-Laws to remove the phrase ''acting in concert'' and substitute therefor the words ''knowingly coordinating.'' [27] The Exchange believes this proposed change would mitigate against the potential for plaintiff's firms to leverage the ''acting in concert'' requirement to find targets for potential litigation.

The Exchange further proposes to amend Section 3.2(a) to remove a reference to the binding nature of the Board's determination with respect to whether the special meeting request is in proper form.[28] Specifically, the Exchange proposes to delete from the final sentence in Section 3.2(a) the words ''and such determination shall be binding on the Corporation and the stockholders.'' [29] The Exchange believes that the proposed changes would align the By-Laws with current practices because it would remove all references to the binding or final nature of Board actions, which language has been the challenged on the basis that it purports to limit or foreclose judicial review by Delaware courts.

Section 3.3 of the By-Laws governs determinations regarding nominations or business eligible to be considered at annual or special meetings. Section 3.3(a) provides, in part, that the chairman of the meeting has the power and duty to determine whether a nomination or business proposed to be brought before the meeting was made or proposed in accordance with the By-Laws and, if not so made or proposed, to declare that such nomination or business shall be disregarded.[30] The Exchange proposes to amend that

[17] *See* Section 3.1(b)(iii)(K) of the By-Laws.

[18] *See* proposed Section 3.1(b)(iii)(K) of the By-Laws.

[19] *See* proposed Section 3.1(b)(iii)(I)–(K) of the By-Laws.

[20] *See id.*

[21] *See* Section 3.1(b)(iii)(O) of the By-Laws.

[22] To effect this change, the Exchange proposes to insert, immediately after ''otherwise to solicit proxies'' in Section 3.1(b)(iii)(O)(2), the words ''or votes.'' *See* proposed Section 3.1(b)(iii)(O)(2).

[23] *See* proposed Section 3.1(b)(iii)(O)(3) of the By-Laws. The Exchange proposes a conforming change to insert, at the conclusion of Section 3.1(b)(iii)(O)(2) the following: ''and/or.'' *See* proposed Section 3.1(b)(iii)(O)(2) of the By-Laws.

[24] *See* Section 3.1(d) of the By-Laws.

[25] *See id.*

[26] *See* proposed Section 3.1(d) of the By-Laws.

[27] *See* proposed Section 3.2 of the By-Laws.

[28] *See* Section 3.2(a) of the By-Laws.

[29] *See* proposed Section 3.2(a) of the By-Laws. The Exchange further proposes to make a non-substantive change to Section 3.2(a) of the By-Laws to capitalize the word ''secretary'' to conform to other usages of such word in the By-Laws. The Exchange also proposes to correct a typographical error in Section 3.2(c) of the By-Laws to express the word ''Business'' therein in the singular as ''business'' is not a defined term. *See* proposed Section 3.2(c) of the By-Laws.

[30] *See* Section 3.3(a) of the By-Laws.

provision of Section 3.3(a) to add a parenthetical stating that, in advance of any meeting of stockholders, the Board of Directors or an authorized committee thereof shall have the same powers and duties, including the power to declare that a particular nomination or business shall be disregarded.[31] The Exchange believes the proposed changes align the By-Laws with current practices because plaintiffs have argued that a determination to disregard a matter from consideration at a meeting should be subject to fiduciary duties. The proposed changes clarify that the chair of a meeting must be a director or officer whose decisions, in turn, are subject to fiduciary duties.

The Exchange further proposes to amend Section 3.3(a) to clarify that the Corporation may disregard nominees proposed by a stockholder under the Commission's universal proxy rule if the shareholder has failed to comply with that rule. To effect that change, the Exchange proposes to insert, at the conclusion of current Section 3.3(a), new text providing as follows:

Notwithstanding anything to the contrary in these By-Laws, unless otherwise required by law, if any Proposing Person (i) provides notice pursuant to Rule 14a–19(b) promulgated under the Act with respect to any proposed nominee and (ii) subsequently fails to comply with the requirements of Rule 14a–19(a)(2) or Rule 14a–19(a)(3) promulgated under the Act (or fails to timely provide reasonable evidence sufficient to satisfy the Corporation that such Proposing Person has met the requirements of Rule 14a–19(a)(3) promulgated under the Act in accordance with the following sentence), then the nomination of each such proposed nominee shall be disregarded, notwithstanding that proxies or votes in respect of the election of such proposed nominees may have been received by the Corporation (which proxies and votes shall be disregarded). Upon request by the Corporation, if any Proposing Person provides notice pursuant to Rule 14a–19(b) promulgated under the Act, such Proposing Person shall deliver to the Corporation, no later than five (5) business days prior to the applicable meeting, reasonable evidence that it has met the requirements of Rule 14a–19(a)(3) promulgated under the Act.

This proposed change to Section 3.3(a) would align the By-Laws with current practices by specifying that failure to comply with requirements of the Commission's universal proxy rule would constitute grounds for the Corporation to disregard a stockholder's proposed nomination, as well as setting out redress procedures for stockholders seeking to demonstrate that such requirements have been met.

Section 3.4 of the By-Laws governs the conduct of meetings. Section 3.4 provides in part that the date and time of the opening and closing of the polls for each matter to be voted upon at a meeting must be announced at the meeting by the person presiding over the meeting. The Exchange proposes to amend Section 3.4 to clarify, consistent with the advance notice provisions in Section 3.1 of the By-Laws, that the person presiding over a meeting must be a chairman of the meeting who shall be an officer or director of the Corporation.[32] The Exchange believes this proposed change enhances the clarity of Section 3.4 by specifying, consistent with the advance notice provisions under Section 3.1 of the By-Laws, that the chairman and presiding person of the meeting must be an officer or director of the Corporation. Section 3.4 also provides in part that the person presiding over a meeting shall have the right to, among other things, convene and adjourn the meeting.[33] The Exchange proposes to clarify that the presiding person also shall have the right to recess the meeting for any or no reason.[34] The Exchange believes this proposed change will make explicit that the presiding person's rights with respect to the conduct of the meeting includes the right to recess the meeting for any or no reason, thereby enhancing the clarity and transparency of this rule.

Section 3.6(d) of the By-Laws governs the amount of shares that a stockholder must own to invoke proxy access. Section 3.6(d) provides in part that ''[w]hether outstanding shares of the common stock of the Corporation are 'owned' for these purposes shall be determined by the Board or any committee thereof, in each case, in its sole discretion.'' [35] The Exchange proposes to amend Section 3.6(d) to delete therefrom the words ''in each case, in its sole discretion.'' [36] The Exchange further proposes to remove from Section 3.6(h)(ii), Section 3.6(h)(viii), Section 3.6(i)(i), and Section 3.6(k) of the By-Laws similar references to the finality or ''binding'' nature of decisions by the Board (or persons authorized by the Board), any committee thereof, or the chairman of a meeting of stockholders.[37] These proposed changes align the By-Laws with current practice because provisions that purport to assign a binding effect to or otherwise finality to the decisions of the Board—such as those proposed to be deleted—are likely targets by litigants who argue that such provisions unlawfully purport to foreclose judicial review.

Finally, Section 3.6(m) provides that Section 3.6 shall be the exclusive method for stockholders to include nominees for director in the Corporation's proxy materials. The Exchange proposes to amend Section 3.6(m) to provide an exception for nominees for director in the Corporation's proxy materials submitted pursuant to, and in compliance with, the Commission's universal proxy rule.[38] The proposed changes to Section 3.6(m) align the By-Laws with current practice by providing that, in addition to the exclusive method set out in Section 3.6 of the By-Laws, stockholders may also include nominees for such purposes pursuant to and consistent with requirements under the SEC's universal proxy rule.[39]

(ii) Article IV Board of Directors

Section 4.3 of Article IV of the By-Laws governs qualifications for Directors of the Corporation. This section currently provides in part the Board may include at least one, but not more than two, Issuer Directors. The Exchange proposes to amend Section 4.3 to remove limitations on the number Issuers Directors on the Board.[40] The proposed change would provide the Corporation with greater flexibility with respect to the number of Issuer Directors that may be members of the Board, as NASDAQ is frequently in search of

[31] *See* proposed Section 3.3 of the By-Laws. To effect this change, the Exchange proposes to insert, immediately after the words ''Except as otherwise provided by law, the chairman of the meeting'' a parenthetical to read as follows: ''(or, in advance of any meeting of stockholders, the Board of Directors or an authorized committee thereof).'' The Exchange also proposes to make a non-substantive conforming change to Section 3.3(a) to insert, immediately after the word ''proxies'' in the second full sentence of Section 3.3(a) the words ''or votes,'' consistent with changes proposed for Section 3.1(b)(iii)(O) of the By-Laws.

[32] *See* proposed Section 3.4 of the By-Laws. To effect this change, the Exchange proposes to insert, in the first full sentence of Section 3.4 and immediately after ''shall be announced at the meeting by the'' the words ''chairman of the meeting who shall be an officer or director of the Corporation and who shall be the.'' *See id.*

[33] *See* Section 3.4 of the By-Laws.

[34] *See* proposed Section 3.4 of the By-Laws.

[35] *See* Section 3.6(d) of the By-Laws.

[36] *See* proposed Section 3.6(d) of the By-Laws.

[37] *See* proposed Section 3.6(h)(ii), Section 3.6(h)(viii), Section 3.6(i)(i), and Section 3.6(k) of the By-Laws.

[38] To effect this proposed change, the Exchange proposes to add immediately after the conclusion of current Section 3.6(m) the words ''other than nominees included pursuant to, and in compliance with, Section 14a–19 of the Act.'' *See* proposed Section 3.6(m) of the By-Laws.

[39] *See* proposed Section 3.6(m) of the By-Laws.

[40] To effect this change, the Exchange proposes to delete from Section 4.3 of the By-Laws the words ''at least one, but no more than two.'' *See* proposed Section 4.3 of the By-Laws.

officers of NASDAQ-listed companies to join the Board.

Section 4.9 of the By-Laws governs quorum and voting. Section 4.9 provides in part that, in general, a quorum for the transaction of all business at all meetings of the Board shall consist of a majority of the Board.[41] The Exchange proposes to make a clarifying change to specify that for purposes of this section, a majority of the Board, means a majority of the total numbers of directors constituting the Board.[42] The Exchange believes this proposed change would provide greater clarity to and facilitate the application of this provision. The Exchange further proposes to amend Section 4.9 to clarify the process through which notice of meetings adjourned to another time and place may be given to each member of the Board.[43] Specifically, the Exchange proposes to clarify in Section 4.9 that in the absence of a quorum, a majority of the Directors present may adjourn the meeting to another time and place, and that notice of the time, place and purposes of any such adjourned meeting will be given in accordance with the By-Laws.[44] The Exchange further proposes to clarify that, if the notice of such adjourned meeting is announced at the meeting at which the adjournment is taken, notice need only be given to the Directors not present at such meeting.[45] The Exchange believes this proposed change would provide greater clarity to the By-Laws by providing a clear and practical process for giving notices of adjournments to members of the Board.

Section 4.12 of the By-Laws governs the process for providing notice of any meeting to Directors of the Board as well as related waivers of such notice. The Exchange proposes to amend Section 4.12 to remove obsolete references to certain modes of communication (both for transmission and confirmation of receipt) other than facsimile, email, or other means of electronic transmission.[46] The Exchange believes this proposed change would provide greater clarity to and facilitate the application of this provision by eliminating modes of communications, such as telegram, telefax, cable, and radio, that are no longer in use. In addition, the proposed amendments reflect current practices, as a substantial amount of communications between NASDAQ and its directors outside of Board meetings occurs in electronic form.

Section 4.13 of the By-Laws governs matters relating to committees of the Board. The Exchange proposes to amend Section 4.13(a) of the By-Laws to specify that the Corporation has opted into Section141(c)(2) of Delaware law.[47] Section 141(c) of Delaware law describes the formation and powers of board committees. Opting into Section 141(c)(2) of Delaware law is a common and recommended practice for Delaware corporations such as NASDAQ, in part because it provides corporations with greater flexibility with respect to the formation and powers of board committees, such as by allowing greater delegations of authority, including as it relates to setting terms of stock. The Exchange believes that opting into Section 141(c)(2) is appropriate to provide the Corporation with greater flexibility with respect to the functions and powers of committees of the Board.

The Exchange further proposes to amend Section 4.13 of the By-Laws to remove from Section 4.13(c) limitations on the ability of committees to take certain actions, such as the authorization of preferred stock designations. As a substitute for that limiting language, the Exchange proposes to insert new text in Section 4.13(c) of the By-Laws that would conform this subsection with the Delaware General Corporation Law, which removes limitations on the ability of committees to take certain actions, such as the authorization of preferred stock designations, as it relates to the powers of committees of the Board.[48] Consistent with proposed changes for Section 4.13(a), the Exchange believes this proposed change to Section 4.13(c) of the By-Laws would align this provision with current Delaware General Corporation Law, thereby updating the By-Laws as well as providing the Corporation with greater flexibility with respect to committees of the Board.

The Exchange proposes to amend Section 4.13(d)–(g) of the By-Laws to remove all references to limitations on the terms of committee members.[49] To effect that change, the Exchange proposes to (1) remove from Section 4.13(d) of the By-Laws the words ''[a]n Executive Committee member shall hold office for a term of one year'';[50] (2) remove from Section 4.13(e) of the By-Laws the words ''[a] Finance Committee member shall hold office for a term of one year'';[51] (3) remove from Section 4.13(f) of the By-Laws the words ''[a] Management Compensation Committee member shall hold office for a term of one year'';[52] and (4) remove from Section 4.13(g) of By-Laws the words ''an Audit Committee member shall hold office for a term of one year.''[53] The Exchange believes that deleting all references to committee members having a limited term is appropriate because term limits are not customary in by-laws as they create unnecessary administrative burdens for and limit the flexibility of a board. The Exchange notes that the proposed changes also align the By-Laws with current practice as the typical practice of the Board is to provide, in the annual resolutions regarding committee appointments, that committee members are appointed for one year or until their successors are duly elected.

The Exchange further proposes to amend Section 4.13(g) of the By-Laws to delete language specifying the Chair of the Audit Committee must be a Public Director.[54] The Exchange believes that this proposed change would eliminate unnecessary restrictions regarding, as well as provide the Corporation with greater flexibility with respect to, those

[41] *See* Section 4.9 of the By-Laws.

[42] *See* proposed Section 4.9 of the By-Laws.

[43] *See* proposed Section 4.9 of the By-Laws.

[44] *See* proposed Section 4.9 of the By-Laws.

[45] *See* proposed Section 4.9 of the By-Laws. The Exchange proposes to make a conforming change to Section 4.9 to delete from the second full sentence thereof the words ''until a quorum be present.'' *See id.*

[46] *See* proposed Section 4.12(a)–(b) of the By-Laws. To effect this change, the Exchange proposes to (1) delete from Section 4.12(a)(ii) the words ''telegraph, telefax, cable, radio, wireless'' and substitute therefor the word ''facsimile''; (2) delete from Section 4.12(a)(ii) the word ''written''; and (3) delete from Section 4.12(b) the parenthetical ''(or by telegram, telefax, cable, radio, wireless, email or other means of written electronic transmission and subsequently confirmed in writing or by electronic transmission).'' *See id.*

[47] *See* proposed Section 4.13(a) of the By-Laws. To effect this change, the Exchange proposes to insert, as the first full sentence in Section 4.13(a) the words ''The Corporation has opted into Section 141(c)(2) of Delaware law.'' *See id.*

[48] *See* proposed Section 4.13(c) of the By-Laws. To effect this change, the Exchange proposes to delete from Section 4.13(c) the words ''amending the Restated Certificate of Incorporation or the By-Laws of the Corporation; adopting an agreement of merger or consolidation; recommending to the stockholders the sale, lease, or exchange of all or substantially all the Corporation's property and assets; or recommending to the stockholders a dissolution of the Corporation or a revocation of a dissolution. Unless the resolution of the Board expressly so provides, no committee shall have the power or authority to authorize the issuance of stock.'' The Exchange further proposes to amend Section 4.13(c) to insert, immediately after the words ''no committee shall have the power or authority of the Board with regard to:'' the following: ''(a) approving or adopting, or recommending to the stockholders, any action or matter (other than the election or removal of directors) expressly required by Delaware law to be submitted to stockholders for approval or (b) adopting, amending or repealing any By-Law of the Corporation.'' *See id.*

[49] *See* Section 4.13(d)–(g) of By-Laws.

[50] *See* proposed Section 4.13(d) of By-Laws.

[51] *See* proposed Section 4.13(e) of the By-Laws.

[52] *See* proposed Section 4.13(f) of the By-Laws.

[53] *See* proposed Section 4.13(g) of the By-Laws.

[54] See proposed Section 4.13(g) of the By-Laws.

who may serve as Audit Committee Chair since the Chair of the Audit Committee must in any event satisfy the independence standards in SEC as well as NASDAQ rules.[55] The proposed change would, for example, allow an issuer representative to be appointed as Chair of the Audit Committee. Finally, the Exchange proposes a non-substantive, clarifying change to Section 4.13(g) to provide that the Audit and Risk Committee (or such committee as the same may be renamed from time to time or any successor of such committee delegated with similar duties) shall be known as the ''Audit Committee.'' [56] The Exchange believes these proposed changes to Section 4.13(g) would provide greater flexibility to the Corporation with respect to those that may serve as Chair of the Audit Committee as well as enhance the clarity of and thus facilitate the application of the By-Laws by making the term ''Audit Committee'' a more clearly defined term.

The Exchange proposes to amend Section 4.13(h)(ii) of the By-Laws to remove language providing that a ''majority vote of'' the Board is required to remove a member of the Nominating & Governance Committee.[57] This change removes duplicative language and reduces potential confusion since the voting standards for all decisions of the board are set forth separately in Section 4.9(b) of the By-Laws.

Section 4.13(j) of the By-Laws provides that, in general, a majority of a committee shall constitute a quorum for the transaction of business.[58] The Exchange proposes to amend Section 4.13(j) to specify that a majority of the members of a committee then serving in office (rather than a majority of total directors on the committee as Section 4.13(j) currently provides) shall constitute a quorum for the transactions of business.[59] The Exchange believes this proposed change would remove barriers to and facilitate the work of Board committees since a vacancy in a committee would not be a barrier to action, as the quorum would be based on the directors then serving rather than the total number of directors on the committee.

(iii) Article VII Officers, Agents, and Employees

Article VII of the By-Laws governs matters relating to the officers, agents, and employees of the Corporation. The Exchange proposes to amend certain provisions in Article VII to delete references to a corporate structure that no longer reflects the structure at NASDAQ. Specifically, Article VII generally envisions a corporate structure where a President is a director and/or has executive authority over the entire company. The Exchange proposes to amend certain sections of Article VII to delete references to such a structure and replace them with language suited for a corporate structure with multiple presidents, such as the current structure of NASDAQ. To effect these changes, the Exchange proposes to amend several provisions of Article VII as follows.

Section 7.1 of the By-Laws governs matters relating to the principal officers of the Corporation. Section 7.1 specifies the principal officers to be elected by the Board, including, among others, a Chair and a President. The Exchange proposes to amend Section 7.1 to provide that the principal officers to be elected by the Board may—rather than must—include the roles set out in Section 7.1. The Exchange further proposes to amend Section 7.1 to provide that one or more Presidents, rather than only a President, may elected by the Board, among other principal officers. Section 7.1 further provides that in part that one person may not hold the offices and perform the duties of both President and Vice President or of President and Secretary. The Exchange proposes to amend Section 7.1 of the By-Laws to delete references to ''President and Vice President or of President'' and substitute therefor the words ''Chief Executive Officer.'' [60] As thus proposed, one person could not hold the offices and perform the duties of both Chief Executive Officer and Secretary (rather than of President and Vice President or of President and Secretary).[61]

For the reasons discussed above in connection with Article VII of the By-Laws more broadly, the Exchange further proposes to amend Section 7.3 (Subordinate Officers, Agents, or Employees), Section 7.5 (Resignation and Removal of Officers), Section 7.9 (President), Section 7.10 (Vice President), Section 7.11 (Secretary), and Section 7.13 (Treasurer) of the By-Laws as follows.

First, the Exchange proposes to delete from Sections 7.3 and 7.5(a) of the By-Laws the following: '', the President.''

With respect to Section 7.9 of the By-Laws, the Exchange proposes to (1) delete the words ''[t]he President shall, in the absence of the Chair of the Board and the Chief Executive Officer, preside at all meetings of the Board and stockholders at which the President is present. The President shall have general supervision over the business and affairs of the Corporation,'' substituting therefor the words ''The Board or the Chief Executive Officer may appoint one or more Presidents and each.'' The Exchange would further amend Section 7.9 to (1) delete from its final sentence the word ''The'' replacing it with ''Each''; (2) delete also from that final sentence the word ''the'' and replacing it with ''such''; and (3) insert, also in that final sentence and immediately after ''the Board'' the words ''or the Chief Executive Officer.''

With respect to Section 7.11 and Section 7.13 of the By-Laws, the Exchange proposes to amend these two sections to delete, from their respective final sentences, the words ''or the President,'' substituting therefore the words ''or any other person delegated such power by the Board or Chief Executive Officer.'' Consistent with similarly proposed changes to Article VII of the By-Laws, the Exchange believes that the proposed changes to Sections 7.11 and Section 7.13 of the By-Laws would remove impediments to the proper administration of the By-Laws as they would more closely align such By-Laws with the current corporate structure at NASDAQ as well as provide the Corporation with greater flexibility in the application of these provisions.

The Exchange believes the proposed changes to these provisions of Article VII of the By-Laws would enhance the transparency of and facilitate the application of the By-Laws because they replace obsolete or inaccurate textual references to an outdated corporate structure with updated text designed to more closely reflect the current structure of NASDAQ.

Section 7.10 of the By-Laws governs the selection of Vice Presidents. The Exchange proposes to amend Section 7.10 of the By-Laws to provide greater clarity with respect to the duties of as well as the process for selecting Vice Presidents of the Corporation. Specifically, the Exchange proposes to amend Section 7.10 of the By-Laws to

[55] *See* proposed Section 4.13(g) of the By-Laws. To effect this change, the Exchange proposes to insert in the first full sentence of Section 4.13(g) of the By-Laws and immediately after the words ''[t]he Audit'' the words and symbol ''& Risk'' and further insert, immediately following the word ''Committee'' a parenthetical reading as follows: ''(such committee as the same may be renamed from time to time or any successor of such committee delegated with similar duties, the ''Audit Committee'').''The Exchange also proposes to renumber Section 4.13(g)(i) to delete the ''(i)'' and subsume the text of Section 4.13(g)(i) with that of proposed Section 4.13(g). *See* proposed Section 4.13(g) of the By-Laws.

[56] *See* proposed Section 4.13(g) of the By-Laws.

[57] *See* Section 4.13(h) of the By-Laws.

[58] *See* Section 4.13(j) of the By-Laws.

[59] *See* proposed Section 4.13(j) of the By-Laws.

[60] *See* proposed Section 7.1 of the By-Laws.

[61] *See* proposed Section 7.1 of the By-Laws.

provide that the Board, the Chief Executive Officer or any other person delegated such power by the Board or Chief Executive Officer, may appoint one or more Vice Presidents. The Exchange further proposes to clarify that, any Vice President may have such additional designations in such Vice President's title as the Board, the Chief Executive Officer, or the authorized person appointing such Vice President may determine.[62] As proposed, each Vice President would have all powers and duties usually incident to the office of a Vice President, except as specifically limited by the Board, the Chief Executive Officer or the authorized person appointing such Vice President.[63] The Exchange also proposes to clarify in the next to final sentence of Section 7.10 that, in addition to the Board and the Chief Executive, as provided under this section, the authorized person appointing such Vice President may also assign such Vice President other duties and powers as the Vice Presidents shall be authorized to exercise and perform pursuant to the By-Laws.[64] The Exchange believes that the proposed changes to Section 7.10 of the By-Laws would provide greater clarity with respect to the duties of and the process for selecting the Vice Presidents, thereby facilitating the application of the By-Laws with respect to Vice Presidents of the Corporation.

(iv) Article VIII Indemnification

Section 8.1 of Article VIII of the By-Laws governs indemnification of Directors, officers, employees, and agents of the Corporation. Subsection (j) of Section 8.1 addresses circumstances in which a claim for indemnification or advancement of expenses is not paid in full within 60 days after a written claim under this provision has been received by the Corporation. The Exchange proposes to amend Section 8.1(j) to clarify that the Corporation will not be required to pay claims or expenses under this provision if prohibited by law. To effect this change, the Exchange proposes to insert within the first full sentence and immediately after ''[the indemnified person] shall be entitled to be paid the expense of prosecuting such claim'' the words ''to the fullest extent permitted by law.'' [65] The Exchange believes this proposed change is appropriate as it would enhance the clarity of this provision by specifying that the extent of the Corporation's obligation to pay claims or expenses under this provision is limited to those claims or expenses not prohibited by law.

(v) IX Capital Stock

Section 9.2(a) of Article IX of the By-Laws governs requirements for signatures on stock certificates of the Corporation. Section 9.2(a) provides in part that shares of capital stock of the Corporation represented by certificates shall be signed in the name of the Corporation by two officers, with one being the Chair of the Board, the Chief Executive Officer, the President, or a Vice President, and the other being the Secretary, the Treasurer, or such other officer that may be authorized by the Board.

The Exchange proposes to amend Section 9.2(a) to broaden the scope of officers authorized to sign stock certificates. Specifically, the Exchange proposes to provide that Shares of capital stock of the Corporation represented by certificates shall be signed in the name of the Corporation by two authorized officers which shall include, without limitation, the Chair of the Board, the Chief Executive Officer, the President, any Vice President, the Secretary, and the Treasurer.[66] The Exchange believes the proposed changes to Section 9.2(a) would remove unnecessary limitations on officers authorized to sign stock certificates thereby providing greater flexibility in the By-Laws with respect to officers authorized to perform this important function.

Section 9.3 of the By-Laws governs matters relating to holders of record as shown on the stock ledger of the Corporation. Section 9.3(b) of the By-Laws provides that the Corporation shall be entitled to treat the holder of record of shares of capital stock as shown on the stock ledger as the owner thereof and as the person entitled to vote such shares and to receive notice of meetings, and for all other purposes. That subsection further provides that the Corporation shall not be bound to recognize any equitable or other claim to or interest in any share of capital stock on the part of any other person, whether or not the Corporation shall have express or other notice thereof.[67] The Exchange proposes to amend Section 9.3(b) to provide for the possibility that applicable law might require a different outcome. Specifically, the Exchange proposes to provide that the Corporation shall, to the fullest extent permitted by law, be entitled to treat the holder of record of shares of capital stock as shown on the stock ledger as the owner thereof and as the person entitled to vote such shares and to receive notice of meetings, and for all other purposes. As further proposed, Section 9.3 would provide that the Corporation shall not be bound to recognize any equitable or other claim to or interest in any share of capital stock on the part of any other person, whether or not the Corporation shall have express or other notice thereof, except as required by law.[68] The Exchange believes the proposed changes to Section 9.3 of the By-Laws would ensure the enforceability of this provision by recognizing that there may be circumstances where its application would be subject to and possibly limited or otherwise affected by applicable law.

Section 9.6 of the By-Laws governs matters relating to lost, stolen, destroyed, and mutilated certificates for shares of stock of the Corporation. Section 9.6 sets out procedures for addressing the issuance of a new certificate or uncertified shares in the event that any certificate for stock of the Corporation becomes mutilated, lost,

[62] *See* proposed Section 7.10 of the By-Laws.

[63] *See* proposed Section 7.10 of the By-Laws.

[64] *See* proposed Section 7.10 of the By-Laws. To effect the proposed changes to Section 7.10, the Exchange proposes to (1) delete therefrom the words ''The Board shall elect'' and substitute therefor the words ''The Board, the Chief Executive Officer or any other person delegated such power by the Board or Chief Executive Officer, may appoint''; (2) delete, from the second sentence of Section 7.10 the words ''[i]n the absence or disability of the President or if the office of President becomes vacant, the Vice Presidents in the order determined by the Board, or if no such determination has been made, in the order of their seniority, shall perform the duties and exercise the powers of the President, subject to the right of the Board at any time to extend or restrict such powers and duties or to assign them to others''; (3) insert, in the third sentence of Section 7.10 of the By-Laws and immediately following the words ''as the Board'' the words ''the Chief Executive Officer, or the authorized person appointing such Vice President''; (4) delete, from the fourth sentence of Section 7.10 the words ''The Vice Presidents shall generally assist the President in such manner as the President shall direct'' substituting therefor the words ''Each Vice President shall have all powers and duties usually incident to the office of a Vice President, except as specifically limited by the Board, the Chief Executive Officer or the authorized person appointing such Vice President.''; and (5) insert in the final sentence of Section 7.10 of the By-Laws and immediately after the words ''the Chief Executive Officer or the'' the words ''authorized person appointing such Vice.'' *See id.*

[65] *See* proposed Section 8.1(j) of the By-Laws.

[66] *See* proposed Section 9.2 of the By-Laws. To effect this change as well as make conforming changes to Section 9.2 of the By-Laws, the Exchange proposes to (1) insert, immediately after ''certificates shall be signed in the name of the Corporation by two'' the word ''authorized''; (2) insert, immediately after ''officers'' the words ''which shall include, without limitation,''; and (3) delete the words ''with one being,'' as well as ''or a,'' ''and the other being,'' and '', or such other officer that may be authorized by the Board.'' *See id.*

[67] *See* Section 9.3(b) of the By-Laws.

[68] *See* proposed Section 9.3(b) of the By-Laws.

stolen, or destroyed. The Exchange proposes to amend Section 9.6 to delete language providing that the Board or a committee thereof is authorized to take action to address each such instance of lost, stolen, destroyed, or mutilated certificates and in its place provide that the Corporation (rather than solely the Board) shall have the authority to do so.[69] The Exchange believes this proposed change would remove obstacles to and facilitate the reissuance of new certificates under the specified circumstances by providing that the Corporation is authorized to act under those circumstances and by removing unnecessary requirements for the Board to take action in each and every instance that that a new certificate to replace a mutilated, lost, stolen, or destroyed certificate is sought.

(vi) Article X Miscellaneous Provisions

Section 10.4 of Article X of the By-Laws governs procedures relating to the execution of instruments, contracts, and the like. The Exchange proposes to delete Section 10.4 in its entirety and provide new text to better align the provisions of this section with NASDAQ's policies and procedures on signature authority. Specifically, the Exchange proposes to provide that, except as otherwise provided by law, all contracts and other documents requiring signature entered into by or on behalf of the Corporation, including, without limitation, all (i) checks, drafts, bills of exchange, notes, or other obligations or orders for the payment of money, (ii) deeds, bonds, mortgages, contracts, and other obligations or instruments, and (iii) applications, instruments, and papers required by any department of the United States Government or by any state, county, municipal, or other governmental authority, shall, in each case, be executed by such officer(s), employee(s), agent(s), or other person(s) as the Board, a duly authorized committee thereof, or the Chief Executive Officer may designate from time to time. As further proposed, the authority to execute any contract or document in the name and on behalf of the Corporation granted in accordance with this Section may (1) be general or confined to specific instances, (2) be designated by name, title, or role, (3) include the power to delegate signature authority further to one or more other persons, whether by name, title, or role, to the extent authorized by the Board, a duly authorized committee thereof, or the Chief Executive Officer, and (4) be revoked at any time by the Board, any committee thereof, or the Chief Executive Officer.[70] The Exchange believes that the proposed changes to Section 10.4 of the By-Laws would enhance clarity and facilitate the application of the By-Laws by removing language that has become obsolete and replacing it with provisions that more closely reflect NASDAQ's current policies and procedures on signature authority.

Section 10.5 of the By-Laws governs the form of records of the Corporation. The Exchange proposes to delete Section 10.5 in its entirety and insert in its place new text that would conform this provision with the updated Delaware statute governing signature authority. Specifically, the Exchange proposes to provide that any records administered by or on behalf of the Corporation in the regular course of its business, including its stock ledger, books of account, and minute books, may be kept on, or by means of, or be in the form of, any information storage device, method, or one or more electronic networks or databases (including one or more distributed electronic networks or databases), provided that the records so kept can be converted into clearly legible paper form within a reasonable time and otherwise comply with applicable law.[71]

(vii) Article XI Amendments; Emergency By-Laws

Section 11.4 of Article XI of the By-Laws addresses the adoption of emergency by-laws. The Exchange proposes to update Section 11.4 to reflect amendments to the emergency by-law provision of the Delaware General Corporation Law. Specifically, the Exchange proposes to provide that as provided in Section 11.4, the Board may adopt emergency by-laws which shall be operative during any emergency resulting from ''any emergency resulting from an attack on the United States or on a locality in which the Corporation conducts its business or customarily holds meetings of its Board of Directors or its stockholders, or during any nuclear or atomic disaster or during the existence of any catastrophe, including, but not limited to, an epidemic or pandemic, and a declaration of a national emergency by the United States government, or other similar emergency condition, irrespective of whether a quorum of the Board of Directors or a standing committee thereof can be readily convened for action.'' [72] In addition, and consistent with Delaware General Corporation Law, the Exchange proposes to update Section 11.4 to provide, in a final sentence to Section 11.4 of the By-Laws, that ''[n]othing contained in this Section 11.4 shall be deemed exclusive of any other provisions for emergency powers consistent with other sections of Delaware law which have been or may be adopted by corporations created under Delaware law.'' [73]

(viii) Article XIII Forum Selection

The Exchange proposes to adopt new language to provide the By-Laws with a customary forum selection provision. To effect this change, the Exchange proposes to add a new Article XIII titled ''Forum Selection'' providing as follows: [74]

Unless the Corporation consents in writing to the selection of an alternative forum, (A) (i) any derivative action or proceeding brought on behalf of the Corporation, (ii) any action asserting a claim of breach of a fiduciary duty owed by any current or former director, officer, other employee or stockholder of the Corporation to the Corporation or the Corporation's stockholders, (iii) any action asserting a claim arising pursuant to any provision of Delaware law, the Restated Certificate of Incorporation or these By-Laws (as either may be amended or restated) or as to which Delaware law confers jurisdiction on the Court of Chancery of the State of Delaware or (iv) any action asserting a claim governed by the internal affairs doctrine of the law of the State of Delaware shall, to the fullest extent permitted by law, be exclusively brought in the Court of Chancery of the State of Delaware or, if such court does not have subject matter jurisdiction thereof, the federal district court of the State of Delaware; and (B) the federal district courts of the United States shall be the exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act of 1933, as amended. Notwithstanding the foregoing, This Section 13.1 shall not apply to claims seeking to enforce any liability or duty created by the Act. To the fullest extent permitted by law, any person or entity purchasing or otherwise acquiring or holding any interest in shares of capital stock of the Corporation shall be deemed to have notice

[69] *See* proposed Section 9.6 of the By-Laws. To effect his change, the Exchange proposes to (1) delete from the fourth sentence of Section 9.6 the words ''Board or such committee'' and substitute therefor the word ''Corporation'' and (2) delete from the fifth sentence the word ''Board,'' substituting therefor the word ''Corporation.'' *See id.*

[70] *See* proposed Section 10.4 of the By-Laws.

[71] *See* proposed Section 10.5 of the By-Laws.

[72] *See* proposed Section 11.4 of the By-Laws.

[73] *See* proposed Section 11.4 of the By-Laws. The Exchange further proposes to delete from Section 11.4 the following language as it has become obsolete: ''nuclear or atomic disaster, an attack on the United States or on a locality in which the Corporation conducts its business or customarily holds meetings of the Board or the stockholders, any catastrophe, or other emergency condition, as a result of which a quorum of the Board or a committee thereof cannot readily be convened for action.'' *See id.*

[74] *See* proposed Article XIII of the By-Laws.

of and consented to the provisions of this Section 13.1.

The Exchange believes that this proposed addition of Article XIII to the By-Laws is appropriate as it would provide the Corporation as well as litigants with greater certainty with respect to the applicable judicial forum for addressing claims or actions involving the Corporation.[75]

(ix) Non-Substantive Changes

The remaining proposed amendments to the By-Laws are non-substantive changes designed to simplify and streamline the document. Specifically, the Exchange proposes to (1) amend Article I(k) and Article I(m) to correct typographical errors by deleting a period and substituting in its place a semicolon and by inserting a missing parenthesis respectively; (2) make non-substantive clarifying changes to subparagraph (p) of Article I; (3) amend Article I(s) to correct a typographical error by removing a period after ''and'''; and (4) delete from Section 3.1(a) the term ''shareholder'' and substitute therefor the word ''stockholder.'' the latter which more closely reflects established terminology of the By-Laws. The Exchange believes the proposed non-substantive changes are either administrative or clarifying in nature, and that, as such, they are in the public interest as they are designed to avoid confusion with respect to the operation of the By-Laws thus facilitating their use.

2. Statutory Basis

The Exchange believes that the proposed changes are consistent with Section 6(b) of the Act,[76] in general, and furthers the objectives of Section 6(b)(1) of the Act,[77] in particular, in that they enable the Exchange to be so organized so as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. The Exchange also believes that the proposed changes are consistent with Section 6(b) of the Act,[78] in general, and furthers the objectives of Section 6(b)(5) of the Act,[79] in particular, in that they are 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.

(a) Proposed Changes to the Certificate

The Exchange believes the proposed changes to paragraphs A and B of Article Sixth of the Certificate are in the public interest as they would update the Certificate, consistent with developments in Delaware General Corporation Law that enable companies incorporated in Delaware, such as NASDAQ, to limit the liability of certain of their officers in narrow circumstances, as discussed above. The Exchange notes that amendments providing for officer exculpation are increasingly common for public companies, and that the number of shareholder proposals calling for such amendments have continued to increase since 2022 when the Delaware law was passed.[80]

(b) Proposed Changes to the By-Laws

The Exchange believes that changes proposed for Article III of the By-Laws are in the public interest as they would update the By-Laws and conform them to current practices and developments in the law with respect to corporate matters such as procedures governing the annual and special meetings of stockholders, the conduct of such meetings, and the invocation of proxy access. The proposed changes to Article IV of the By-Laws are either clarifying in nature or otherwise purport to refine governance practices by providing the Corporation with greater flexibility with respect to such matters as the qualifications of Directors, quorum and voting, or otherwise update such provisions to make them more consistent with current governance practices as well as the policies and procedures of NASDAQ. The Exchange believes that proposed changes to Articles VII through XIII are in the public interest and consistent with the protection of investors as they are designed to accomplish several objectives, including updating the By-Laws to conform with current practices or recent developments in Delaware General Corporation Law, aligning the By-Laws with current NASDAQ policies and procedures, and enhancing the clarity of the By-Laws thus facilitating their proper application and use. Finally, the remaining changes can be characterized as non-substantive, because they are designed to either correct typographical errors, conform NASDAQ governance documents to terminology in the By-Laws, remove obsolete text, or otherwise make non-substantive revisions to the By-Laws to make them clearer and easier to use.

B. Self-Regulatory Organization's Statement on Burden on Competition

Because the proposed rule change relates to the governance of NASDAQ and not to the operations of the Exchange, 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.

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

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 (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–MRX–2025–23 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange

[75] The Exchange notes that the bylaws of Cboe Global Markets, Inc. as well as those of CME Group, Inc., contain forum selection provisions similar to those proposed by the Exchange. *See* Article 11 (''Forum for Adjudication of Disputes'') of the Eight Amended and Restated Bylaws of Cboe Global Markets, Inc. (2024) *https://s202.q4cdn.com/174824971/files/doc_governance/2024/Dec/04/Cboe-Global-Markets-Eighth-AR-Bylaws-2ffa4c.pdf;* Article IX, Section 9.1 (''Forum for Adjudication of Certain Disputes'') of the Seventeenth Amended and Restated Bylaws of CME Group, Inc. (2022) *https://www.sec.gov/Archives/edgar/data/1156375/000119312522301477/d412380dex31.htm.*

[76] 15 U.S.C. 78f(b).

[77] 15 U.S.C. 78f(b)(1).

[78] 15 U.S.C. 78f(b).

[79] 15 U.S.C. 78f(b)(5).

[80] *See supra* note 3 and accompanying text.

Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–MRX–2025–23. 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 website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection.

All submissions should refer to file number SR–MRX–2025–23 and should be submitted on or before October 22, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[81]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–19178 Filed 9–30–25; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104111; File No. SR–OCC–2025–018]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change by The Options Clearing Corporation Concerning Methodology To Allocate Clearing Fund Deposit Requirements Among Its Clearing Members To Better Align the Allocation With The Sizing of The Clearing Fund so Stress Based Risk Is Fairly Allotted to Market Participants That Expose OCC to Such Stress Risk

September 26, 2025.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 26, 2025, The Options Clearing Corporation (''OCC'' or ''Corporation'') 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 primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule

Change

This proposed rule change would allocate Clearing Fund deposit requirements in connection with its methodology among its Clearing Members to better align the allocation with the sizing of the Clearing Fund so that stress based risk is fairly allotted to those market participants that expose OCC to such stress risk. Specifically, the proposed changes would: (1) modify OCC's allocation weighting formula for allocating Clearing Fund Contribution requirements by introducing a 70% Clearing Fund risk-based shortfall allocation based on stress loss in excess of margin (the ''shortfall''); changing the weighting percentages by reducing the margin allocation from 70% to 15%; removing the open interest component; extending the lookback period from 1-month to 3-months of data to align with the Clearing Fund size lookback; and reflect a new weighting scheme of 70% shortfall, 15% margin, and 15% cleared volume; (2) provide authority in the rules for OCC to hold constant allocation weights month-over-month in light of volatile market conditions; and (3) make other minor clarifying and conforming changes to the Clearing Fund Methodology Policy (''Policy''), and Comprehensive Stress Testing & Clearing Fund Methodology, and Liquidity Risk Management Description (''Methodology Description'').

Proposed changes to the OCC Rules are filed as Exhibit 5A to File Number SR–OCC–2025–018. Proposed changes to the Methodology Description are filed as confidential Exhibit 5B to File Number SR–OCC–2025–018. Proposed changes to the Policy are filed as confidential Exhibit 5C to File Number SR–OCC–2025–018. Material proposed to be added to the Rules, Methodology Description, and Policy as currently in effect is marked by underlining and material proposed to be deleted is marked with strikethrough text. All terms with initial capitalization that are not otherwise defined herein have the same meaning as set forth in the OCC By-Laws and Rules.[3]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

OCC is the sole clearing agency for standardized equity options listed on national securities exchanges registered with the Commission. OCC also clears certain stock loan and futures transactions. In its role as a clearing agency, OCC is the guarantor for all contracts cleared through OCC; that is, OCC becomes the buyer to every seller and the seller to every buyer (or the lender to every borrower and the borrower to every lender, in the case of stock loan transactions). As a central counterparty (''CCP''), OCC is exposed to certain risks because OCC is obligated to perform pursuant to its By-Laws and Rules even when one of its members defaults, including credit risk, which is the risk that OCC would not maintain sufficient financial resources to cover exposures.

OCC manages its credit risk through various safeguards to ensure that it has sufficient financial resources in the event of a Clearing Member failure. For example, OCC periodically collects margin collateral from its Clearing Members, which is designed to cover the credit exposures they individually present to OCC with a high degree of confidence. In order to ensure that OCC maintains sufficient qualifying liquid resources to manage its liquidity risk, and to address the tail risk that the margin collateral it collects from each Clearing Member might be insufficient to cover OCC's credit exposure to a defaulting member, OCC also maintains a Clearing Fund, which is a mutualized pool of financial resources to which each Clearing Member is required to contribute. OCC may borrow against or charge losses to the Clearing Fund under circumstances set forth in OCC's rules, including when managing a default of a Clearing Member. Subject to OCC's rules, non-defaulting Clearing Members would be obligated to replenish the Clearing Fund if OCC

[81] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] OCC's By-Laws and Rules can be found on OCC's public website: *https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules*.

were to charge a loss to the Clearing Fund.

OCC rules also provide for how the Clearing Fund is sized and allocated amongst OCC's membership. With respect to sizing, OCC's rules require OCC to size the Clearing Fund monthly based on stress test scenarios that present extreme but plausible market conditions in order to ensure that: (i) OCC has sufficient pre-funded financial resources to withstand a default of the two Clearing Member Groups that would potentially cause the largest aggregate credit exposure in such conditions; [4] and (ii) OCC has sufficient liquid resources to settle payment obligations under a wide range of foreseeable stress scenarios that include the default of the Clearing Member Group that would generate the largest aggregate payment obligation in such conditions.[5] However, the current allocation methodology does not include a component that takes into account the same stressed losses used to size the fund when determining each Clearing Member's required Clearing Fund deposit and creates inconsistency between the sizing and allocation across the membership. By including such a component in the allocation methodology OCC could distribute individual Clearing Fund requirements based on the directional stressed risk that Clearing Members present to OCC.

OCC proposes to modify this allocation methodology to align more closely with the methodology for sizing the Clearing Fund. The new methodology would primarily be driven by a Clearing Member's proportionate share of shortfalls (*i.e.,* the estimated stress loss exposure in excess of margin requirements) and would be more aligned with the current sizing methodology because the same stressed scenarios used for sizing would be used to calculate the shortfalls. By aligning the allocation methodology with the stressed scenarios, the proposed allocation methodology would charge each Clearing Member more in proportion to the stress loss risk that its trading activity presents to OCC. As such, the new methodology would focus more on the risk that a Clearing Member introduces to OCC through stress scenarios, rather than the risk that OCC already collateralizes through collection of margin requirements.

The proposed rule change would also provide for an alternate allocation method for stressed market conditions in which shortfall may no longer be a reliable factor in allocating the Clearing Fund. OCC has observed that shortfalls generally decrease during periods of heightened volatility when margin coverage increases. In order to avoid significant changes to the Clearing Fund allocation month-over-month, the shortfall, total risk, and volume calculations would be performed using a three-month lookback. However, in the unlikely event that shortfalls decrease over a longer period of time due to a prolonged period of heightened volatility, OCC proposes to establish authority to hold constant the allocation from month-to-month as well as remove the hold constant provision until heightened market volatility conditions abate.

The impact to each Clearing Member's allocation under the proposed methodology would be dependent on the trading activity of that Clearing Member and based on their end-of-day positions. While the changes would not affect the overall size of the Clearing Fund, some Clearing Members would see their allocation increase while others would see their allocation decrease. The impact to Clearing Member allocations will be primarily driven by the directionality of their portfolios and the resulting stress exposures relative to other Clearing Members given the change is intended to incorporate a component of the allocation based on their share of such stress exposure. Clearing Members that have alignment in terms of direction across accounts or exposure to positions that are more reactive to stress scenarios, or a combination of both, will likely see increases. However, OCC believes that such increases or decreases would be commensurate with the stressed risk presented to OCC by each individual Clearing Member.

1. Purpose

Background

Stressed Losses and the Clearing Fund Sizing Methodology

Under the Policy, OCC determines the size of its Clearing Fund based on the output of stress tests conducted using a range of foreseeable scenarios that utilize standard pre-determined parameters and assumptions. These stress tests are conducted daily and consider a range of stress scenarios with possible price changes that include: (1) relevant peak historic price volatilities; (2) shifts in other market factors including, as appropriate, priced determinants and yield curves; (3) the default of one or multiple members; (4) forward-looking stress scenarios.

As described in the Methodology Description, OCC leverages a suite of sizing stress tests broadly categorized into two types: ''Systemic Scenarios'' and ''Idiosyncratic Scenarios.'' Systemic Scenarios are created to capture risk to OCC in an extreme event impacting all positions mainly driven by risk drivers, while Idiosyncratic Scenarios are used to assess the impact of extreme moves of specific equities in a Clearing Member portfolio.

Systemic Scenarios include certain ''Hypothetical Scenarios'' that represent events in which market conditions change in ways that have not yet been observed. The Hypothetical Scenarios are derived using statistical methods (*e.g.,* draws from estimated multivariate distributions) or created based on expert judgment (*e.g.,* a 15% decline in market prices and 50% increase in volatility). These scenarios give OCC the ability to change the distribution and level of stress in ways necessary to produce an effective forward-looking stress testing methodology. OCC uses these pre-determined stress scenarios in stress tests, conducted daily, to determine OCC's risk exposure to each Clearing Member Group by simulating the profits and losses of the positions in their respective account portfolios under each such stress scenario. Idiosyncratic Scenarios are designed to capture the risks of extreme moves in individual or small subsets of securities. OCC shocks each single-name equity and evaluates the effects of such shocks on every Clearing Member Group portfolio, within which OCC identifies the four single-name equities for which such shocks would result in the largest losses.

From the combined set of scenarios used in the determination of the Clearing Fund size (''Sizing Scenarios''), which currently consist of Systemic and Idiosyncratic Scenarios, OCC selects the largest aggregate stress test exposures as the primary basis for sizing the Clearing Fund. Under the Policy and Methodology Description, OCC performs these stress test scenarios to establish the monthly size of the Clearing Fund necessary for OCC to maintain sufficient pre-funded financial resources to cover losses that could arise from the default of the two Clearing Member Groups that would potentially cause the largest aggregate credit exposure in extreme but plausible market conditions as a result of a 1-in-80 year hypothetical market event.

[4] *See* OCC Rule 1001(a).

[5] *See, e.g.,* Exchange Act Release No. 89014 (June 4, 2020), 85 FR 35446 (June 10, 2020) (SR–OCC–2020–003) (approving OCC's Liquidity Risk Management Framework).

Clearing Fund Allocation Methodology

Currently, OCC's rules provide that Clearing Members are required to make Clearing Fund deposits comprised of a fixed amount of $500,000 per Clearing Member and an amount that is a Clearing Member's proportionate share of the remaining amount necessary to arrive at the total size of the Clearing Fund (''variable amount'') determined by a weighted average of the Clearing Member's proportionate share of three other measures:

(1) total risk: a risk measure aggregated across all accounts of a Clearing Member over the previous month determined using OCC's margin methodology and such add-on charges as may be determined pursuant to OCC's policies and procedures;

(2) open interest: the daily average number of open interest in cleared contracts and stock loan and borrow positions during the previous calendar month; and

(3) volume: the daily average number of all cleared contracts and stock loan and borrow positions cleared by such Clearing Member during a look-back period determined by OCC from time to time.[6]

Each Clearing Member's proportionate share of the variable amount is determined using an allocation formula that apportions 70% from total risk, 15% from volume, and 15% from open interest. Each Clearing Member's margin requirement is calculated from all accounts held by the Clearing Member.

Proposed Changes

OCC proposes to enhance its Clearing Fund allocation strategy by: (1) modifying OCC's allocation weighting formula; (2) providing authority in the rules for OCC to hold constant month-over-month allocation weights in light of volatile market conditions; and (3) other minor clarifying and conforming changes to the Methodology Description and Policy.

1. Modification of OCC's Allocation Weighting Methodology

OCC proposes to modify its methodology for allocating Clearing Fund requirements amongst its Clearing Members to focus on the stress loss in excess of margin (*i.e.,* ''shortfall''). OCC believes it is appropriate to use the shortfall generated from running stress scenarios as a basis to calculate the Clearing Fund allocations because shortfall is a closer proxy to the risk borne by OCC from Clearing Members assuming a default in stressed market conditions, which are the conditions that the Clearing Fund is designed to address. Accordingly, OCC proposes to define ''shortfall'' under Rule 1003(b)(ii) to mean ''an estimated stress loss exposure in excess of margin amounts aggregated across all accounts of a Clearing Member determined using the Corporation's margin methodology and such add-on charges as may be determined pursuant to the Corporation's policies and procedures.'' [7] The Methodology Description would, in turn, provide that the Clearing Fund shortfall would be calculated and allocated from Sizing Scenarios (*i.e.,* the 1-in-80 Rally, 1-in-80 Decline and Idiosyncratic Sizing scenarios).[8] OCC believes this approach better aligns the allocation of the Clearing Fund with the sizing of the Clearing Fund. OCC also proposes to make conforming changes to its Policy and Methodology Description to reflect the new definition of ''shortfall.''

The new shortfall definition in Rule 1003(b)(ii) would replace the definition of ''open interest,'' which OCC would remove as an input to the allocation formula. OCC believes that removing the open interest component is consistent with the aim of making the allocation methodology more risk based. For the same reason, OCC previously reduced the weighting given to open interest in the allocation formula from 100% to 50%,[9] and then from 50% to 15%.[10] In each case, OCC determined that the change was appropriate to align the allocation methodology with the risks posed to OCC and the Commission found the proposed changes to be consistent with the Exchange Act.[11]

Under proposed amendments to Rule 1003(b), the new shortfall factor would receive a 70% weighting in calculating a Clearing Member's proportionate share of the variable amount. OCC also proposes to change the weighting formula to allocate the remaining weight of 30%. Total risk, which would be re-titled ''margin'' for clarity,[12] would remain a factor in the allocation, but would be reduced to 15%. OCC believes that maintaining the margin component is appropriate as margin evaluates risk using a different monte carlo based model and therefore can capture a different risk profile from stress testing. This reflects a decrease from OCC's current 70% allocation weighting for the margin component of a Clearing Member's Clearing Fund allocation. OCC believes that reducing the allocation to this level would be consistent with the aim of aligning the allocation of the Clearing Fund with the sizing of the Clearing Fund. OCC also proposes to keep the cleared volume allocation at the 15% threshold, which is not changed from OCC's current allocation methodology. OCC believes that maintaining the volume threshold at the same level would be appropriate to ensure that Clearing Member participants with intra-day trading activities receive an allocation of the Clearing Fund even when their holdings overnight reflect flat positions.[13] The proposed allocation methodology would result in a formula that distributes Clearing member contributions according to the following proportions: 70% shortfall, 15% margin, and 15% cleared volume. OCC believes, based on its analysis of different allocation weightings,[14] that this specific allocation scheme generates a balance between the various risks captured by each component and would align the Clearing Fund allocation with the exposure driving the size of the Clearing Fund. The proposed allocation scheme creates alignment between the process to size the Clearing Fund and the process to allocate the Clearing Fund, as

[6] *See* OCC Rule 1003(b)(iii).

[7] The shortfall component used in the allocation is based on the highest shortfall across all Sizing scenarios for that Clearing Member on a given business date and will be treated as zero in the even there are no shortfalls.

[8] In the event the size of the Clearing Fund was a result of the Sufficiency Buffer, shortfalls from Sufficiency scenarios would be considered as part of the Sizing Scenarios for the Clearing Member(s) within the Clearing Member Group(s) that triggered the sizing condition. The term ''Sufficiency Buffer'' is the condition that occurs if the results of a daily Sufficiency Stress Test over the final five business days preceding the monthly Clearing Fund sizing exceed 90% of the projected Clearing Fund size for the upcoming month, the Clearing Fund size shall be set such that the peak Sufficiency Stress Test shortfall is no greater than 90% of the Clearing Fund size.

[9] *See* Exchange Act Release No. 69403 (Apr. 18, 2013), 78 FR 24257 (Apr. 24, 2013) (SR–OCC–2013–02).

[10] *See* Exchange Act Release No. 83735 (July 27, 2018), 83 FR 37855, 37859 (Aug. 2, 2018) (SR–OCC–2018–008).

[11] *See id.* at 37863 (concluding that the change would ''allow OCC to better manage its credit exposures to its clearing members by better aligning each clearing member's contributions to the credit risk it poses to OCC''); Exchange Act Release No. 69403, 78 FR at 24258 (concluding that the change would ''enhanc[e] the Clearing Fund allocation methodology by incorporating measures that OCC believes will apportion contributions based on more sophisticated measurements of Clearing Members' usage of OCC's facilities and recognize demands on OCC's services and facilities that are not captured by the current methodology'').

[12] Specifically, using the term ''margin'' rather than ''total risk'' provides better clarity as to the metric upon which the factor is based.

[13] Overnight positions maybe flat for certain Clearing Member participants because holdings in their portfolio may net to zero from intra-day trading activities *i.e.,* entering, existing, or transferring trades during the day.

[14] OCC has included the results of this analysis in confidential Exhibit 3 to File No. SR–OCC–2025–018.

the same set of stress scenarios used to calculate the shortfalls will be used as input to the allocation scheme. Margin evaluates risk based on a different model than stress testing and therefore can capture different risk profiles than shortfall. Volume keeps in place a means to allocate a portion of the Clearing Fund based on trading activity that occurs throughout the day, which shortfall and margin do not currently capture as they utilize data as of EOD.

OCC also proposes to adopt a longer lookback period for all three measures, from a one-month lookback for the current total risk measure to a three-month lookback for shortfall, margin and cleared volume. A three-month lookback aligns with the parameters used in the sizing of the Clearing Fund and mitigates the impact of significant changes in margin shortfalls driven by periods of elevated margin coverage. Accordingly, OCC proposes to replace the lookback periods in the definitions section under Rules 1003(b)(i), (ii) and (iii) to three (3) calendar months. OCC also proposes to make conforming changes to reflect this change in its Policy and Methodology Description.

With respect to the impact of the proposal on the Clearing Fund allocations, OCC has reviewed the potential impact of the proposal on Clearing Fund allocations, for the period between May 2024 and May 2025 and also for April 2020, a time horizon that reflected a monthly resizing during a stressed market period.[15] OCC has observed that overall, the proposed approach allocates the Clearing Fund in a more distributed fashion within the top 10 Clearing Members (as measured by highest Clearing Fund contribution amounts) with some members experiencing larger changes relative to other Clearing Members, but, as noted above, the effects of the proposal would be primarily attributed to the directionality of Clearing Member portfolios and the resulting stress exposures. As a result, some Clearing Members will see their Clearing Fund requirement increase, while others will see it decrease with significant and pronounced variations across members. Generally, Clearing Members that have aligned directional exposure across accounts or exposure to positions that are more sensitive to stress events, or a combination of both, could see an increase from this proposal but it is portfolio-dependent and also a function of how the Clearing Members compare to other Clearing Members. The impact of the proposal on OCC's top 5, top 10, and remaining Clearing Members over the past four quarters spanning third quarter 2024 through second quarter 2025,[16] shown as averages, is presented in the tables below:

TABLE 1—CHANGE IN CLEARING FUND CONTRIBUTION PERCENTAGES FOR THE TOP 10 CLEARING MEMBER CONTRIBUTORS

	Current production (%)	Proposal (%)	Change (%)
Q3 2024	66.06	66.79	0.73
Q4 2024	65.57	66.90	1.33
Q1 2025	65.40	66.97	1.58
Q2 2025	65.65	67.13	1.48

TABLE 2—CHANGE IN CLEARING FUND CONTRIBUTION PERCENTAGES FOR THE TOP 5 CLEARING MEMBER CONTRIBUTORS

	Current production (%)	Proposal (%)	Change (%)
Q3 2024	48.07	45.42	−2.65
Q4 2024	47.32	44.66	−2.66
Q1 2025	47.39	44.77	−2.63
Q2 2025	47.05	44.29	−2.76

TABLE 3—CHANGE IN CLEARING FUND CONTRIBUTION PERCENTAGES FOR MEMBERS EXCLUDING THE TOP 10 CLEARING MEMBER CONTRIBUTORS

	Current production (%)	Proposal (%)	Change (%)
Q3 2024	33.94	33.21	−0.73
Q4 2024	34.43	33.10	−1.33
Q1 2025	34.60	33.03	−1.58
Q2 2025	34.35	32.87	−1.48

From Tables 1 and 2, above, OCC observed that, on average, the top 10 Clearing Members would have experienced a 1.28% increase in their Clearing Fund contributions, while the top 5 Clearing Members would have seen a 2.67% decrease in Clearing Fund contributions over the four quarters referenced. In contrast, in Table 3, which presents the effects on the remaining members, excluding the top 10 Clearing Fund contributors, OCC observed a 1.28% decrease in contributions to the Clearing Fund, indicating that the proposed rule change would have allocated a greater portion of the Clearing Fund contribution requirement toward the larger, top 10

[15] *See supra* note 14.

[16] The average Clearing Fund size during this period was $19.51 billion.

contributing members. However, OCC has also observed that there were substantial variations in the range and distribution of relative change between individual contributions spread across members within each category.[17]

2. Authority to Hold Constant Allocation Weights

OCC proposes to expand its authority under the Rules to hold constant month-over-month Clearing Member allocations during stressed market conditions. When markets are highly volatile during periods of market stress, elevated margin coverage becomes more commonplace and consequently may reduce or even eliminate Clearing Fund shortfalls because of elevated margin requirements. Such reductions in shortfalls could cause the resulting Clearing Fund allocation to change dramatically month-over month. In the first instance, OCC would address this risk through the three-month lookback discussed above, which would help to smooth month-over-month changes.[18] Based on its analysis of the potential impact of the current proposal, OCC believes that the proposed three-month lookback would have been sufficient without further intervention in recent periods of elevated stress, for example as observed in March 2020.[19] However, in the unlikely event that high volatility and reduced shortfalls persisted, OCC believes it is possible the extended lookback alone may not be sufficient even though that has not been observed in the impact data produced. As a result, the proposed rules include authority for OCC to hold all Clearing Members' proportionate shares of the variable amount constant month-over-month.[20]

Specifically, proposed Rule 1003(c) would provide that OCC, at its sole discretion, may elect to hold constant month-over-month Clearing Members' proportionate shares calculated under Rule 1003(b) and the Corporation's policies and procedures. Rule 1003(c) would further provide that any such election would (i) be based upon then-existing facts and circumstances, (ii) be in furtherance of the integrity of OCC and the stability of the financial system, and (iii) take into consideration the legitimate interests of Clearing Members and market participants. OCC believes this authority is consistent with its existing authority to temporarily increase the Clearing Fund size[21] and the Clearing Fund Cash Requirement.[22]

Proposed amendments to the Policy would provide that OCC would exercise this authority by conducting daily risk analysis to monitor the results of the Cover 2[23] Sizing Stress Tests and escalate to the Chair of the Stress Testing Working Group (''STWG''),[24] or the Chief Financial Risk Officer, that an STWG meeting be convened to review and approve or reject a recommendation to hold constant month-over-month the proportionate share of the variable amount of the Clearing Fund for all firms. The Policy would be revised to state that any recommendation to hold allocations constant would be supported by an analysis of the impact to stress exposures from margin coverages changes and the resulting Clearing Fund allocation projections.[25] OCC believes the STWG is the appropriate OCC internal governing body to approve or reject such recommendation given the authority the Management Committee has delegated to it as the subject matter expert on OCC's financial risk and liquidity risk stress-testing scenarios, models, underlying parameters and assumptions, and stress test results. In addition, OCC proposes to append ''Monthly'' to the section heading that deals with allocations to read as ''Allocation of Monthly Clearing Fund Contributions'' and reflect within the section the authority to hold constant month-over-month the allocation proportions or revert to the proposed allocation calculation formula, by inserting a new paragraph stating ''[s]ubject to the prior approval of the STWG on recommendation from STLRM, OCC may hold the proportionate share of the variable amount constant month-over-month or revert to the proportionate approach, described in Rule 1003.'' Lastly, within the same section a new separate paragraph will be inserted that states that ''[t]he Risk Committee and Clearing Members shall be notified immediately of any determination to hold constant allocations or the reversion to the proportionate approach, described in Rule 1003. Such determination and the reasons thereof shall be promptly reported to the SEC and the CFTC.''

Other Clarifying and Conforming Changes

Finally, OCC proposes several additional clarifying and conforming changes to the Rules, Policy, and Methodology Description to align with the proposed changes to the Clearing Fund methodology. These supporting changes are described below.

Proposed Changes to the Allocation of Clearing Fund Contributions Description

OCC proposes a number of changes to its Methodology Description to reflect the proposed changes and describe the proposed allocation formula. For example, the Methodology Description would be revised to reflect the updated Rule 1003 text changes, which includes introduction of the shortfall, removal of the open interest, the extension of the lookback period to three months, and incorporation of the new proposed weightings for the Clearing Fund Allocation formula. In addition, the proposed changes would add a paragraph reflecting the proposed Rule 1003(c) text. In addition, certain definitions within the Methodology Description referring to the OCC's current Clearing Fund allocation, including ''daily averages,'' ''Risk Exposure,'' and ''Open Interest'' will be removed. Additional clarifying text such as ''Cleared'' will also be appended before ''Volume'' to ensure greater clarity regarding the definition of ''Cleared Volume.''

Proposed Changes to the Policy

OCC proposes a number of changes to its Policy to reflect the proposed changes. First, all references to ''Draw'' or ''Draws'' in the document will be replaced with ''shortfall'' or ''shortfalls,'' respectively. In a similar fashion to the Methodology Description, the Policy will be revised to reflect the updated Rule 1003 text changes, that includes introduction of the ''shortfall,'' removal of the ''open interest,'' update to the lookback period to three months,

[17] This applies to members within all three categories presented in Table 1,2, and 3.

[18] OCC proposes to extend the lookback from one to three months to smooth out the effects of high volatility during periods when elevated margin coverage may reduce or even eliminate shortfalls. Using a one-month lookback during such periods can cause Clearing Fund allocations to fluctuate dramatically month-over-month.

[19] *See supra* note 14.

[20] For the avoidance of doubt, the variable amount, which is dependent on the size of the Clearing Fund, would not be held constant under this authority. Rather, OCC would hold constant the proportionate allocation of the variable amount across the membership.

[21] *See* OCC Rule 1001(d).

[22] *See* OCC Rule 1002(a)(i)(A).

[23] The term ''Cover 2'' refers to sufficient Pre-Funded Financial Resources, at a minimum, to enable OCC to cover a wide range of foreseeable stress scenarios that include, but are not limited to, the default of the two Clearing Member Groups that would potentially cause the largest aggregate credit exposure in extreme but plausible market conditions.

[24] The STWG is a cross-functional group comprised of representatives from relevant OCC business units, including Stress Test and Liquidity Risk Management, Credit Risk Management, and Model Risk Management.

[25] The analysis may include additional information such as the percentage of firms generating shortfalls, the size of peak shortfalls relative to the Clearing Fund size, a comparison of Clearing Fund allocation projections versus current requirements as well as a breakdown of the allocation projections by component.

and incorporation of the new proposed weightings for the Clearing Fund Allocation formula. In addition, the proposed changes would add a paragraph reflecting the proposed Rule 1003(c) text.

Proposed Changes to the Rules

To enhance clarity and eliminate potential confusion, OCC proposes to remove all references to an implementation period from Rule 1003. Specifically, OCC proposes to delete Interpretation and Policy .03 of Rule 1003 in its entirety from OCC's Rules, as this section contains the implementation period provisions that are no longer necessary.

Clearing Member Outreach

OCC has provided an overview of the proposed changes to the Financial Risk Advisory Council (''FRAC''), informing Clearing Members of the proposed changes. The FRAC is a working group comprised of exchanges, Clearing Members, and indirect participants of OCC. OCC has not received any material objections or concerns in response to this outreach to date.

Implementation Timing

OCC will implement the proposed changes within 180 days after the date OCC receives all necessary regulatory approvals for the proposed changes. OCC will announce the implementation date of the proposed changes by posting an Information Memorandum on its public website at least two (2) weeks prior to implementation.

2. Statutory Basis

OCC believes the proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) of the Exchange Act,[26] and Rule 17ad–22(e)(4)[27] and Rule 17ad–22(e)(2)[28] thereunder.

Section 17A(b)(3)(F) of the Act[29] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities and derivatives transactions, to assure the safeguarding of securities and funds which are in its custody or control, and in general, to protect investors and the public interest. Taken together, OCC believes the proposed changes are designed to enhance OCC's overall framework for managing credit and liquidity risks and are consistent and in accordance with Section 17A(b)(3)(F) of the Act[30] for the reasons set forth below.

OCC's mutualized Clearing Fund is designed, in part, to cover default losses arising from Clearing Member defaults during stressed market conditions. As described above, the proposed rule change would enhance OCC's framework for managing its credit risk by revising the Clearing Fund allocation scheme to include a shortfall component that represents the aggregate stress losses in excess of margin. In a Clearing Member default, a Clearing Member's Clearing Fund contribution would be the first to be utilized to cover any losses before any other mutualized resource. The use of shortfall in the allocation scheme aligns OCC's credit exposure to that Clearing Member by ensuring its Clearing Fund requirements are commensurate with the risk presented to OCC, thereby helping to ensure that OCC can continue to effect the prompt and accurate clearance and settlement of securities and derivatives transactions. The proposed changes to the component allocation weights in its Clearing Fund allocation scheme produces Clearing Member allocations better aligned with the same stress scenarios used to size the Clearing Fund, which OCC believes is reasonably designed to enhance OCC's framework for managing credit risk because it would result in more proportionate and accountable Clearing Fund allocations and generate contribution requirements that are commensurate to the risks borne by OCC from its Clearing Members. OCC believes these changes would help to reduce risky behavior that may arise through risk mutualization and incentivize participants to better manage their risk by charging more to Clearing Members who introduce such stressed risk, thereby supporting the public interest. In addition, OCC would use the Clearing Fund deposit along with the margin of a defaulting Clearing Member to manage a default ahead of other resources under OCC's default waterfall, including the Clearing Fund deposits of non-defaulting Clearing Members.[31] By allocating more to a Clearing Member that is introducing higher stressed risk, more resources ahead of risk mutualization would be available in the event of that Clearing Member's default, thereby helping to safeguard the Clearing Fund deposits of non-defaulting Clearing Members. OCC therefore believes these changes are designed to promote the prompt and accurate clearance and settlement of securities and derivatives transactions, assure the safeguarding of securities and funds which are in its custody or control and, in general, protect investors and the public interest consistent with Section 17A(b)(3)(F) of the Act.[32]

OCC also believes the proposed revisions to its Rules, Policy, and Methodology Description to update the lookback period to three months for all components of the Clearing Fund allocation scheme and to allow OCC to hold constant the allocations month-over-month are designed, in general, to protect investors and the public interest. The proposed changes are anti-procyclical measures for periods of elevated market volatility during which Clearing Members may maintain higher margin levels that may cause shortfalls for the majority of market participants to fall to zero. The extended lookback and authority under Rule 1003(c) would help ensure that OCC's Clearing Fund allocations would be smoother month-over-month ensuring that significant fluctuations in Clearing Fund allocations are avoided, particularly during periods of stressed market conditions in which Clearing Members may maintain elevated margin coverage levels and their ability to meet additional liquidity demands may be strained. A three-month lookback would smooth out the impact to Clearing Members of high volatility periods reducing the dramatic fluctuations experienced from using a shorter 1-month lookback. As such, OCC believes that these changes reduce systemic risk, and are thereby designed to help ensure OCC can continue to provide prompt and accurate clearance and settlement of securities and derivatives transactions, and in general protect investors and the public interest consistent with Section 17A(b)(3)(F) of the Act.[33]

OCC also believes the proposed changes are consistent with Rules 17ad–22(e)(4),[34] which requires that a covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes including by, in part, maintaining financial resources at the minimum to enable it to cover a wide range of foreseeable stress scenarios that include, but are not limited to, the default of the participant family that would potentially cause the largest aggregate credit exposure for the covered clearing agency in extreme but

[26] 15 U.S.C. 78q–1(b)(3)(F)

[27] 17 CFR 240.17ad–22(e)(4).

[28] 17 CFR 240.17ad–22(e)(2).

[29] 15 U.S.C. 78q–1(b)(3)(F).

[30] *Id.*

[31] *See* OCC Rule 1006(b).

[32] 15 U.S.C. 78q–1(b)(3)(F).

[33] *Id.*

[34] 17 CFR 240.17ad–22(e)(4).

plausible market conditions,[35] and do so exclusive of assessments for additional guaranty fund contributions or other resources that are not prefunded.[36] OCC complies with these obligations by maintaining a prefunded Clearing Fund that is sized to cover potential losses resulting from the default of its two largest Clearing Member Groups in stressed market conditions. With respect to the use of Clearing Funds and adherence to the requirements of Rule 17ad–22(e)(4),[37] the Commission has noted that, to the extent that a clearing agency uses guaranty or clearing fund contributions to mutualize risk across participants, clearing agencies generally should value margin and guaranty fund contributions so that the contributions are commensurate to the risks posed by the participants' activities.[38] OCC believes that by utilizing the same stressed scenarios used to size the Clearing Fund, the proposed allocation methodology would provide for Clearing Fund contribution requirements commensurate to the risks posed by each Clearing Member. As a result, OCC believes the proposed changes are reasonably designed to comply with the requirements of Rule 17ad–22(e)(4).[39]

Finally, OCC believes the proposed changes are consistent with Rule 17ad–22(e)(2)(i),[40] which requires that each covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for governance arrangements that, in relevant part, are clear and transparent. As discussed above, OCC believes that by establishing authority to hold allocations constant month-over-month in extraordinary circumstances in its rules, and making clarifying, organizational, and streamlining changes elsewhere in its policies and procedures, it would improve the clarity of its rules and policies and therefore the proposed changes would be consistent with Rule 17ad–22(e)(2)(i).[41]

(B) Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Act[42] requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. While the proposed rule change may impact Clearing Members to a greater or lesser degree depending on each Clearing Member's trading activity, OCC does not believe that the proposed rule change would impose any burden of competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

The proposed changes relate to risk management modifications designed to shift the allocation from margin to stress shortfall. As discussed above, the current Clearing Fund distribution scheme utilizes margin as the main driver to allocate individual Clearing Member contributions, which may not adequately reflect the risk presented by individual Clearing Members in a default in stressed market conditions. In such scenarios, OCC believes that the shortfall is a closer proxy to the risk borne by OCC to be used as a basis to calculate Clearing Fund allocations, notwithstanding that margin and volume would remain factors with smaller weightings. The proposed changes would ensure contribution requirements would be apportioned to Clearing Members based on each Clearing Member's share of the overall shortfall relative to margin. Moreover, the proposed rule change would be applied uniformly to all Clearing Members, but as noted above, the sizing of the Clearing Fund would not be affected. In addition, as indicated by OCC's impact analysis, the proposal's effects vary across all members under both normal and stressed market conditions. As shown above in Tables 1, 2, and 3, some Clearing Members would see their Clearing Fund requirement increase, while others will see it decrease. Individual impacts would depend on a variety of factors, including but not limited to, the directionality of exposure across accounts within a Clearing Member, exposure to positions that are more sensitive to stress scenarios, and stress exposures relative to other Clearing Members.

OCC believes these changes are necessary and appropriate requiring those Clearing Members that present elevated levels of stress-based risk to contribute more to the Clearing Fund and thereby incentivize those firms to better manage and reduce the risk attributed to their trading activities. Accordingly, OCC believes that the proposed rule change would not impose any burden or impact on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were not and are not intended to be solicited with respect to the proposed change and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include file number SR–OCC–2025–018 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–OCC–2025–018. 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 website (*https://www.sec.gov/rules/sro.shtml*). Copies of such filing will be available for inspection and copying at the principal office of OCC and on OCC's website at *https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules*.

[35] 17 CFR 240.17ad–22(e)(4)(iii).

[36] 17 CFR 240.17ad–22(e)(4)(iv).

[37] 17 CFR 240.17ad–22(e)(4).

[38] *See* Exchange Act Release No. 78961 (Sept. 28, 2016), 81 FR 70786, 70813 (Oct. 13, 2016) (S7–03–14) (''Standards for Covered Clearing Agencies'').

[39] 17 CFR 240.17ad–22(e)(4).

[40] 17 CFR 240.17ad–22(e)(2)(i).

[41] *Id.*

[42] 15 U.S.C. 78q–1(b)(3)(I).

Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection.

All submissions should refer to File Number SR–OCC–2025–018 and should be submitted on or before October 22, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[43]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–19104 Filed 9–30–25; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104129; File No. SR–CboeBZX–2025–134]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt Fees for New Logical Ports in Connection With a New Connectivity Offering on Its Equity Options Platform

September 29, 2025.

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 September 26, 2025, Cboe 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 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

Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') proposes to adopt fees for new logical ports in connection with a new connectivity offering on its equity options platform. The text of the proposed rule change is provided in Exhibit 5.

[43] 17 CFR 200.30–3(a)(12).

[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 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 its fee schedule to adopt fees for Unitized Logical Ports, a new connectivity offering for its equity options platform (''BZX Options'') and adopt new Average Daily Quote and Average Daily Order fees.[3]

Unitized Port Fees

By way of background, Exchange Members may interface with the Exchange's Trading System[4] (hereinafter, ''System'') by utilizing either the Financial Information Exchange (''FIX'') protocol or the Binary Order Entry (''BOE'') protocol. The Exchange further offers a variety of logical ports,[5] which provide users of these ports with the ability within the Exchange's System to accomplish a specific function through a connection, such as order entry, data receipt or access to information. For example, such ports include Logical Ports,[6] Purge Ports,[7] and Ports with Bulk Quoting Capabilities[8] (''Bulk Ports''). By way of further background, each of these ports corresponds to a single running order handler. Each order handler processes the messages it receives from these ports from the connected Members. This processing includes determining whether the message contains the required information to enter the System, whether the message parameters satisfy port-level (*i.e.,* pre-trade) risk controls, and where to send that message within the System (*i.e.,* to which matching engine[9]). Once an order handler completes the processing of a message, it sends that message to the appropriate matching engine.

Historically, all order handlers connect to all matching engines. That is, under the BOEv2 and FIX protocols,[10] Members were able to access all symbols from a single logical port since each port corresponds to a single order handler that conveniently connects to all matching engines (''convenience layer''). Although the Exchange configures the software and hardware for its order handlers in the same manner, there can be a natural variance in the amount of time it takes individual order handlers to process messages of the same type under this architecture. Factors that contribute to this differentiation in processing times

[3] The Exchange initially submitted the proposed rule change on August 30, 2024 and was effective September 3, 2024 (SR–CboeBZX–2024–082). On September 13, 2024, the Exchange withdrew that filing and submitted SR–CboeBZX–2024–088. On November 12, 2024, the Exchange withdrew that filing and submitted SR–CboeBZX–2024–113. On December 20, 2024, the Exchange withdrew that filing and submitted SR–CboeBZX–2024–131. On February 3, 2025, the Exchange withdrew that filing and submitted SR–CboeBZX–2025–016. On April 4, the Exchange withdrew that filing and submitted SR–Cboe–BZX–2025–052. On June 2, 2025, the Exchange withdrew that filing and submitted SR–Cboe–BZX–2025–075. On July 31, 2025, the Exchange withdrew that filing and submitted SR–CboeBZX–2025–107. On September 26, 2025, the Exchange withdrew that filing and submitted this filing.

[4] The terms ''Trading System'' and ''System'' mean the automated trading system used by BZX Options for the trading of options contracts. *See* Chapter XVI. General Provisions—BZX Options, Rule 16.1 Definitions.

[5] *See* Exchange Rule 21.1 (l)(2), definition of ''logical port.'' Logical ports include FIX and BOE ports (used for order entry), drop logical port (which grants users the ability to receive and/or send drop copies) and ports that are used for receipt of certain market data feeds.

[6] The term ''Logical Ports'' used herein shall refer to FIX and BOE ports (used for order entry). *See* Cboe BZX Options Fee Schedule, Options Logical Port Fees, ''Logical Ports'' (which exclude Purge Port, Multicast PITCH Spin Server Port or GRP Port).

[7] Purge Ports provide users the ability to cancel a subset (or all) of open orders across Executing Firm ID(s) (''EFID(s)''), Underlying symbol(s), or CustomGroupID(s), across multiple logical ports/sessions. *See* Securities Exchange Act Release 79956 (February 3, 2017), 82 FR 10102 (February 9, 2017) (SR–BatsBZX–2017–05). *See also https://cdn.cboe.com/resources/membership/US_Options_BOE_Specification.pdf* and *https://cdn.cboe.com/resources/membership/__FIX_Specification.pdf.*

[8] *See* Exchange Rule 21.1 (l)(3), definition of ''bulk port.'' Bulk Ports provide users with the ability to submit and update multiple quote bids and offers in one message through logical ports enabled for bulk-quoting.

[9] A matching engine is a part of the Exchange's System that processes options quotes and trades on a symbol-by-symbol basis. Some matching engines will process option classes with multiple root symbols, and other matching engines will be dedicated to one single option root symbol (for example, options on SPY will be processed by one single matching engine that is dedicated only to SPY). A particular root symbol may only be assigned to a single designated matching engine. A particular root symbol may not be assigned to multiple matching engines.

[10] The Exchange notes for clarity that while BOEv2 has been decommissioned, Members can still access the convenience layer through BOEv3 protocol.

include the availability of shared resources (such as memory), which is impacted by (among other things) then-current message rates, the number of active symbols (*i.e.,* classes), and recent messages for a symbol. This natural differentiation in processing times inherently may cause some messages to be sent from an order handler to a matching engine ahead of other messages that the Exchange's System may have received earlier on a different order handler.

The Exchange recently implemented a new architecture and protocol which includes, among other things, a single gateway per matching engine (''unitized layer''), which renders the above-described natural variance of order handler processing irrelevant for Members that connect to the unitized order handler.[11] More specifically, effective August 19, 2024, the Exchange implemented this new unitized access architecture and a new version of its Binary Order Entry (BOE) protocol [12] (''BOEv3''), which also resulted in the adoption of new logical port types (''Unitized Logical Ports''), for which the Exchange is now seeking to establish fees.[13] Under the new unitized BOEv3 architecture, a single BOEv3 order handler corresponds to a single matching engine and all message traffic (including FIX and BOEv3 convenience layer port traffic) [14] passes through this unitized BOEv3 order handler before reaching that order handler's corresponding matching engine.[15] If a Member desires to access this unitized layer of the BOEv3 architecture, the Member would need to obtain a Unitized Logical Port for each corresponding matching engine(s) that process the symbol(s) that Member desires to trade.[16]

BOEv3 Unitized Logical Ports provide an expedited processing path to a single matching engine over that of other inbound paths on a best-efforts basis. Under routine circumstances, the System will process pending purge messages from BOEv3 Unitized Logical Ports before processing other inbound paths. Exceptions to this approach exist with regard to various message traffic and rate controls that are incorporated into the BOEv3 architecture. To illustrate how BOEv3 processes inbound messages, consider the following simplified example: (1) process pending purge messages from BOEv3 Unitized Logical Ports; (2) process all other pending messages from BOEv3 Unitized Logical Ports; (3) process pending messages from convenience ports.

As noted above, to access the BOEv3 architecture a Member must obtain a Unitized Logical Port for each corresponding matching engine(s) that processes the symbol(s) the Member desires to trade. The three new port types that have been adopted are: (1) BOE Unitized Logical Ports,[17] (2) Bulk Unitized Logical Ports,[18] and (3) Purge Unitized Logical Ports [19] (collectively, ''Unitized Logical Port''). With the exception of Exchange Options Market Makers [20] (hereinafter, ''Market Makers'') who may only quote via a BOE Bulk Unitized Logical Port,[21] use of the unitized architecture and purchase of a Unitized Logical Port is completely voluntary, and Members (*i.e.,* non-Market Makers) are not required, or under any regulatory obligation, to utilize them.

The Exchange proposes to establish fees for the new Unitized Logical Ports, which can be purchased on an individual basis (*i.e.,* capable of accessing a specified matching engine (''Matching Unit'')) [22] and/or as a set (''Unitized Logical Port Set'') (*i.e.,* will include the total number of ports needed to connect to each available Matching Unit). The proposed fees for Unitized Logical Ports purchased individually and as sets are as follows:

BOE Unitized Logical Port.	$350/port/month.
Bulk Unitized Logical Port.	$550/port/month.
Purge Unitized Logical Port.	$400/port/month.
BOE Unitized Logical Port (Set).	$2,500/month for 1st and 2nd port set. $3,000/month for 3rd—14th port set. $3,500/month for 15th– 30th port set.
Bulk Unitized Logical Port (Set).	$5,500/month for 1st and 2nd port set. $6,000/month for 3rd—14th port set. $6,500/month for 15th– 30th port set.
Purge Unitized Logical Port (Set).	$2,500/month for 1st and 2nd port set. $3,000/month for 3rd—14th port set. $3,500/month for 15th– 30th port set.

The proposed fees for Unitized Logical Port Sets are progressive. For example, if a User were to purchase 11 BOE Unitized Logical Port Sets, it will be charged a total of $32,000 per month ($2,500 * 2 + $3,000 * 9). As is the case today for existing logical ports, the monthly fees are assessed and applied in their entirety and are not prorated. The Exchange notes the current standard fees assessed for existing logical ports will remain applicable and unchanged,[23] and Members are still able to purchase and utilize such ports if they choose to do so. The proposed fees for Unitized Logical Port Sets will be assessed per set, per Port Type. As an example, if a Member requests three BOE Unitized Logical Port Sets, one Bulk Unitized Logical Port Set, and one Purge Unitized Logical Port Set, the firm would be charged $8,000 ($2,500 + $2,500 + $3,000) for the three BOE Unitized Logical Port Sets, $5,500 for

[11] *See* Securities Exchange Act Release 100582 (July 23, 2024), 89 FR 60958 (July 29, 2024) (SR–CboeBZX–2024–071).

[12] The BOE protocol is a proprietary order entry protocol used by Members to connect to the Exchange. The current version is BOEv3.

[13] *See* Securities Exchange Act Release No. 100582 (July 23, 2024) 89 FR 60958 (July 29, 2024) (SR–CboeBZX–2024–071).

[14] The Exchange decommissioned BOEv2 in March 2025.

[15] The Exchange notes that this improved infrastructure improves the prior noted natural variance in the amount of time it takes individual order handlers to process messages of the same type for all Members due to the improved infrastructure, even if a participant chooses to not utilize Unitized Logical Ports.

[16] Members will be able to purchase Unitized Logical Ports individually or may purchase a ''set,'' which will provide the total number of ports needed to connect to each available matching engine.

[17] Similar to the Exchange's preexisting Logical Ports, the new Unitized Logical Ports allow Members to submit orders and quotes.

[18] Similar to the Exchange's preexisting Bulk Ports, the new Bulk Unitized Logical Ports allow Members to submit and update multiple quote bids and offers in one message and are particularly useful for Members that provide quotations in many different options.

[19] Similar to the Exchange's preexisting Purge Ports, the new Purge Unitized Logical Ports are dedicated logical ports that provide the ability to cancel/purge all open orders, or a subset thereof, across multiple logical ports through a single cancel/purge message. They also solely process purge messages and are designed to assist Members, including Market Makers, in the management of, and risk control over, their orders and quotes, particularly if the Member is dealing with a large number of options.

[20] The terms ''Options Market-Maker'' and ''Market-Maker'' mean an Options Member registered with the Exchange for the purpose of making markets in options contracts traded on the Exchange and that is vested with the rights and responsibilities specified in Chapter XXII of these Rules. *See* Chapter XVI. General Provisions—BZX Options, Rule 16.1 Definitions.

[21] Market Makers may provide liquidity using either FIX, BOE convenience ports, BOE Unitized Logical Ports, or BOE Bulk Unitized sessions using either order or quote messages. Only the BOE Bulk Unitized sessions support the quote messages. BOE Bulk convenience sessions were not created due to lack of demand from MMs.

[22] The Exchange notes that it operates 32 separate matching units.

[23] For example, the Exchange currently assesses a monthly per port fee of $750 for Logical Ports and Purge Ports. It also assesses $1,500 per port month for the 1st and 2nd Bulk Ports and $2,500 for the 3rd or more Bulk Ports. *See* Cboe BZX Options Fee Schedule, Options Logical Port Fees.

the one Bulk Unitized Logical Port Set, and $2,500 for the one Purge Unitized Logical Port Set.[24]

Since the Exchange has a finite amount of capacity, it also proposes to prescribe a maximum limit on the number of Unitized Logical Ports that may be purchased and used on a per Member, per Matching Unit basis. The purpose of establishing these limits is to manage the allotment of Unitized Logical Ports in a fair and reasonable manner while preventing the Exchange from being required to expend large amounts of resources in order to provide an unlimited capacity to its matching engines. The Exchange previously proposed to provide that the two structures (*i.e.,* individual unitized ports or unitized port sets) can be combined for up to a maximum of 20 Unitized Logical Ports per Member, per Matching Unit, per type of Unitized Logical Port.[25] The Exchange noted at the time it adopted this maximum that it would continue monitoring interest by all Members and system capacity availability with the goal of increasing these limits to meet Members' needs if and when the demand is there and/or the Exchange is able to accommodate such demand.[26] Since then, the Exchange has determined that it is able to accommodate an increased cap relative to current demand and available to the Exchange's matching engine and order handler capacity. As such, the Exchange proposes to increase the maximum to 30 Unitized Logical Ports per Member, per Matching Unit, per port type. As an example, a Member may request 12 BOE Unitized Logical Port Sets and 18 individual BOE Unitized Logical Ports for Matching Unit 1, providing a total max of 30 BOE Unitized Logical Ports on Matching Unit 1 specifically. This would result in having 30 BOE Unitized Logical Ports on Matching Unit 1 and 12 BOE Unitized Ports on all additional Matching Units as part of the 12 BOE Unitized Logical Port Sets requested. Additionally, a firm may request 30 Bulk Unitized Logical Port Sets and 30 Purge Unitized Logical Port Sets as those would constitute different port types.[27] The Exchange believes the proposed cap will be sufficient for the vast majority of Members, as the Exchange understands that at this time, no Member desires more than the current cap. The Exchange notes that it will continue to monitor interest in Unitized Logical Ports and system capacity availability with the goal of further increasing these limits to meet Members needs if and when the demand is there, and the Exchange is able to accommodate it. Additionally, Members will still be able to utilize the existing logical port connectivity offerings with no maximum limit in addition to their Unitized Logical Port allocation.[28] As further discussed below, the Exchange's pricing for these new Unitized Logical Ports are less than or comparable to similar offerings from other exchanges.[29]

Average Daily Quotes and Average Daily Order Fees

The Exchange also proposes to adopt Average Daily Order (''ADO'') and Average Daily Quote (''ADQ'') fees. ''ADO'' represents the total number of orders for the month, divided by the number of trading days. ''ADQ'' represents the total number of quotes for the month, divided by the number of trading days. When measuring a Member's ADO and ADQ, orders, quotes, cancel/replace modify orders, and quote updates which submit a bid or offer and do not include cancels, are included. Further, ADO and ADQ will include orders and quotes submitted by a Member from all logical port types (*i.e.,* non-unitized logical ports and Unitized Logical Ports). Each Member may submit up to 2,000,000 average daily orders or up to 250,000,000 average daily quotes per calendar month without incurring any ADO or ADQ fees. In the event that the average number of quotes per trading day during a calendar month submitted exceeds 250,000,000, each incremental usage of up to 20,000 average daily quotes will incur an additional fee as set forth in the table below. Similarly, in the event that the average number of orders per trading day during a calendar month submitted exceeds 2,000,000, each incremental usage of up to 1,000 average daily orders will incur an additional ADO fee as set forth in the table below.[30] A Member's ADO and ADQ will be aggregated together with any affiliated Member sharing at least 75% common ownership.

Fee				
Tier 1	Tier 2	Tier 3	Tier 4	Tier 5
ADQ Fee Rate per 20,000 ADQ				
<= 250,000,000	>250,000,000	>500,000,000	>1,000,000,000	>3,500,000,000
$0.00	$0.05	$0.075	$0.10	$0.20

[24] The Exchange proposes to include this example in the Fee Schedule to provide further clarity as to the application of the proposed fees.

[25] See Securities Exchange Act Release 101212 (September 27, 2024), 89 FR 80614 (October 3, 2024) (SR–CboeBZX–2024–088).

[26] *Id.*

[27] The Exchange proposes to include this example in its Fee Schedule to provide clarity as to how Unitized Logical Port fees will be assessed. The Exchange further notes that in its prior filing (SR–CboeBZX–2025–016), it increased the cap to 30 and noted as such in its fee schedule; however, the Exchange will now include a clarifying update in its fee schedule to update the max tier amount from 20 to 30 for consistency and clarity.

[28] The Exchange notes that it does not support conversion of any one port type to another. Members and Market Makers would need to request new port and delete existing their port to transition from convenience ports to a Unitized Logical Port.

[29] *See* MIAX Express Interface for Quoting and Trading Options, MEI Interface Specification, Section 1.2 (MEI Architecture) available at: *MIAX_Express_Interface_MEI_v2.10a.pdf* (*miaxglobal.com*) which indicates firms can connect directly to one or more matching engines depending on which symbols they wish to trade and states ''MIAX trading architecture is highly scalable and consists of multiple trade matching environments (clouds). Each cloud handles trading for all options for a set of underlying instruments'' and provides that ''Market Maker firms can connect to one or more pre-assigned servers on each cloud. This will require the firm to connect to more than one cloud in order to quote in all underlying instruments they are approved to make markets in'' *See also* MIAX Emerald Options Order Management Using FIX Protocol, FIX Interface Specification, available at *https://www.miaxglobal.com/sites/default/files/page-files/FIX_Order_Interface_FOI_v2.6c.pdf*. MIAX describes its FIX Order Interface Gateway as ''a high-speed FIX Order Interface gateway [that] conveniently routes orders to our trading engines through a common entry point to our trading platform.'' *See https://www.miaxglobal.com/markets/us-options/miax-options/interface-specifications.*

[30] The term ''quote'' refers to bids and offers submitted in bulk messages. A bulk message means a single electronic message a user submits with an M (Market-Maker) capacity to the Exchange in which the User may enter, modify, or cancel up to an Exchange-specified number of bids and offers. A User may submit a bulk message through a bulk port as set forth in Exchange Rule 21.1(j)(3). *See* Rule 16.1 (definition of bulk message).

Fee				
Tier 1	Tier 2	Tier 3	Tier 4	Tier 5
ADO Fee Rate per 1,000 ADO				
<= 2,000,000	>2,000,000	>2,500,000	>3,000,000	>3,500,000
$0.00	$1.00	$1.50	$2.00	$2.50

As an example, a Member that has 510,000,000 ADQ would subsequently have 25,500 ''ADQ increments'' (510,000,000 ADQ/20,000 ADQ increments). While 12,500 of the 25,500 ADQ increments are free within Tier 1, 12,500 of the ADQ increments would be fee liable at $0.050 within Tier 2, while the remaining 500 ADQ increments would be fee liable at $.075 within Tier 3, resulting in a total ADQ fee of $662.50 for that month.[31]

The Exchange notes that market participants with incrementally higher ADO or ADQ are likely to require more of the Exchange's Trading System resources, bandwidth, and capacity. In this regard, higher ADO or ADQ may, in turn, create System latency and potentially impact other Members' ability to receive timelier executions. The proposed fee structure has multiple thresholds, and the proposed fees are incrementally greater at higher ADO and ADQ rates because the potential impact on Exchange Systems, bandwidth, and capacity becomes greater with increased ADO and ADQ rates. As noted above, the proposal contemplates that a Member would have to exceed the high ADO rate of 2,000,000 and a Member would have to exceed the high ADQ rate of 250,000,000 before that market participant would be charged a fee under the proposed respective tiers. The Exchange believes that it is in the interests of all Members and market participants who access the Exchange to not allow other market participants to strain System resources, but rather encourage efficient usage of network capacity. The Exchange also believes this proposal (and in particular the proposed incrementally higher fee amounts associated with higher ADO and ADQ) will help to moderate excessive order/quote and trade activity from Members that may require the Exchange to otherwise increase its storage capacity and will encourage such activity to be submitted in good faith for legitimate purposes.

[31] The Exchange proposes to include this example in the Fees Schedule to provide further clarity as to the application of the proposed fees.

The Exchange also represents that the proposed fees are not intended to raise profits; rather, as noted above, it is intended to encourage efficient behavior so that market participants do not exhaust System resources. Moreover, the Exchange provides Members with daily reports, free of charge, which details their order and trade activity in order for those firms to be fully aware of all order and trade activity they (and their affiliates) are sending to the Exchange. This will allow Members to monitor their behavior and determine whether it is approaching any of the ADO or ADQ thresholds that trigger the proposed fees.

Lastly, the Exchange notes that other exchanges have adopted various fee programs that assess incrementally higher fees to Members that have incrementally higher order and/or quoting trading activity for similar reasons.[32]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[33] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [34] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [35] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4)[36] of the Act, which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities.

The Exchange believes the proposed fees are reasonable because Unitized Logical Ports provide a valuable service in that Unitized Logical Ports are intended to create a more consistent, and more deterministic experience for messages once received within the Exchange's System under the recently adopted unitized BOEv3 architecture. As discussed above, the new architecture (and thereby the new Unitized Logical Ports) was designed to create a more consistent and more deterministic experience for messages once received within the System, which the Exchange believes improves the overall access experience on the Exchange and will enable future system enhancements. As noted, the BOEv3 protocol and architecture, along with the three new corresponding Unitized Logical Ports, are intended to reduce the natural variance of order handler processing times for messages, and as a result reduce the potential resulting ''reordering'' of messages when they are sent from order handlers to matching engines. The adoption of the unitized

[32] *See, e.g.,* Securities Exchange Act Release No. 60102 (June 11, 2009), 74 FR 29251 (June 19, 2009) (SR–NYSEArca–2009–50) (adopting fees applicable to Members based on the number of orders entered compared to the number of executions received in a calendar month). It appears that Nasdaq similarly assesses a penalty charge to its members that exceed certain ''weighted order-to-trade ratios''. *See Price List—Trading Connectivity,* NASDAQ, *available at https://www.nasdaqtrader.com/trader.aspx?id=pricelisttrading2. See also* Securities Exchange Act Release No. 91406 (March 25, 2021), 86 FR 16795 (March 31, 2023) (SR–EMERALD–2021–10) (adopting an ''Excessive Quoting Fee'' to ensure that Market Makers do not over utilize the exchange's System by sending messages to the MIAX Emerald, to the detriment of all other Members of the exchange).

[33] 15 U.S.C. 78f(b).

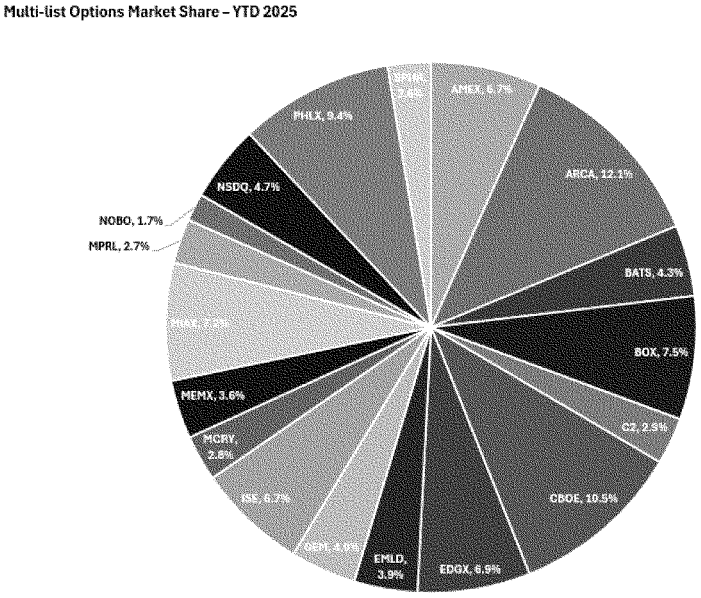
[34] 15 U.S.C. 78f(b)(5).

[35] *Id.*

[36] 15 U.S.C. 78f(b)(4).

BOEv3 structure (including the corresponding new Unitized Ports) was a technical solution that is intended to reduce the potential of this reordering and increase determinism.[37] The Exchange believes the proposed fees are also reasonable to offset costs incurred in order to build out an entirely new unitized architecture.

Furthermore, the Exchange also notes that it believes the proposed fees are similar to or less than fees assessed by other exchanges, for analogous connections as explained in further detail below.[38] The Exchange notes that other exchanges that offer similar pricing for similar connections have a comparable, or even lower, market share as the Exchange, as also detailed further below. Indeed, the Exchange has reviewed the U.S. options market share for each of the eighteen options markets utilizing total options contracts traded year-to-date as of the end of June 2025, as set forth in the following graph:[39]



The Exchange (market share of 4.30%) notes that the proposed Purge Unitized Logical Port fee of $400 to connect to a matching engine is lower than fees charged by at least two other exchanges with comparable (indeed, even lower) market share, particularly by MIAX Emerald (3.90% market share) and MIAX Pearl (2.7% market share). The Exchange does note that both MIAX Emerald and MIAX Pearl offer two purge ports for a matching engine connection at a cost of $600,[40] while the Exchange offers the primary Purge Unitized Logical Port as well as a secondary Purge Unitized Logical Port for its redundant secondary data center ports for $400. The Exchange believes that the bulk of the value customers derive is not within the quantity of Purge Unitized Logical Ports a Member purchases, but the ability to connect to the specific matching engine.[41] For instance, a Member may need to purchase several convenience ports to minimize the natural variance of order handler processing times for messages, but by comparison the same Member may only need to purchase a single Unitized Logical Port to achieve the same results. For this reason, the Exchange still believes it is better priced than MIAX Emerald's and MIAX Pearl's comparable offerings.

Furthermore, even when comparing the costs of purchasing Purge Unitized Logical Ports to connect to all matching engines, the Exchange still assesses a lower fee than MIAX Pearl or MIAX Emerald. Connecting to all matching engines on MIAX Emerald or MIAX Pearl would cost $7,200, while connecting to all matching engines on BZX Options costs $2,500.[42] As noted above, while the Exchange believes the bulk of the value customers derive is the ability to connect to specific matching engines, and in this case, all matching engines, if a customer did want to have two Purge Unitized Logical Ports for all matching engines (in addition to the included secondary purge ports provided), it would cost the participant $5,000 ($2,500/set × 2)—still lower than the cost of $7,200 for two purge ports for all matching engines that MIAX Emerald and MIAX Pearl offer.

While not as closely comparable, MIAX Emerald and MIAX Pearl both offer Full Service MEI Ports (analogous to the Exchange's Bulk Port offering) and Limited Service MEI Ports (analogous to the Exchange's BOE Port offering) that are based on the lesser of a participant's per class basis or percentage of total national average daily volume measurement. For each matching engine a participant connects to (based on their activity), they receive

[37] *See* Securities Exchange Act Release 100582 (July 23, 2024), 89 FR 60958 (July 29, 2024) (SR–CboeBZX–2024–071).

[38] *See e.g.* MIAX Pearl Options Fee Schedule.

[39] Market share is the percentage of volume on a particular exchange relative to the total volume across all exchanges, and indicates the amount of order flow directed to that exchange. High levels of market share enhance the value of trading and ports. Total contracts include both multi-list options and proprietary options products. Proprietary options products are products with intellectual property rights that are not multi-listed. The Exchange does not currently list proprietary products.

[40] *See e.g.,* MIAX Emerald Options Fee Schedule.

[41] Due to the higher performance that offers higher throughput with more deterministic outcomes for participants, the revised architecture leads to a decreased demand in ports generally.

[42] The pricing amounts for MIAX Pearl and MIAX Emerald are based off of $600 per Purge Port fee per matching engine with a total of 12 matching engines (see MIAX Pearl Options—Reminder of rebalancing of the symbol distribution across Trade Matching Environments (Clouds) effective for Trading on May 12, 2025 | MIAX and MIAX Emerald Options Rebalancing of the symbol distribution across Trade Matching Environments (Clouds) effective for Trading on April 14, 2025 | MIAX). While the pricing for BZX Options is based on connecting to all Matching Engines by purchasing a set.

two Full Service MEI Ports and four Limited Service MEI Ports.[43] Based on publicly available information, MEI ports provide market makers direct connections to each matching engine for high-speed mass quoting.[44] A Full Service MEI Ports support all input message types, and Limited Service MEI Ports support all message types except bulk quotes.

Notably, MIAX Emerald and MIAX Pearl offer their Full Service MEI Ports and Limited Service MEI Ports only to market makers on those respective exchanges, and non-market maker members are not permitted to purchase MEI connections. As such, when comparing the Unitized Logical Port fees assessed to Market Makers by the Exchange to the Full Service MEI and Limited Service MEI Ports assessed to market makers by MIAX Emerald and MIAX Pearl, the Exchange believes that its proposed fee for Unitized Logical Ports is reasonable and justified by the value derived by Options Market Makers purchasing these connections in being able to connect directly to a certain matching engine.

Specifically, presuming a participant is quoting up to 10 classes for MIAX Pearl or 5 classes for MIAX Emerald (the lowest available tier for each exchange), they are connecting to fewer matching engines than another participant who may be quoting over 100 classes (the highest tier available for both MIAX Pearl and MIAX Emerald). In comparing the monthly cost using the pricing of the lowest tiers for MIAX Pearl and MIAX Emerald, the Exchange presumes an estimated comparable connection of connecting to 3 different matching engines at a cost of $550 per Bulk Port per matching engine and $350 per BOE Port per matching engine.[45] This equates to $7,500 (($350 * 4 Ports * 3 matching engines) + ($550 * 2 Ports * 3 matching engines) per month for BZX Options, and $5,000 per month for both MIAX Pearl and Emerald. For the highest tier, the Exchange presumes that if a participant was quoting over 100 classes, they are likely connecting to all matching engines. In this case, it costs a participant $12,000 per month for MIAX Pearl, $20,500 per month for MIAX Emerald, and $22,000 ($5,500 * 2 Bulk Sets) + ($2,500 * 2 BOE Sets (Tier 1)) + ($3,000 * 2 BOE Sets (Tier 2)) per month for BZX Options to connect to all matching engines.

While the Exchange is priced higher in these specific examples, it again believes the value comes from the ability to connect to additional matching engines as opposed to the quantity of ports itself and participants of the Exchange are able to determine their number of desired ports as opposed to having a set package based on their Exchange activity. For example, a participant of BZX Options can have similar matching engine connectivity to the lowest tier of MIAX Emerald or MIAX Pearl by connecting to three matching engines (using the same presumed number as above) by purchasing three Bulk Ports for a cost of $1,650 per month, substantially less than the fixed costs of $5,000 per month of MIAX Emerald and MIAX Pearl. Additionally, a participant on BZX Options is able to connect to all matching engines for a price of $5,500 per month by purchasing a Bulk Set as opposed to the fixed cost of MIAX Emerald and MIAX Pearl at $20,000 per month and $12,000 per month, respectively. Furthermore, MIAX Emerald does allow participants to purchase additional Limited Service ports at a price of $420 per month, higher than the Exchange's comparable offering of $350 per month for a BOE port. While it is challenging to compare the exact pricing on these products, the Exchange believes that it is priced comparably, if not lower than MIAX Pearl and MIAX Emerald.

The Exchange acknowledges that the above comparability analysis does not consider the fees assessed to non-Options Market Makers on the Exchange relative to non-market makers on MIAX Emerald or MIAX Pearl. This is due, however, to the fact that MIAX Emerald and MIAX Pearl do not permit non-market makers to purchase MEI ports (the closest comparable product to BZX's Unitized Logical Ports). Presumably, MIAX Emerald and MIAX Pearl limit such participants to use of only MIAX's FIX ports. Importantly, unlike MIAX Emerald and MIAX Pearl, the Exchange permits its Members (*i.e.,* non-Market Makers) to purchase a Unitized Logical Port, should such Member deem the use of such connection to be beneficial to their trading strategy. Additionally, Members (*i.e.,* non-Market Makers) may instead elect to purchase Exchange BOE convenience or FIX Ports, or a combination of Unitized Logical Ports, BOE convenience and FIX ports. Furthermore, Members and Market Makers are free to choose to purchase Unitized Logical Ports in sets or by individual ports (dependent on the firm's matching engine needs, which may be based on products it trades, strategies, or other business needs). As such, the Exchange's offering is both more widely available and provides Members and Market Makers with more flexibility and customization in contrast to MIAX's strict matching engine connectivity based on the classes a Market Maker is quoting in and its rigid fee structure.

As an additional point of comparison for non-market makers, the Exchange notes the FIX port fees it charges it Members, relative to those charged by MIAX Emerald and MIAX Pearl for their non-market maker members.[46] Specifically, the Exchange charges its Members $750 per month, per convenience port (which may be FIX or BOE). MIAX Emerald[47] utilizes a progressive fee schedule for its FIX ports and charges its members a fee of $550 per month, per port, for the first FIX port; $350 per month, per port, for ports two through five; and $150 per month, per port, for each FIX port above five. MIAX Pearl[48] also utilizes a progressive fee schedule for its FIX ports, and charges its members $275 per month, per port, for the first FIX port; $175 per month, per port, for FIX ports two through five; and $75 per month, per port, for each sixth or more FIX port. While purchasing six FIX ports on the Exchange ($4500)[49] would cost more than purchasing six FIX ports on MIAX Emerald ($3100)[50] or MIAX Pearl ($1225),[51] the Exchange again notes that its Members are, unlike MIAX Emerald and MIAX Pearl members, permitted to purchase BOE ports, FIX ports, or Unitized Logical Ports, or a combination of the three, depending on their needs and strategy. In this regard, unlike MIAX Emerald and MIAX Pearl the Exchange's Unitized Logical Port solution and its related benefits are available to *all* Members, and at a lower cost than that assessed to Members for a single FIX port ($750 for one FIX port,

[43] *See e.g.,* MIAX Pearl Options Fee Schedule.

[44] *See* MIAX Emerald Options Exchange, Market Access—MIAX Express Interface, at 2, available at: *https://www.miaxglobal.com/sites/default/files/website_file-files/MIAX_Emerald__Sheet_03272019.pdf.*

[45] The Exchange notes that, based on publicly available information from MIAX Emerald and MIAX Pearl, a definitive comparison is not feasible. Rather, the Exchange could only reasonably infer that using the lowest tier for each of MIAX Emerald and MIAX Pearl *may* reasonably equate to connecting to 3 Exchange matching engines. The Exchange deduced that 3 Exchange matching engines *may* be a relevant comparison given the number of quoting symbols quoted per Exchange matching engine.

[46] For the sake of clarity, the Exchange notes that Options Market Makers are also permitted to purchase convenience ports (which may be FIX or BOE).

[47] *Supra* note 40.

[48] *Supra* note 38.

[49] $750 * 6 = $4500.

[50] $750 + $550 + $550 + $550 + $550 + $550 + $150 = $3100.

[51] $275 + $175 + $175 + $715 + $175 + $715 + $75 = $1225.

per month vs. $350 for one BOE Unitized Logical Port). Therefore, while FIX ports on the Exchange are more expensive than those on MIAX Emerald and MIAX Pearl, the Exchange's port offerings as a whole provide Members and Market Makers with more flexibility in how to manage their Exchange access and better configure their connectivity costs based on their needs. The Exchange also emphasizes that the use of the Unitized Logical Ports is not necessary for trading on the Exchange and, as noted above, is entirely optional (other than Market Makers which must utilize a Unitized Logical Port for quoting). The Exchange notes the following usage stats, current as of September 25, 2025:

- Convenience Ports (FIX or BOEv3)
  - 57% of Members still utilize a convenience layer port (FIX or BOEv3), in addition to or in lieu of Unitized Ports. On average, Market Makers utilize 44 convenience ports.
- BOEv3 Unitized Logical Port
  - Market Makers constitute 71% of all BOEv3 Unitized Logical Port usage, compared to 29% of Members (*i.e.,* non-Market Makers).
  - Market Makers constitute 70% of all BOEv3 Unitized Logical Port sets usage, while Members (*i.e.,* non-Market Makers) constitute 30% of BOEv3 Unitized Logical Port sets usage.
- BOEv3 Unitized Logical Purge Port
  - Market Makers constitute 100% of all BOEv3 Unitized Logical Purge Port usage, and 100% of BOEv3 Unitized Logical Purge Port set usage.
- BOEv3 Unitized Logical Bulk Port
  - Market Makers constitute 99% of all BOEv3 Unitized Logical Bulk Port Usage, while Members (*i.e.,* non-Market Makers) constitute 1%.
  - Market Makers constitute 99% of all BOEv3 Unitized Logical Bulk Port set usage, while Members (*i.e.,* non-Market Makers) constitute 1% of BOEv3 Unitized Logical Bulk Port set usage.

The Exchange believes that the above statistics demonstrate that the use of Unitized Logical Ports and their associated fees are not mandatory per se. Indeed, Market Makers and Members alike are free to continue to utilize convenience ports for their message traffic as they best see fit, and may continue to access the Exchange through existing logical port offerings at existing rates. The Exchange believes that it is a Member's specific business needs that will drive its decision whether to use Unitized Logical Ports in lieu of, or in addition to, existing logical ports (or, as emphasized, not use them at all). If a Member finds little benefit in having these ports based on its business model and trading strategies, or determines the Unitized Logical ports are not cost-efficient for its needs, or does not provide sufficient value to the firm, such Member may continue connecting to the Exchange in the manner it does today, unchanged. Moreover, the Exchange believes that providing Members the option of purchasing Unitized Logical Ports individually or in sets provides Members further flexibility and an opportunity for cost savings for those Members that wish to only trade a subset of classes. The Exchange has seen firms take advantage of individually priced Unitized Logical Ports when their needs do not require connectivity to all matching engines—further allowing its Members to pay reduced fees relative to a Unitized Logical Port set.

Furthermore, the Exchange notes that undertaking a technological innovation, such as offering a new connectivity option for Members (of which, 57% still utilize at least one FIX or BOEv3 Port through the convenience layer), requires costs and resource allocation. In fact, as the Exchange previously noted, such innovation has improved the infrastructure for all Members of the Exchange. Such innovation is a part of what allows the Exchange to continue to provide access to markets in times of heightened volatility with zero downtime. The new Chairman of the Securities Exchange Commission, Paul Atkins, even recently heighted the importance of innovation by stating ''. . . we are getting back to our roots of promoting, rather than stifling, innovation. The markets innovate, and the SEC should not be in the business of telling them to stand still.'' [52] In order for exchanges to continue to provide greater options through technological innovation and, in turn, work to improve the resiliency of markets, exchanges must have reasonable certainty around their ability to set fees.

The Exchange also believes that the proposed Unitized Logical Port fees are equitable and not unfairly discriminatory because they continue to be assessed uniformly to similarly situated users in that all Members who choose to purchase Unitized Logical Ports will be subject to the same proposed tiered fee schedule. Moreover, Members purchasing Unitized Logical Ports will only do so if they find a benefit and sufficient value in such ports as all Members can otherwise continue to use the preexisting logical connectivity options.[53] As such, Members can choose whether to purchase Unitized Logical Ports based on their respective business needs.

The proposed ascending tier structure for Unitized Logical Port Sets is reasonable, equitable and not unfairly discriminatory as it is designed to encourage market participants to be efficient with their respective Unitized Logical Port usage. It also is designed so that Members that use a higher allotment of the Exchange's system resources pay higher rates, rather than placing that burden on market participants that have more modest needs. The Exchange believes the proposed ascending fee structure is therefore another appropriate means, in conjunction with an established Unitized Logical Port limit, to manage this finite resource (system capacity) and ensure it is apportioned fairly. In contrast, MIAX's structure limits its offering to a specific subset of participants, Market Makers, and allocates its ports based on quoting. In contrast, the Exchange and its participants are free to utilize this product at their required level of consumption. Furthermore, the Exchange already assesses higher fees to those that consume more Exchange resources for the existing non-Unitized Bulk Ports.[54] The proposed limit on Unitized Logical Ports is also reasonable, equitable and not unfairly discriminatory as the Exchange believes that it is in the interests of all Members and market participants who access the Exchange to not allow Members to exhaust System resources, but to encourage efficient usage of network capacity. The Exchange also notes that the new BOEv3 unitized architecture is subject to software limitations on the number of sessions that can be created on any one unitized process. Consideration was given to this limitation as well as to the amount of ports firms had indicated they would need prior to the implementation of Unitized Logical Ports.

The Exchange believes the proposed ADO and ADQ fees are reasonable as Members that do not exceed the high thresholds of 2,000,000 ADO and 250,000,000 ADQ will not be charged any fee under the proposed tiers. The Exchange notes that in establishing the

[52] See Chairman Atkins ''Prepared remarks before SEC Speaks,'' May 19, 2025, available at: *https://www.sec.gov/newsroom/speeches-statements/atkins-prepared-remarks-sec-speaks-051925.*

[53] The Exchange notes that Market Makers are required to purchase and utilize a Unitized Logical Port for their quoting activity.

[54] *See* Cboe U.S. Options Fees Schedule, BZX Options, Options Logical Port Fees, Ports with Bulk Quoting Capabilities.

proposed thresholds, it evaluated average ADO and ADQ rates over several months and the thresholds were designed to protect the Exchange's Matching Engines from being adversely impacted from sustained and excessive orders/quotes throughout the course of a given month. Further, the Exchange considered the highest levels of ADO and ADQ rates amongst firms and from there, reviewed what would be considered an unreasonable threshold even at the highest levels. The ADQ thresholds are also designed to ensure Market Makers quoting activity, which acts as an important source of liquidity, is not impeded by the proposal.[55] In fact, when setting these thresholds, the Exchange reviewed to ensure that these levels would not prohibit Market Makers from meetings quoting obligations.

The Exchange also believes it is reasonable, equitable and not unfairly discriminatory to assess higher fees when a Member has higher ADO and ADQ rates because the potential impact on exchange systems, bandwidth and capacity becomes greater with increased ADO and ADQ rates. The Exchange believes the proposed fee amounts are reasonable as the Exchange believes they are calibrated to levels that the Exchange believes a majority of Members would not surpass. In this regard, the fees are designed to apply only to those Members whose message traffic is noticeably beyond the proposed ADO and ADQ rates. In particular, the proposed fee amounts that correspond to higher ADO and ADQ rates are designed to incentivize Members to reduce excessive order and quoting trade activity that the Exchange believes can be detrimental to all market participants at those levels and encourage such activity to be made in good faith and for legitimate purposes. As detailed further below, a majority of Members fall into Tier 1 for both ADO and ADQ rates, which the Exchange believes demonstrates the reasonableness of the proposed thresholds and their related fees, and further illustrates that the proposed thresholds have incentivized Members to refrain from excessive order and quote activity. Indeed, as of the end of August 2025, the Exchange notes that all but one Member fell within the proposed ADO Tier 1, resulting in that one single Member being assessed additional ADO fees. With regards to ADQ, 9 Members fell into Tier 1 and were not assessed any additional ADQ fees. Additionally, 4 Members fell into Tier 2, 2 Members fell into Tier 3, 2 Members fell into Tier 4, and 1 Member fell into Tier 5, and were assessed related ADQ fees.

Importantly, as noted above, the Exchange believes that it is in the interests of all Members and market participants who access the Exchange to not allow Members to exhaust System resources, but to encourage efficient usage of network capacity. The Exchange therefore also believes that the proposed fees are one method of facilitating the Commission's goal of ensuring that critical market infrastructure has ''levels of capacity, integrity, resiliency, availability, and security adequate to maintain their operational capability and promote the maintenance of fair and orderly markets.'' [56] Furthermore, the Exchange believes adopting the proposed ADO and ADQ fees are reasonable as unfettered usage of System capacity and network resource consumption can have a detrimental effect on all market participants who access and use the Exchange. As discussed above, high ADO and ADQ rates may adversely impact system resources, bandwidth, and capacity which may, in turn, create latency and impact other Members' ability to receive timely executions. The Exchange believes the proposed fees are therefore reasonable as they are designed to focus on activity that is truly disproportionate while fairly allocating costs.

Moreover, the Exchange believes that the proposed ADO and ADQ fees are equitable and not unfairly discriminatory because they will be assessed uniformly to similarly situated users in that all Members that exceed the thresholds in connection with ADO and ADQ will be assessed the proposed ADO and ADQ rates. Regarding ADO and ADQ, no market participant is assessed any fees unless it exceeds the proposed thresholds. As noted above, the Exchange believes the proposed ADO and ADQ thresholds (*i.e.,* 2,000,000 ADO and 250,000,000 ADQ) are appropriately high rates respectively, such that the Exchange expects the vast majority of Members will not exceed them. The Exchange also believes it is equitable and not unfairly discriminatory to assess incrementally higher fees to Members that have higher ADO and ADQ rates because the potential impact on exchange systems, bandwidth and capacity becomes greater with increased ADO and ADQ.

Furthermore, the Exchange believes it is equitable and not unfairly discriminatory to aggregate Members trading activity with any affiliated Member sharing at least 75% common ownership [57] in order to prevent members from shifting their order flow or quoting activity to other affiliates in order to circumvent the ADO and ADQ thresholds.

The Exchange lastly believes that its proposal is reasonable, equitably allocated and not unfairly discriminatory because it is not intended to raise revenue for the Exchange; rather, it is intended to encourage efficient behavior so that Members do not exhaust System resources. Moreover, as noted above, competing options exchanges similarly assess fees to deter Members from over utilizing their respective systems by having excessive order and/or quoting trading activity.[58]

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The Exchange is only one of 18 options exchanges which market participants may direct their order flow and/or participate on, and it represents a small percentage of the overall market.[59] When determining reasonable prices, the Exchange must ensure these are

[55] Since the implementation of the proposal on September 3, 2024, the Exchange notes that it has not received any feedback from Market Maker participants that the proposal has impeded their ability to meet their quoting obligations.

[56] *See* Securities Exchange Act Release No. 73639 (November 19, 2014), 79 FR 72251 (December 5, 2014) (File No. S7–01–13) (Regulation SCI Adopting Release).

[57] The Exchange notes that its usage of 75% of common ownership is standard practice and utilized by the Exchange's affiliated exchanges. For instance, Cboe EDGX Exchange, Inc. options Market Maker Order-to-Trade Ratio fees provide that Order-to-Trade Ratio fees will apply only to participants registered as Market Makers on EDGX Options. The Order-to-Trade ratio will be calculated monthly based on the total number of orders (including messages to modify orders) submitted to EDGX Options, regardless of capacity, divided by the total number of trades occurring on orders. The calculation of the ration will not include quotes or trades resulting from such quotes. A Market Maker's order flow will be aggregated together with any affiliated Members *sharing at least 75% common ownership.*'' *See* Cboe U.S. Options Fee Schedule, EDGX Options, available at: *https://www.cboe.com/us/options/membership/fee_schedule/edgx/; see also* Nasdaq BX Options 7 Pricing Schedule, ''The term ''Common Ownership'' shall mean participants under 75% common ownership or control . . . ,'' available at: *https://listingcenter.nasdaq.com/rulebook/bx/rules/bx-options-7.*

[58] *See* supra note 32.

[59] *See* Cboe Global Markets, U.S. Options Market Volume Summary, Month-to-Date (August 27, 2024), available at *https://www.cboe.com/us/options/market_statistics/* which reflects the Exchange representing only 3.3% of total market share.

competitive prices in order to maintain market share, as uncompetitive pricing, or prices that Members deem to be excessive, can lead Members to take their order flow to other exchanges.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change to adopt fees for Unitized Logical Ports will impose any burden on intramarket competition that is not necessary in furtherance of the purposes of the Act because the proposed fees for will apply equally to all similarly situated Members. As discussed above, Unitized Logical Ports are optional [60] and Members may choose to utilize Unitized Logical Ports or not, based on their views of the additional benefits and added value provided by these ports. The Exchange believes the proposed fees will be assessed proportionately to the potential value or benefit received by Members with a greater number of Unitized Logical Ports and notes that Members may determine to cease using Unitized Logical Ports should they determine that they are no longer receiving value from these ports. As discussed, Members can also continue to access the Exchange through existing Logical Ports, which fees are not changing. Moreover, while the NYSE Arca Marketplace (''Arca'') and Nasdaq Stock Market, LLC (''Nasdaq'') do not have offerings directly comparable to Unitized Logical Ports, the Exchange notes that Arca's and Nasdaq's port fees are higher than those of the Exchange. Specifically, the Exchange notes that Arca charges a fee of $621 per quoting/order entry port,[61] and Nasdaq assess its members a fee of $575 per FIX order entry port.[62] In both cases, Arca and Nasdaq's port fees are more expensive than the proposed fees for a single BOE Unitized Logical Port ($350/port/month), a single Bulk Unitized Logical Port ($550/port/month), and a single Purge Unitized Logical Port ($400/port/month).

Similarly, the Exchange does not believe that the proposed rule change to adopt ADO and ADQ fees will impose any burden on intramarket competition that is not necessary in furtherance of the purposes of the Act because such fees will apply equally to all similarly situated Members. Particularly, the proposed fees apply uniformly to all Members, in that any Member who exceeds the ADO and/or ADQ Tier 1 thresholds will be subject to a fee under the proposed corresponding tiers. The Exchange believes that the proposed change neither favors nor penalizes one or more categories of market participants in a manner that would impose an undue burden on competition. Rather, the proposal seeks to benefit all market participants by encouraging the efficient utilization of the Exchange's network while taking into account the important liquidity provided by its Members. As discussed above potential impact on exchange systems, bandwidth, and capacity becomes greater with increased ADO and ADQ rates. The Exchange also anticipates that the vast majority of Members on the Exchange will not be subject to any fees under the proposed tiers. Accordingly, the Exchange believes that the proposed ADO and ADQ fees do not favor certain categories of market participants in a manner that would impose a burden on competition.

Next, the Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market, including competition for order flow. Market Participants have numerous alternative venues that they may participate on, including 17 other options exchanges (including 3 other Cboe-affiliated options exchanges), as well as off-exchange venues, where competitive products are available for trading. Indeed, participants can readily choose to submit their order flow to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [63] The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission*, the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers' . . . . ''.[64] Accordingly, the Exchange does not believe its proposed change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received 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 [65] and paragraph (f) of Rule 19b–4 [66] 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 (*https://www.sec.gov/rules/sro.shtml*); or

[60] The Exchange notes that while use of Unitized Logical Ports is optional, Market Makers are required to utilized a Unitized Logical Port of their quoting activity.

[61] *See* NYSE Arca Fees and Charges ''Connectivity Fees,'' available at: *https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf*.

[62] *See* ''Price List—Trading Connectivity,'' available at: *https://nasdaqtrader.com/Trader.aspx?id=PriceListTrading2*.

[63] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[64] *NetCoalition* v. *SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[65] 15 U.S.C. 78s(b)(3)(A).

[66] 17 CFR 240.19b–4(f).

• Send an email to *rule-comments@sec.gov.* Please include file number SR–CboeBZX–2025–134 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–CboeBZX–2025–134. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CboeBZX–2025–134 and should be submitted on or before October 22, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[67]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–19185 Filed 9–30–25; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104122; File No. SR–NYSEAMER–2025–59]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Ordering Window Deposit Requirement in Colocation Note 8

September 29, 2025.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on September 25, 2025, NYSE American LLC (''NYSE American'' or the ''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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Ordering Window deposit requirement in Colocation Note 8 of the Connectivity Fee Schedule. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Ordering Window deposit requirement in Colocation Note 8 of the Connectivity Fee Schedule.

Background

In November 2023, the Commission approved the Exchange's proposal to amend the Connectivity Fee Schedule to provide, in Colocation Note 8, an alternative procedure by which the Exchange can allocate power in the colocation hall at the Mahwah Data Center (''MDC'')[4] via deposit-guaranteed orders from Users made within a 90-day ''Ordering Window.''[5] Under that procedure, during an Ordering Window, each User may submit a single order for its anticipated power needs, without regard to the provision of Colocation Note 7 that prohibits the Exchange from accepting orders for more than four dedicated cabinets and/or 32 kW of power. Orders submitted during the Ordering Window are currently subject to deposits equal to two months' worth of the monthly recurring costs of the amount of power ordered, and such orders are not finalized until the User's signed order form and deposit are received by the Exchange. After the Ordering Window closes, space and power are allocated by the Exchange according to a formula described in Colocation Note 8.

As the Exchange explained in its original proposal, the purpose of the Ordering Window procedure is to permit the Exchange to obtain a real indication of Users' true demands for power both now and in the future. At the time of the original proposal, ICE was in the process of developing a new colocation hall—Hall 5—at the MDC, yet lacked any way to gauge Users' true demand for space and power given Users' inability to place orders for more than four dedicated cabinets and/or 32 kW of power. In addition, ICE sought firm, guaranteed commitments from Users that they would actually purchase the additional space and power if it was offered to them, thereby justifying ICE's investment in building out additional colocation halls. The Exchange developed the Ordering Window procedure to address these issues.

To date, the Exchange has used the Ordering Window procedure once, in early 2024, before the opening of the MDC's Hall 5. While the procedure worked as intended, the Exchange did observe behavior on the part of some Users that impacted the allocation of space and power. Seven Users submitted orders for 32 kW or less, and were all allocated the full amount of their orders under ''Step 2'' of the allocation procedure in Colocation Note 8. An additional nine Users ordered more than 32 kW. The Exchange has learned from discussions with those nine firms that five of them placed orders for the amount of power they actually wished to receive, while the other four firms placed orders for three to six times their desired amount of power—and, in some cases, more than all the power that was actually available

[67] 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] Through its Fixed Income and Data Services (''FIDS'') business, Intercontinental Exchange, Inc. (''ICE'') operates the MDC. The Exchange and its affiliates New York Stock Exchange LLC, NYSE Arca, Inc., NYSE National, Inc., and NYSE Texas, Inc. (the ''Affiliate SROs'') are indirect subsidiaries of ICE. Each of the Exchange's Affiliate SROs has submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSE–2025–36, SR–NYSEARCA–2025–70, SR–NYSENAT–2025–22, and SR–NYSETEX–2025–33.

[5] *See* Securities Exchange Act Release No. 98937 (November 14, 2023), 88 FR 80793 (November 20, 2023) (SR–NYSE–2023–29, SR–NYSEAMER–2023–39, SR–NYSEARCA–2023–53, SR–NYSECHX–2023–16, SR–NYSENAT–2023–18).

in all of Hall 5.[6] When power was allocated to these nine firms pursuant to ''Step 3'' of the allocation procedure in Colocation Note 8, the result was that the five firms that ordered their actual desired amount of power received approximately 60% of their requested amounts, while the four firms that ordered several times more power than they actually wanted received an amount of power closer to their actual desired amount.

Proposed Change

ICE is currently developing an additional colocation hall at the MDC—Hall 6—and seeks to evaluate customer demand for the space and power in that Hall, as well as whether customer demand would support additional expansion projects beyond Hall 6. The Exchange plans to use the Ordering Window procedure to assist in evaluating these issues, but proposes one change to the procedure before doing so.

Specifically, the Exchange proposes to increase the deposit that Users must provide when submitting orders for more than 32 kW during the Ordering Window to six months' worth of the monthly recurring costs of the amount of power ordered, up from two months' worth. There would be no change to the deposit requirement for Users ordering 32 kW or less, who would continue to provide a deposit equal to two months' worth of the monthly recurring costs of the amount of power ordered. Similarly, there would be no change to the use of the deposit: it would continue to be applied to the User's first and subsequent months' invoices after the power is delivered until it is completely depleted. If the User withdraws its order during the Ordering Window, the deposit will be returned.

The Exchange believes that increasing the deposit requirement for orders of more than 32 kW during the Ordering Window would discourage Users seeking more than 32 kW of power from acting opportunistically and placing orders for amounts of power several times their actual desired amount. The Exchange believes that increasing the deposit amount for orders exceeding 32 kW by a multiple of three will have a material effect on the ordering behavior of these Users, since ordering several times more power than their actual desired amount would tie up sizeable amounts of capital as deposits. By way of example, during the Ordering Window in early 2024, the four firms that placed orders for significantly more power than they needed paid deposits totaling $17 million; under the proposed rule change, similar orders would require deposits of $51 million. The Exchange believes from discussions with several Users that such a deposit requirement would dissuade Users from submitting such inflated orders for power.

The Exchange believes that increasing the deposit requirement to six months from two months for orders more than 32 kW is the best way to meet the goals of the Ordering Window procedure while dissuading certain Users' opportunistic ordering behavior. In addition, the proposal would have no impact on Users ordering less than 32 kW of power, whose deposit requirement would not change and who would continue to be allocated power in ''Step 2'' of the allocation procedure, before any orders larger than 32 kW are considered.

Application and Impact of the Proposed Changes

The proposed change is not targeted at, or expected to be limited in applicability to, market participants of any specific type or size. Rather, the proposed change would apply equally to any User ordering more than 32 kW of power during an Ordering Window.

Users with more modest power needs would not be disadvantaged by the proposed change. This proposal would not change the deposit requirement for Users finalizing orders during the Ordering Window of 32 kW or less. Nor would this proposal change the fact that in ''Step 2,'' each User that finalized an order during the Ordering Window would be allocated up to 32 kW of power (subject to sufficient power being available) before any User's order for more than 32 kW would be filled.

The proposed changes are not otherwise intended to address any other issues relating to colocation services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[8] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities, is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, and does not unfairly discriminate between customers, issuers, brokers or dealers.

The proposed rule change is designed to mitigate the opportunistic behavior of Users who submitted Ordering Window orders for significantly more power than their actual desired amounts. The Exchange believes that increasing the deposit requirement for orders of more than 32 kW during the Ordering Window to six months' worth of the monthly recurring costs of the amount of power ordered, up from two months' worth, would discourage Users seeking more than 32 kW of power from acting opportunistically and placing orders for amounts of power several times their actual desired amount. The Exchange believes that increasing the deposit amount for orders exceeding 32 kW by a multiple of three will have a material effect on the ordering behavior of these Users, since ordering several times more power than their actual desired amount would tie up sizeable amounts of capital as deposits. By way of example, during the Ordering Window in early 2024, the four firms that placed orders for significantly more power than they needed paid deposits totaling $17 million; under the proposed rule change, similar orders would require deposits of $51 million. The Exchange believes from discussions with several Users that such a deposit requirement would dissuade Users from submitting such inflated orders for power.

The Exchange believes that increasing the deposit requirement to six months from two months for orders more than 32 kW is the best way to meet the goals of the Ordering Window procedure while dissuading certain Users' opportunistic ordering behavior. In addition, the proposal would have no impact on Users ordering less than 32 kW of power, whose deposit requirement would not change and who would continue to be allocated power in ''Step 2'' of the allocation procedure, before any orders larger than 32 kW are considered. The Exchange's proposal is thus specifically tailored to dissuade Users from submitting orders for significantly more power than their actual desired amounts.

The proposed rule change would protect investors and the public interest in that it would provide the Exchange with more accurate insight into Users' true power requirements. It is in the public interest for the Exchange to take User demand into account and to make

[6] One User submitted an order for 2,700 kW, which was more than the total amount of power available in all of Hall 5 during the Ordering Window, while another User submitted an order for 5,500 kW, nearly double that amount.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4) and (5).

reasoned, informed decisions about whether and how to expand the MDC.

At the same time, there would be no change to the use of the deposit: it would continue to be applied to the User's first and subsequent months' invoices after the power is delivered until it is completely depleted. If the User withdraws its order during the Ordering Window, the deposit will be returned. Accordingly, a User would continue to benefit from the deposit.

The proposed rule change provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The proposed change is not targeted at, or expected to be limited in applicability to, market participants of any specific type or size. Rather, the proposed change would apply equally to any User ordering more than 32 kW of power during an Ordering Window. Users with more modest power needs would not be disadvantaged by the proposed change. This proposal would not change the deposit requirement for Users finalizing orders during the Ordering Window of 32 kW or less. Nor would this proposal change the fact that in ''Step 2,'' each User that finalized an order during the Ordering Window would be allocated up to 32 kW of power (subject to sufficient power being available) before any User's order for more than 32 kW would be filled.

For all these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act, the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change would increase the deposit requirement for orders for more than 32 kW submitted during an Ordering Window in order to mitigate the opportunistic behavior of Users ordering significantly more power than their actual desired amounts. The Exchange does not expect the proposed rule change to impact intra-market or intermarket competition between exchanges, Users, or any other market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to Section 19(b)(3)(A)(ii) of the Act,[9] and Rule 19b–4(f)(2) thereunder [10] the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing. 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 (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NYSEAMER–2025–59 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–NYSEAMER–2025–59. 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 website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NYSEAMER–2025–59 and should be submitted on or before October 22, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–19180 Filed 9–30–25; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 17 CFR 240.19b–4.

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104109; File No. SR–Phlx–2025–56]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing of a Proposed Rule Change To Amend the Amended and Restated Certificate of Incorporation and By-Laws of Its Parent Corporation, Nasdaq, Inc.

September 26, 2025.

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 September 26, 2025, Nasdaq PHLX LLC (''Phlx'' 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 publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Amended and Restated Certificate of Incorporation (''Certificate'') and By-Laws (''By-Laws'') of its parent corporation, Nasdaq, Inc. (''NASDAQ'' or ''Corporation''). The proposed changes would align the Certificate with certain amendments to the Delaware General Corporation Law as well as update the By-Laws to reflect recent changes in law and best practices, as discussed below.

The text of the proposed rule change is available on the Exchange's website at

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

https://listingcenter.nasdaq.com/rulebook/phlx/rulefilings and at the principal office of the Exchange.

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 is proposing to update the Certificate to reflect certain amendments to the Delaware General Corporation Law. The Exchange is also proposing to update the By-Laws to reflect recent changes in law and best practices as discussed below.

(a) Proposed Amendments to the Certificate

(1) Background

On April 23, 2025, NASDAQ's Board of Directors approved proposed amendments to the Certificate to provide for limited officer exculpation. On June 11, 2025, NASDAQ held its Annual Meeting of Stockholders, during which its stockholders considered and approved the Certificate amendments. In 2022, Delaware amended the Delaware General Corporation Law to enable companies incorporated in Delaware, such as NASDAQ, to limit the liability of certain of their officers in narrow circumstances. This change was made to address situations where directors would be dismissed from litigation, but the officers, who were not exculpated, had to continue in the litigation to show their actions were not grossly negligent. Generally, this issue arises in the mergers and acquisitions context and often relates to claims that a particular disclosure document was deficient.

The Certificate amendment would exculpate covered officers from monetary liability for breach of the duty of care in a manner similar to that already permitted for directors. However, it would not exculpate such officers in connection with derivative actions. Failing to adopt the Certificate amendment could potentially expose the Company to higher litigation expenses associated with lawsuits, regardless of merit, and/or impact the Company's recruitment and retention of exceptional officer candidates who conclude that the potential exposure to liabilities, costs of defense, and other risks of proceedings exceed the benefits of serving as one of the Company's officers. The Exchange notes that amendments providing for officer exculpation are increasingly common for public companies, and that the number of shareholder proposals calling for such amendments—the majority of which have been approved by wide margins—have continued to increase since 2022 when the Delaware law was passed.[3]

Under NASDAQ'S Certificate and By-Laws, the Exchange must determine whether proposed amendments to the Certificate must be filed with the Commission prior to taking effect. On April 30, 2025, the Board of the Exchange determined that the proposed amendments to the Certificate must be filed with the Commission.

(2) Proposed Amendments

To effect the changes discussed above, the Exchange proposes to amend Article Sixth of NASDAQ's Amended and Restated Certificate of Incorporation as follows. Paragraph A of Article Sixth of the Certificate provides that ''[a] director of Nasdaq shall not be liable to Nasdaq or its stockholders for monetary damages for breach of fiduciary duty as a director, except to the extent that such exemption from liability or limitation thereof is not permitted under the General Corporation Law of the State of Delaware as the same exists or may hereafter be amended.'' Paragraph B of Article Sixth provides that ''[a]ny repeal or modification of paragraph A shall not adversely affect any right or protection of a director of Nasdaq existing hereunder with respect to any act or omission occurring prior to such repeal or modification.'' In each of these provisions, the Exchange proposes to add, after each instance of the word ''director,'' the words ''or officer.'' [4]

The Exchange believes the proposed changes to paragraphs A and B of Article Sixth of the Certificate would update the Certificate to reflect amendments to the Delaware General Corporation Law [5] that enable companies incorporated in Delaware, such as NASDAQ, to limit the liability of certain of their officers in narrow circumstances, as discussed above.

(b) Proposed Amendments to the By-Laws

(1) Background

On April 23, 2025, NASDAQ's Board of Directors approved proposed amendments to the By-Laws to reflect changes in law and best practices that have occurred since the most recent amendments to the By-Laws in 2016. As discussed above, under NASDAQ's Certificate and By-Laws, the Exchange must determine whether proposed amendments to the By-Laws must be filed with the Commission prior to taking effect. On April 30, 2025, the Exchange determined that the proposed amendments to the By-Laws must be filed with the Commission.

(2) Proposed Amendments

To effect the changes discussed above, the Exchange proposes to amend the By-Laws as follows.

(i) Article III Meetings of Stockholders

Section 3.1(b) of Article III of the By-Laws sets forth the requirements for a stockholder's notice to NASDAQ of nominations or other business to be considered at an annual meeting. Section 3.1(b)(i) of the By-Laws currently sets forth the information that a stockholder must provide to NASDAQ about each person whom the stockholder proposes to nominate for election as a director. Section 3.1(b)(i) of the By-Laws provides in part that the Corporation may require any proposed nominee to furnish such other information it may reasonably require to determine the eligibility of such proposed nominee to serve as director of the Corporation or that could be material to a reasonable stockholder's understanding of the independence, or lack of independence, of such proposed nominee.[6] The Exchange proposes to amend Section 3.1(b)(i) to narrow the

[3] *See, e.g.,* Andrew J. Noreuil and Andrew J. Stanger, *Developments and Trends in Delaware Officer Exculpation Charter Amendments,* Harv. L. Sch. F. On Corp. Governance (June 14, 2024), *https://corpgov.law.harvard.edu/2024/06/14/developments-and-trends-in-delaware-officer-exculpation-charter-amendments/;* Megan W. Shaner, *Understanding Officer Exculpation Under the MBCA Amendments,* Bus. L. Today (Nov. 19, 2024) *https://businesslawtoday.org/2024/11/understanding-officer-exculpation-mbca-amendments/.*

[4] *See* proposed Article Sixth of the Certificate.

[5] *See* 8 Del. C. Section 102(b)(7).

[6] *See* Section 3.1(b)(1) of the By-Laws. As discussed below, the Exchange is also proposing a non-substantive change to Section 3.1(a) of the By-Laws to delete the term ''shareholder'' and substitute therefor the word ''stockholder'' to more closely track established terminology of the By-Laws and thus make them clearer and easier to understand. *See* proposed Section 3.1(a) of the By-Laws.

scope of information that may be requested under this provision. Specifically, the Exchange proposes to provide that the Corporation may require any proposed nominee to furnish such other information as it may reasonably require to determine whether the-proposed nominee is qualified under the Restated Certificate of Incorporation, the By-Laws, the rules and regulations of any stock exchange applicable to the Corporation, or any law or regulation applicable to the Corporation to serve as a director and/or independent director of the Corporation.[7] The Exchange believes that the proposed changes address concerns that the current provision is unnecessarily open-ended by limiting the information that may be requested to information on the nominee's qualifications to serve as director and/or independent director of the Corporation. The Exchange also proposes certain clarifying changes to Section 3.1(b)(i) of the By-Laws. Specifically, the Exchange proposes to insert, in its first full sentence, the word ''Corporation's'' and the words ''of such Proposing Person and in the accompanying proxy card.'' [8] The Exchange believes these proposed non-substantive changes would facilitate the application of this provision by rendering it more specific and clearer to understand.

Section 3.1(b) of the By-Laws sets forth requirements for notices from a Proposing Person [9] to NASDAQ regarding nominations or other business to be considered at an annual meeting. Section 3.1(b)(iii) of the By-Laws sets out the information required to be provided with respect to each Proposing Person. Information required to be provided under current Section 3.1(b)(iii)(C) includes ''a description of any agreement, arrangement or understanding with respect to the nomination or proposal between or among such stockholder and/or such beneficial owner, any of their respective affiliates or associates, and any others acting in concert with any of the foregoing.'' [10] The Exchange proposes to amend Section 3.1(b)(iii)(C) to delete the reference to others ''acting in concert with any of the foregoing.'' [11] The Exchange believes this proposed change is appropriate to conform the By-Laws to current practices because the ''acting in concert'' language has been challenged by plaintiffs or otherwise used in search of potential litigation targets. The Exchange thus believes it is appropriate to delete such language from the advance notice requirements under this section of the By-Laws.[12]

Section 3.1(b)(iii)(I) requires that a Proposing Person describe any significant equity interest or any Synthetic Equity Interest or Short Interest in any principal competitor of the Corporation held by such Proposing Person. The Exchange proposes to add a parenthetical stating the term ''principal competitor'' as used in this subsection shall be ''as defined for purposes of Section 8 of the Clayton Antitrust Act of 1914.'' [13] The Exchange believes that the proposed change would address a textual ambiguity in this subsection by providing greater clarity with respect to the scope of the term ''principal competitor,'' which the current subsection does not define.

Section 3.1(b)(iii)(J) further requires a Proposing Person to describe any direct or indirect interest of such Proposing Person in any contract with the Corporation, any affiliate of the Corporation, or any principal competitor of the Corporation (including, in any such case, any employment agreement, collective bargaining agreement or consulting agreement.[14] The Exchange proposes adding two parentheticals to this subsection. The first parenthetical would state that an ''affiliate,'' as that term is used in this subsection, would be ''as reflected on the most recent Form 10–K of the Corporation.'' [15] The second parenthetical would clarify that ''principal competitor,'' as provided in this subsection, would be ''as defined for purposes of Section 8 of the Clayton Antitrust Act of 1914.'' [16] The Exchange believes that the proposed changes would address textual ambiguities in this subsection by providing greater clarity with respect to the scope of the terms ''affiliate'' and ''principal competitor,'' which terms the current subsection does not define.

Section 3.1(b)(iii)(K) further requires Proposing Persons to describe any pending or threatened litigation in which such Proposing Person is a party or material participant involving the Corporation or any of its officers or Directors, or any affiliate of the Corporation.[17] The Exchange proposes to add a parenthetical to clarify, consistent with proposed changes to Section 3.1(b)(iii)(J), that an ''affiliate,'' as used in this subsection, shall be ''as reflected on the most recent Form 10–K of the Corporation.'' [18]

Section 3.1(b)(iii)(L) of the By-Laws requires Proposing Persons to describe any material transaction occurring, in whole or in part, during the then immediately preceding 12-month period between such Proposing Person, on the one hand, and the Corporation, any affiliate of the Corporation or any principal competitor of the Corporation. Consistent with proposed changes to Section 3.1(iii)(b)(I)–(K), the Exchange proposes adding two parentheticals: the first stating that an ''affiliate,'' as that term is used in this subsection, would be ''as reflected on the most recent Form

[7] To effect these changes, the Exchange proposes to delete, from the final sentence of Section 3.1(b)(i) the following: (1) the romanette (i); (2) the words ''eligibility of such''; and (3) the phrase ''or (ii) that could be material to a reasonable stockholder's understanding of the independence, or lack of independence, of such proposed nominee.'' Further, the Exchange proposes to amend the final sentence of Section 3.1(b)(i) of the By-Laws as follows: (1) insert, immediately after the words ''to determine'' the word ''whether''; (2) insert, immediately after ''proposed nominee, the words ''is qualified under the Restated Certificate of Incorporation, these By-Laws, the rules and regulations of any stock exchange applicable to the Corporation, or any law or regulation applicable to the Corporation''; and (3) insert, immediately after the words ''to serve as a director'' the phrase ''and/or independent director.'' *See* proposed Section 3.1(b)(i) of the By-Laws. As discussed below, the Exchange is also proposing a non-substantive change to Section 3.1(a) of the By-Laws to delete therefrom the word ''shareholder'' and substitute therefor the word ''stockholder.'' *See* proposed Section 3.1(a) of the By-Laws.

[8] *See* proposed Section 3.1(b)(i) of the By-Laws. The Exchange also proposes a non-substantive change to Section 3.1(b)(i) to replace the term ''Requesting Person'' with ''Proposing Person'' as that term and not ''Requesting Person,'' is defined in the Section 3.1(c) of the By-Laws.

[9] The term '' Proposing Person'' means ''(i) the stockholder providing the notice of business or the notice of the nomination, as applicable, proposed to be brought before an annual meeting, (ii) any beneficial owner or beneficial owners, if different, on whose behalf such business is proposed to be brought before the meeting or the notice of the nomination proposed to be made at the meeting is made, as applicable, and (iii) any affiliate or associate (each within the meaning of Rule 12b–2 under the Act for purposes of these By-Laws) of such stockholder or beneficial owner.'' *See* Section 3.1(c) of the By-Laws.

[10] *See* Section 3.1(b)(iii)(C) of the By-Laws.

[11] *See* proposed Section 3.1(b)(iii)(C) of the By-Laws. The Exchange is also proposing conforming changes to express ''others'' in the singular ''other'' and to add, immediately thereafter, the word ''person.''

[12] As proposed, Section 3.1(b)(iii)(C) would require the Proposing Person to describe ''any agreement, arrangement or understanding with respect to the nomination or proposal between or among such stockholder and/or such beneficial owner, any of their respective affiliates or associates, and any other person.'' *See* proposed Section 3.1(b)(iii)(C) of the By-Laws.

[13] *See* proposed Section 3.1(b)(iii)(I) of the By-Laws.

[14] *See* Section 3.1(b)(iii)(J) of the By-Laws.

[15] *See* proposed Section 3.1(b)(iii)(J) of the By-Laws.

[16] *See id.*

[17] *See* Section 3.1(b)(iii)(K) of the By-Laws.

[18] *See* proposed Section 3.1(b)(iii)(K) of the By-Laws.

10–K of the Corporation;'' [19] the second would clarify that ''principal competitor,'' as provided in this subsection, would be ''as defined for purposes of Section 8 of the Clayton Antitrust Act of 1914.'' [20] The Exchange believes that these proposed changes to Section 3.1(b)(iii)(L) would—consistent with similarly proposed changes to Section 3.1(b)(iii)(I)–(K)—provide greater clarity with respect to the meaning of the terms ''affiliate'' and ''principal competitor,'' which terms the current Section 3.1(b)(iii)(L) does not define.

Section 3.1(b)(iii)(O) requires notice to the Corporation if a Proposing Person intends to act as part of a group to solicit or deliver proxies in support of a proposal or the election of a nominee under specified circumstances. Specifically, Section 3.1(b)(iii)(O) of the By-Laws requires a representation as to whether the Proposing Person intends or is part of a group which intends (1) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to approve or adopt the proposal or elect the nominee and/or (2) otherwise to solicit *proxies* from stockholders in support of such proposal or nomination.[21] The Exchange proposes to amend to Section 3.1(b)(iii)(O) to clarify, in Section 3.1(b)(iii)(O)(2), that the representation required to be provided under that subsection would extend to the solicitation of proxies *or votes* from stockholders in support of any proposal or proposed nominee.[22] As further proposed, new Section 3.1(b)(iii)(O)(3) would specify that the representation required under Section 3.1(b)(iii) extends to whether the Proposing Person intends or is part of a group which intends ''to solicit proxies or votes in support of any proposed nominee in accordance with Rule 14a–19 promulgated under the Act.'' [23] The Exchange believes that the proposed changes to Section 3.1(iii)(O) enhance the transparency of this provision by providing greater specificity with respect to the content of representations required to be provided under this subsection. Similarly, proposed Section 3.1(iii)(O)(3) would enhance the clarity of this provision by specifying that the representation required under this section extends to whether the stockholder intends to act as part of a group to solicit proxies under the SEC's universal proxy rule.

Section 3.1(d) of the By-Laws addresses stockholder notice requirements with respect to nominees for additional directorships if the number of directors to be elected to the Board at an annual meeting is increased effective at the annual meeting.[24] Section 3.1(d) provides no limitations on the number of nominees that may be nominated under such circumstances.[25] The Exchange proposes to amend Section 3.1(d) to set limits on the number of nominees that may be nominated in such cases to not exceed the number of directors to be elected at the subject annual meeting. Specifically, the Exchange proposes to provide, in a new final sentence to Section 3.1(d) of the By-Laws, that the number of nominees a Proposing Person may nominate for election at the annual meeting on its own behalf (or in the case of a Proposing Person giving the notice on behalf of a beneficial owner, the number of nominees a Proposing Person may nominate for election at the annual meeting on behalf of such beneficial owner) shall not exceed the number of directors to be elected at such annual meeting.[26]

The Exchange believes that the proposed changes to Section 3.1(d) of the By-Laws would align the By-Laws with current practices by safeguarding against the practice of proposing multiple nominees and then deciding—at the last minute—which nominees will actually stand for election. This in turn would spare the Corporation and its stockholders from needless expenditure of time and resources to vet the surplus nominees.

Section 3.2(a) of the By-Laws addresses requirements for requesting a special meeting of the stockholders, including procedures for determining the requisite percentage of stockholders necessary to support a special meeting request. The Exchange proposes to amend Section 3.2(a) of the By-Laws to remove the phrase ''acting in concert'' and substitute therefor the words ''knowingly coordinating.'' [27] The Exchange believes this proposed change would mitigate against the potential for plaintiff's firms to leverage the ''acting in concert'' requirement to find targets for potential litigation.

The Exchange further proposes to amend Section 3.2(a) to remove a reference to the binding nature of the Board's determination with respect to whether the special meeting request is in proper form.[28] Specifically, the Exchange proposes to delete from the final sentence in Section 3.2(a) the words ''and such determination shall be binding on the Corporation and the stockholders.'' [29] The Exchange believes that the proposed changes would align the By-Laws with current practices because it would remove all references to the binding or final nature of Board actions, which language has been the challenged on the basis that it purports to limit or foreclose judicial review by Delaware courts.

Section 3.3 of the By-Laws governs determinations regarding nominations or business eligible to be considered at annual or special meetings. Section 3.3(a) provides, in part, that the chairman of the meeting has the power and duty to determine whether a nomination or business proposed to be brought before the meeting was made or proposed in accordance with the By-Laws and, if not so made or proposed, to declare that such nomination or business shall be disregarded.[30] The Exchange proposes to amend that provision of Section 3.3(a) to add a parenthetical stating that, in advance of any meeting of stockholders, the Board of Directors or an authorized committee thereof shall have the same powers and duties, including the power to declare that a particular nomination or business shall be disregarded.[31] The Exchange believes the proposed changes align the By-Laws with current practices because plaintiffs have argued that a determination to disregard a matter from

[19] *See* proposed Section 3.1(b)(iii)(I)–(K) of the By-Laws.

[20] *See id.*

[21] *See* Section 3.1(b)(iii)(O) of the By-Laws.

[22] To effect this change, the Exchange proposes to insert, immediately after ''otherwise to solicit proxies'' in Section 3.1(b)(iii)(O)(2), the words ''or votes.'' *See* proposed Section 3.1(b)(iii)(O)(2).

[23] *See* proposed Section 3.1(b)(iii)(O)(3) of the By-Laws. The Exchange proposes a conforming change to insert, at the conclusion of Section 3.1(b)(iii)(O)(2) the following: ''and/or.'' *See* proposed Section 3.1(b)(iii)(O)(2) of the By-Laws.

[24] *See* Section 3.1(d) of the By-Laws.

[25] *See id.*

[26] *See* proposed Section 3.1(d) of the By-Laws.

[27] *See* proposed Section 3.2 of the By-Laws.

[28] *See* Section 3.2(a) of the By-Laws.

[29] *See* proposed Section 3.2(a) of the By-Laws. The Exchange further proposes to make a non-substantive change to Section 3.2(a) of the By-Laws to capitalize the word ''secretary'' to conform to other usages of such word in the By-Laws. The Exchange also proposes to correct a typographical error in Section 3.2(c) of the By-Laws to express the word ''Business'' therein in the singular as ''business'' is not a defined term. *See* proposed Section 3.2(c) of the By-Laws.

[30] *See* Section 3.3(a) of the By-Laws.

[31] *See* proposed Section 3.3 of the By-Laws. To effect this change, the Exchange proposes to insert, immediately after the words ''Except as otherwise provided by law, the chairman of the meeting'' a parenthetical to read as follows: ''(or, in advance of any meeting of stockholders, the Board of Directors or an authorized committee thereof).'' The Exchange also proposes to make a non-substantive conforming change to Section 3.3(a) to insert, immediately after the word ''proxies'' in the second full sentence of Section 3.3(a) the words ''or votes,'' consistent with changes proposed for Section 3.1(b)(iii)(O) of the By-Laws.

consideration at a meeting should be subject to fiduciary duties. The proposed changes clarify that the chair of a meeting must be a director or officer whose decisions, in turn, are subject to fiduciary duties.

The Exchange further proposes to amend Section 3.3(a) to clarify that the Corporation may disregard nominees proposed by a stockholder under the Commission's universal proxy rule if the shareholder has failed to comply with that rule. To effect that change, the Exchange proposes to insert, at the conclusion of current Section 3.3(a), new text providing as follows:

Notwithstanding anything to the contrary in these By-Laws, unless otherwise required by law, if any Proposing Person (i) provides notice pursuant to Rule 14a–19(b) promulgated under the Act with respect to any proposed nominee and (ii) subsequently fails to comply with the requirements of Rule 14a–19(a)(2) or Rule 14a–19(a)(3) promulgated under the Act (or fails to timely provide reasonable evidence sufficient to satisfy the Corporation that such Proposing Person has met the requirements of Rule 14a–19(a)(3) promulgated under the Act in accordance with the following sentence), then the nomination of each such proposed nominee shall be disregarded, notwithstanding that proxies or votes in respect of the election of such proposed nominees may have been received by the Corporation (which proxies and votes shall be disregarded). Upon request by the Corporation, if any Proposing Person provides notice pursuant to Rule 14a–19(b) promulgated under the Act, such Proposing Person shall deliver to the Corporation, no later than five (5) business days prior to the applicable meeting, reasonable evidence that it has met the requirements of Rule 14a–19(a)(3) promulgated under the Act.

This proposed change to Section 3.3(a) would align the By-Laws with current practices by specifying that failure to comply with requirements of the Commission's universal proxy rule would constitute grounds for the Corporation to disregard a stockholder's proposed nomination, as well as setting out redress procedures for stockholders seeking to demonstrate that such requirements have been met.

Section 3.4 of the By-Laws governs the conduct of meetings. Section 3.4 provides in part that the date and time of the opening and closing of the polls for each matter to be voted upon at a meeting must be announced at the meeting by the person presiding over the meeting. The Exchange proposes to amend Section 3.4 to clarify, consistent with the advance notice provisions in Section 3.1 of the By-Laws, that the person presiding over a meeting must be a chairman of the meeting who shall be an officer or director of the Corporation.[32] The Exchange believes this proposed change enhances the clarity of Section 3.4 by specifying, consistent with the advance notice provisions under Section 3.1 of the By-Laws, that the chairman and presiding person of the meeting must be an officer or director of the Corporation. Section 3.4 also provides in part that the person presiding over a meeting shall have the right to, among other things, convene and adjourn the meeting.[33] The Exchange proposes to clarify that the presiding person also shall have the right to recess the meeting for any or no reason.[34] The Exchange believes this proposed change will make explicit that the presiding person's rights with respect to the conduct of the meeting includes the right to recess the meeting for any or no reason, thereby enhancing the clarity and transparency of this rule.

Section 3.6(d) of the By-Laws governs the amount of shares that a stockholder must own to invoke proxy access. Section 3.6(d) provides in part that ''[w]hether outstanding shares of the common stock of the Corporation are 'owned' for these purposes shall be determined by the Board or any committee thereof, in each case, in its sole discretion.'' [35] The Exchange proposes to amend Section 3.6(d) to delete therefrom the words ''in each case, in its sole discretion.'' [36] The Exchange further proposes to remove from Section 3.6(h)(ii), Section 3.6(h)(viii), Section 3.6(i)(i), and Section 3.6(k) of the By-Laws similar references to the finality or ''binding'' nature of decisions by the Board (or persons authorized by the Board), any committee thereof, or the chairman of a meeting of stockholders.[37] These proposed changes align the By-Laws with current practice because provisions that purport to assign a binding effect to or otherwise finality to the decisions of the Board—such as those proposed to be deleted— are likely targets by litigants who argue that such provisions unlawfully purport to foreclose judicial review.

Finally, Section 3.6(m) provides that Section 3.6 shall be the exclusive method for stockholders to include nominees for director in the Corporation's proxy materials. The Exchange proposes to amend Section 3.6(m) to provide an exception for nominees for director in the Corporation's proxy materials submitted pursuant to, and in compliance with, the Commission's universal proxy rule.[38] The proposed changes to Section 3.6(m) align the By-Laws with current practice by providing that, in addition to the exclusive method set out in Section 3.6 of the By-Laws, stockholders may also include nominees for such purposes pursuant to and consistent with requirements under the SEC's universal proxy rule.[39]

(ii) Article IV Board of Directors

Section 4.3 of Article IV of the By-Laws governs qualifications for Directors of the Corporation. This section currently provides in part the Board may include at least one, but not more than two, Issuer Directors. The Exchange proposes to amend Section 4.3 to remove limitations on the number Issuers Directors on the Board.[40] The proposed change would provide the Corporation with greater flexibility with respect to the number of Issuer Directors that may be members of the Board, as NASDAQ is frequently in search of officers of NASDAQ-listed companies to join the Board.

Section 4.9 of the By-Laws governs quorum and voting. Section 4.9 provides in part that, in general, a quorum for the transaction of all business at all meetings of the Board shall consist of a majority of the Board.[41] The Exchange proposes to make a clarifying change to specify that for purposes of this section, a majority of the Board, means a majority of the total numbers of directors constituting the Board.[42] The Exchange believes this proposed change would provide greater clarity to and facilitate the application of this provision. The Exchange further proposes to amend Section 4.9 to clarify the process through which notice of meetings adjourned to another time and place may be given to each member of the Board.[43] Specifically, the Exchange

[32] *See* proposed Section 3.4 of the By-Laws. To effect this change, the Exchange proposes to insert, in the first full sentence of Section 3.4 and immediately after ''shall be announced at the meeting by the'' the words ''chairman of the meeting who shall be an officer or director of the Corporation and who shall be the.'' *See id.*

[33] *See* Section 3.4 of the By-Laws.

[34] *See* proposed Section 3.4 of the By-Laws.

[35] *See* Section 3.6(d) of the By-Laws.

[36] *See* proposed Section 3.6(d) of the By-Laws.

[37] *See* proposed Section 3.6(h)(ii), Section 3.6(h)(viii), Section 3.6(i)(i), and Section 3.6(k) of the By-Laws.

[38] To effect this proposed change, the Exchange proposes to add immediately after the conclusion of current Section 3.6(m) the words ''other than nominees included pursuant to, and in compliance with, Section 14a–19 of the Act.'' *See* proposed Section 3.6(m) of the By-Laws.

[39] *See* proposed Section 3.6(m) of the By-Laws.

[40] To effect this change, the Exchange proposes to delete from Section 4.3 of the By-Laws the words ''at least one, but no more than two.'' *See* proposed Section 4.3 of the By-Laws.

[41] *See* Section 4.9 of the By-Laws.

[42] *See* proposed Section 4.9 of the By-Laws.

[43] *See* proposed Section 4.9 of the By-Laws.

proposes to clarify in Section 4.9 that in the absence of a quorum, a majority of the Directors present may adjourn the meeting to another time and place, and that notice of the time, place and purposes of any such adjourned meeting will be given in accordance with the By-Laws. [44] The Exchange further proposes to clarify that, if the notice of such adjourned meeting is announced at the meeting at which the adjournment is taken, notice need only be given to the Directors not present at such meeting.[45] The Exchange believes this proposed change would provide greater clarity to the By-Laws by providing a clear and practical process for giving notices of adjournments to members of the Board.

Section 4.12 of the By-Laws governs the process for providing notice of any meeting to Directors of the Board as well as related waivers of such notice. The Exchange proposes to amend Section 4.12 to remove obsolete references to certain modes of communication (both for transmission and confirmation of receipt) other than facsimile, email, or other means of electronic transmission.[46] The Exchange believes this proposed change would provide greater clarity to and facilitate the application of this provision by eliminating modes of communications, such as telegram, telefax, cable, and radio, that are no longer in use. In addition, the proposed amendments reflect current practices, as a substantial amount of communications between NASDAQ and its directors outside of Board meetings occurs in electronic form.

Section 4.13 of the By-Laws governs matters relating to committees of the Board. The Exchange proposes to amend Section 4.13(a) of the By-Laws to specify that the Corporation has opted into Section141(c)(2) of Delaware law.[47] Section 141(c) of Delaware law describes the formation and powers of board committees. Opting into Section 141(c)(2) of Delaware law is a common and recommended practice for Delaware corporations such as NASDAQ, in part because it provides corporations with greater flexibility with respect to the formation and powers of board committees, such as by allowing greater delegations of authority, including as it relates to setting terms of stock. The Exchange believes that opting into Section 141(c)(2) is appropriate to provide the Corporation with greater flexibility with respect to the functions and powers of committees of the Board.

The Exchange further proposes to amend Section 4.13 of the By-Laws to remove from Section 4.13(c) limitations on the ability of committees to take certain actions, such as the authorization of preferred stock designations. As a substitute for that limiting language, the Exchange proposes to insert new text in Section 4.13(c) of the By-Laws that would conform this subsection with the Delaware General Corporation Law, which removes limitations on the ability of committees to take certain actions, such as the authorization of preferred stock designations, as it relates to the powers of committees of the Board.[48] Consistent with proposed changes for Section 4.13(a), the Exchange believes this proposed change to Section 4.13(c) of the By-Laws would align this provision with current Delaware General Corporation Law, thereby updating the By-Laws as well as providing the Corporation with greater flexibility with respect to committees of the Board.

The Exchange proposes to amend Section 4.13(d)–(g) of the By-Laws to remove all references to limitations on the terms of committee members.[49] To effect that change, the Exchange proposes to (1) remove from Section 4.13(d) of the By-Laws the words ''[a]n Executive Committee member shall hold office for a term of one year'';[50] (2) remove from Section 4.13(e) of the By-Laws the words ''[a] Finance Committee member shall hold office for a term of one year'';[51] (3) remove from Section 4.13(f) of the By-Laws the words ''[a] Management Compensation Committee member shall hold office for a term of one year'';[52] and (4) remove from Section 4.13(g) of By-Laws the words ''an Audit Committee member shall hold office for a term of one year.''[53] The Exchange believes that deleting all references to committee members having a limited term is appropriate because term limits are not customary in by-laws as they create unnecessary administrative burdens for and limit the flexibility of a board. The Exchange notes that the proposed changes also align the By-Laws with current practice as the typical practice of the Board is to provide, in the annual resolutions regarding committee appointments, that committee members are appointed for one year or until their successors are duly elected.

The Exchange further proposes to amend Section 4.13(g) of the By-Laws to delete language specifying the Chair of the Audit Committee must be a Public Director.[54] The Exchange believes that this proposed change would eliminate unnecessary restrictions regarding, as well as provide the Corporation with greater flexibility with respect to, those who may serve as Audit Committee Chair since the Chair of the Audit Committee must in any event satisfy the independence standards in SEC as well as NASDAQ rules.[55] The proposed change would, for example, allow an issuer representative to be appointed as Chair of the Audit Committee. Finally, the Exchange proposes a non-substantive, clarifying change to Section 4.13(g) to provide that the Audit and Risk Committee (or such committee as the same may be renamed from time to

[44] *See* proposed Section 4.9 of the By-Laws.

[45] *See* proposed Section 4.9 of the By-Laws. The Exchange proposes to make a conforming change to Section 4.9 to delete from the second full sentence thereof the words ''until a quorum be present.'' *See id.*

[46] *See* proposed Section 4.12(a)–(b) of the By-Laws. To effect this change, the Exchange proposes to (1) delete from Section 4.12(a)(ii) the words ''telegraph, telefax, cable, radio, wireless'' and substitute therefor the word ''facsimile''; (2) delete from Section 4.12(a)(ii) the word ''written''; and (3) delete from Section 4.12(b) the parenthetical ''(or by telegram, telefax, cable, radio, wireless, email or other means of written electronic transmission and subsequently confirmed in writing or by electronic transmission).'' *See id.*

[47] *See* proposed Section 4.13(a) of the By-Laws. To effect this change, the Exchange proposes to insert, as the first full sentence in Section 4.13(a) the words ''The Corporation has opted into Section 141(c)(2) of Delaware law.'' *See id.*

[48] *See* proposed Section 4.13(c) of the By-Laws. To effect this change, the Exchange proposes to delete from Section 4.13(c) the words ''amending the Restated Certificate of Incorporation or the By-Laws of the Corporation; adopting an agreement of merger or consolidation; recommending to the stockholders the sale, lease, or exchange of all or substantially all the Corporation's property and assets; or recommending to the stockholders a dissolution of the Corporation or a revocation of a dissolution. Unless the resolution of the Board expressly so provides, no committee shall have the power or authority to authorize the issuance of stock.'' The Exchange further proposes to amend Section 4.13(c) to insert, immediately after the words ''no committee shall have the power or authority of the Board with regard to:'' the following: ''(a) approving or adopting, or recommending to the stockholders, any action or matter (other than the election or removal of directors) expressly required by Delaware law to be submitted to stockholders for approval or (b) adopting, amending or repealing any By-Law of the Corporation.'' *See id.*

[49] *See* Section 4.13(d)–(g) of By-Laws.

[50] *See* proposed Section 4.13(d) of By-Laws.

[51] *See* proposed Section 4.13(e) of the By-Laws.

[52] *See* proposed Section 4.13(f) of the By-Laws.

[53] *See* proposed Section 4.13(g) of the By-Laws.

[54] See proposed Section 4.13(g) of the By-Laws.

[55] *See* proposed Section 4.13(g) of the By-Laws. To effect this change, the Exchange proposes to insert in the first full sentence of Section 4.13(g) of the By-Laws and immediately after the words ''[t]he Audit'' the words and symbol ''& Risk'' and further insert, immediately following the word ''Committee'' a parenthetical reading as follows: ''(such committee as the same may be renamed from time to time or any successor of such committee delegated with similar duties, the ''Audit Committee'').''The Exchange also proposes to renumber Section 4.13(g)(i) to delete the ''(i)'' and subsume the text of Section 4.13(g)(i) with that of proposed Section 4.13(g). *See* proposed Section 4.13(g) of the By-Laws.

time or any successor of such committee delegated with similar duties) shall be known as the ''Audit Committee.'' [56] The Exchange believes these proposed changes to Section 4.13(g) would provide greater flexibility to the Corporation with respect to those that may serve as Chair of the Audit Committee as well as enhance the clarity of and thus facilitate the application of the By-Laws by making the term ''Audit Committee'' a more clearly defined term.

The Exchange proposes to amend Section 4.13(h)(ii) of the By-Laws to remove language providing that a ''majority vote of'' the Board is required to remove a member of the Nominating & Governance Committee.[57] This change removes duplicative language and reduces potential confusion since the voting standards for all decisions of the board are set forth separately in Section 4.9(b) of the By-Laws.

Section 4.13(j) of the By-Laws provides that, in general, a majority of a committee shall constitute a quorum for the transaction of business.[58] The Exchange proposes to amend Section 4.13(j) to specify that a majority of the members of a committee then serving in office (rather than a majority of total directors on the committee as Section 4.13(j) currently provides) shall constitute a quorum for the transactions of business.[59] The Exchange believes this proposed change would remove barriers to and facilitate the work of Board committees since a vacancy in a committee would not be a barrier to action, as the quorum would be based on the directors then serving rather than the total number of directors on the committee.

(iii) Article VII Officers, Agents, and Employees

Article VII of the By-Laws governs matters relating to the officers, agents, and employees of the Corporation. The Exchange proposes to amend certain provisions in Article VII to delete references to a corporate structure that no longer reflects the structure at NASDAQ. Specifically, Article VII generally envisions a corporate structure where a President is a director and/or has executive authority over the entire company. The Exchange proposes to amend certain sections of Article VII to delete references to such a structure and replace them with language suited for a corporate structure with multiple presidents, such as the current structure of NASDAQ. To effect these changes, the Exchange proposes to amend several provisions of Article VII as follows.

Section 7.1 of the By-Laws governs matters relating to the principal officers of the Corporation. Section 7.1 specifies the principal officers to be elected by the Board, including, among others, a Chair and a President. The Exchange proposes to amend Section 7.1 to provide that the principal officers to be elected by the Board may—rather than must—include the roles set out in Section 7.1. The Exchange further proposes to amend Section 7.1 to provide that one or more Presidents, rather than only a President, may elected by the Board, among other principal officers. Section 7.1 further provides that in part that one person may not hold the offices and perform the duties of both President and Vice President or of President and Secretary. The Exchange proposes to amend Section 7.1 of the By-Laws to delete references to ''President and Vice President or of President'' and substitute therefor the words ''Chief Executive Officer.'' [60] As thus proposed, one person could not hold the offices and perform the duties of both Chief Executive Officer and Secretary (rather than of President and Vice President or of President and Secretary).[61]

For the reasons discussed above in connection with Article VII of the By-Laws more broadly, the Exchange further proposes to amend Section 7.3 (Subordinate Officers, Agents, or Employees), Section 7.5 (Resignation and Removal of Officers), Section 7.9 (President), Section 7.10 (Vice President), Section 7.11 (Secretary), and Section 7.13 (Treasurer) of the By-Laws as follows.

First, the Exchange proposes to delete from Sections 7.3 and 7.5(a) of the By-Laws the following: '', the President.''

With respect to Section 7.9 of the By-Laws, the Exchange proposes to (1) delete the words ''[t]he President shall, in the absence of the Chair of the Board and the Chief Executive Officer, preside at all meetings of the Board and stockholders at which the President is present. The President shall have general supervision over the business and affairs of the Corporation,'' substituting therefor the words ''The Board or the Chief Executive Officer may appoint one or more Presidents and each.'' The Exchange would further amend Section 7.9 to (1) delete from its final sentence the word ''The'' replacing it with ''Each''; (2) delete also from that final sentence the word ''the'' and replacing it with ''such''; and (3) insert, also in that final sentence and immediately after ''the Board'' the words ''or the Chief Executive Officer.''

With respect to Section 7.11 and Section 7.13 of the By-Laws, the Exchange proposes to amend these two sections to delete, from their respective final sentences, the words ''or the President,'' substituting therefore the words ''or any other person delegated such power by the Board or Chief Executive Officer.'' Consistent with similarly proposed changes to Article VII of the By-Laws, the Exchange believes that the proposed changes to Sections 7.11 and Section 7.13 of the By-Laws would remove impediments to the proper administration of the By-Laws as they would more closely align such By-Laws with the current corporate structure at NASDAQ as well as provide the Corporation with greater flexibility in the application of these provisions.

The Exchange believes the proposed changes to these provisions of Article VII of the By-Laws would enhance the transparency of and facilitate the application of the By-Laws because they replace obsolete or inaccurate textual references to an outdated corporate structure with updated text designed to more closely reflect the current structure of NASDAQ.

Section 7.10 of the By-Laws governs the selection of Vice Presidents. The Exchange proposes to amend Section 7.10 of the By-Laws to provide greater clarity with respect to the duties of as well as the process for selecting Vice Presidents of the Corporation. Specifically, the Exchange proposes to amend Section 7.10 of the By-Laws to provide that the Board, the Chief Executive Officer or any other person delegated such power by the Board or Chief Executive Officer, may appoint one or more Vice Presidents. The Exchange further proposes to clarify that, any Vice President may have such additional designations in such Vice President's title as the Board, the Chief Executive Officer, or the authorized person appointing such Vice President may determine.[62] As proposed, each Vice President would have all powers and duties usually incident to the office of a Vice President, except as specifically limited by the Board, the Chief Executive Officer or the authorized person appointing such Vice President.[63] The Exchange also proposes to clarify in the next to final sentence of Section 7.10 that, in addition to the Board and the Chief

[56] *See* proposed Section 4.13(g) of the By-Laws.

[57] *See* Section 4.13(h) of the By-Laws.

[58] *See* Section 4.13(j) of the By-Laws.

[59] *See* proposed Section 4.13(j) of the By-Laws.

[60] *See* proposed Section 7.1 of the By-Laws.

[61] *See* proposed Section 7.1 of the By-Laws.

[62] *See* proposed Section 7.10 of the By-Laws.

[63] *See* proposed Section 7.10 of the By-Laws.

Executive, as provided under this section, the authorized person appointing such Vice President may also assign such Vice President other duties and powers as the Vice Presidents shall be authorized to exercise and perform pursuant to the By-Laws.[64] The Exchange believes that the proposed changes to Section 7.10 of the By-Laws would provide greater clarity with respect to the duties of and the process for selecting the Vice Presidents, thereby facilitating the application of the By-Laws with respect to Vice Presidents of the Corporation.

(iv) Article VIII Indemnification

Section 8.1 of Article VIII of the By-Laws governs indemnification of Directors, officers, employees, and agents of the Corporation. Subsection (j) of Section 8.1 addresses circumstances in which a claim for indemnification or advancement of expenses is not paid in full within 60 days after a written claim under this provision has been received by the Corporation. The Exchange proposes to amend Section 8.1(j) to clarify that the Corporation will not be required to pay claims or expenses under this provision if prohibited by law. To effect this change, the Exchange proposes to insert within the first full sentence and immediately after ''[the indemnified person] shall be entitled to be paid the expense of prosecuting such claim'' the words ''to the fullest extent permitted by law.'' [65] The Exchange believes this proposed change is appropriate as it would enhance the clarity of this provision by specifying that the extent of the Corporation's obligation to pay claims or expenses under this provision is limited to those claims or expenses not prohibited by law.

(v) IX Capital Stock

Section 9.2(a) of Article IX of the By-Laws governs requirements for signatures on stock certificates of the Corporation. Section 9.2(a) provides in part that shares of capital stock of the Corporation represented by certificates shall be signed in the name of the Corporation by two officers, with one being the Chair of the Board, the Chief Executive Officer, the President, or a Vice President, and the other being the Secretary, the Treasurer, or such other officer that may be authorized by the Board.

The Exchange proposes to amend Section 9.2(a) to broaden the scope of officers authorized to sign stock certificates. Specifically, the Exchange proposes to provide that Shares of capital stock of the Corporation represented by certificates shall be signed in the name of the Corporation by two authorized officers which shall include, without limitation, the Chair of the Board, the Chief Executive Officer, the President, any Vice President, the Secretary, and the Treasurer.[66] The Exchange believes the proposed changes to Section 9.2(a) would remove unnecessary limitations on officers authorized to sign stock certificates thereby providing greater flexibility in the By-Laws with respect to officers authorized to perform this important function.

Section 9.3 of the By-Laws governs matters relating to holders of record as shown on the stock ledger of the Corporation. Section 9.3(b) of the By-Laws provides that the Corporation shall be entitled to treat the holder of record of shares of capital stock as shown on the stock ledger as the owner thereof and as the person entitled to vote such shares and to receive notice of meetings, and for all other purposes. That subsection further provides that the Corporation shall not be bound to recognize any equitable or other claim to or interest in any share of capital stock on the part of any other person, whether or not the Corporation shall have express or other notice thereof.[67] The Exchange proposes to amend Section 9.3(b) to provide for the possibility that applicable law might require a different outcome. Specifically, the Exchange proposes to provide that the Corporation shall, to the fullest extent permitted by law, be entitled to treat the holder of record of shares of capital stock as shown on the stock ledger as the owner thereof and as the person entitled to vote such shares and to receive notice of meetings, and for all other purposes. As further proposed, Section 9.3 would provide that the Corporation shall not be bound to recognize any equitable or other claim to or interest in any share of capital stock on the part of any other person, whether or not the Corporation shall have express or other notice thereof, except as required by law.[68] The Exchange believes the proposed changes to Section 9.3 of the By-Laws would ensure the enforceability of this provision by recognizing that there may be circumstances where its application would be subject to and possibly limited or otherwise affected by applicable law.

Section 9.6 of the By-Laws governs matters relating to lost, stolen, destroyed, and mutilated certificates for shares of stock of the Corporation. Section 9.6 sets out procedures for addressing the issuance of a new certificate or uncertified shares in the event that any certificate for stock of the Corporation becomes mutilated, lost, stolen, or destroyed. The Exchange proposes to amend Section 9.6 to delete language providing that the Board or a committee thereof is authorized to take action to address each such instance of lost, stolen, destroyed, or mutilated certificates and in its place provide that the Corporation (rather than solely the Board) shall have the authority to do so.[69] The Exchange believes this proposed change would remove obstacles to and facilitate the reissuance of new certificates under the specified circumstances by providing that the Corporation is authorized to act under those circumstances and by removing unnecessary requirements for the Board to take action in each and every instance that that a new certificate to replace a

[64] *See* proposed Section 7.10 of the By-Laws. To effect the proposed changes to Section 7.10, the Exchange proposes to (1) delete therefrom the words ''The Board shall elect'' and substitute therefor the words ''The Board, the Chief Executive Officer or any other person delegated such power by the Board or Chief Executive Officer, may appoint''; (2) delete, from the second sentence of Section 7.10 the words ''[i]n the absence or disability of the President or if the office of President becomes vacant, the Vice Presidents in the order determined by the Board, or if no such determination has been made, in the order of their seniority, shall perform the duties and exercise the powers of the President, subject to the right of the Board at any time to extend or restrict such powers and duties or to assign them to others''; (3) insert, in the third sentence of Section 7.10 of the By-Laws and immediately following the words ''as the Board'' the words ''the Chief Executive Officer, or the authorized person appointing such Vice President''; (4) delete, from the fourth sentence of Section 7.10 the words ''The Vice Presidents shall generally assist the President in such manner as the President shall direct'' substituting therefor the words ''Each Vice President shall have all powers and duties usually incident to the office of a Vice President, except as specifically limited by the Board, the Chief Executive Officer or the authorized person appointing such Vice President.''; and (5) insert in the final sentence of Section 7.10 of the By-Laws and immediately after the words ''the Chief Executive Officer or the'' the words ''authorized person appointing such Vice.'' *See id.*

[65] *See* proposed Section 8.1(j) of the By-Laws.

[66] *See* proposed Section 9.2 of the By-Laws. To effect this change as well as make conforming changes to Section 9.2 of the By-Laws, the Exchange proposes to (1) insert, immediately after ''certificates shall be signed in the name of the Corporation by two'' the word ''authorized''; (2) insert, immediately after ''officers'' the words ''which shall include, without limitation,''; and (3) delete the words ''with one being,'' as well as ''or a,'' ''and the other being,'' and '', or such other officer that may be authorized by the Board.'' *See id.*

[67] *See* Section 9.3(b) of the By-Laws.

[68] *See* proposed Section 9.3(b) of the By-Laws.

[69] *See* proposed Section 9.6 of the By-Laws. To effect his change, the Exchange proposes to (1) delete from the fourth sentence of Section 9.6 the words ''Board or such committee'' and substitute therefor the word ''Corporation'' and (2) delete from the fifth sentence the word ''Board,'' substituting therefor the word ''Corporation.'' *See id.*

mutilated, lost, stolen, or destroyed certificate is sought.

(vi) Article X Miscellaneous Provisions

Section 10.4 of Article X of the By-Laws governs procedures relating to the execution of instruments, contracts, and the like. The Exchange proposes to delete Section 10.4 in its entirety and provide new text to better align the provisions of this section with NASDAQ's policies and procedures on signature authority. Specifically, the Exchange proposes to provide that, except as otherwise provided by law, all contracts and other documents requiring signature entered into by or on behalf of the Corporation, including, without limitation, all (i) checks, drafts, bills of exchange, notes, or other obligations or orders for the payment of money, (ii) deeds, bonds, mortgages, contracts, and other obligations or instruments, and (iii) applications, instruments, and papers required by any department of the United States Government or by any state, county, municipal, or other governmental authority, shall, in each case, be executed by such officer(s), employee(s), agent(s), or other person(s) as the Board, a duly authorized committee thereof, or the Chief Executive Officer may designate from time to time. As further proposed, the authority to execute any contract or document in the name and on behalf of the Corporation granted in accordance with this Section may (1) be general or confined to specific instances, (2) be designated by name, title, or role, (3) include the power to delegate signature authority further to one or more other persons, whether by name, title, or role, to the extent authorized by the Board, a duly authorized committee thereof, or the Chief Executive Officer, and (4) be revoked at any time by the Board, any committee thereof, or the Chief Executive Officer.[70] The Exchange believes that the proposed changes to Section 10.4 of the By-Laws would enhance clarity and facilitate the application of the By-Laws by removing language that has become obsolete and replacing it with provisions that more closely reflect NASDAQ's current policies and procedures on signature authority.

Section 10.5 of the By-Laws governs the form of records of the Corporation. The Exchange proposes to delete Section 10.5 in its entirety and insert in its place new text that would conform this provision with the updated Delaware statute governing signature authority. Specifically, the Exchange proposes to provide that any records administered by or on behalf of the Corporation in the regular course of its business, including its stock ledger, books of account, and minute books, may be kept on, or by means of, or be in the form of, any information storage device, method, or one or more electronic networks or databases (including one or more distributed electronic networks or databases), provided that the records so kept can be converted into clearly legible paper form within a reasonable time and otherwise comply with applicable law.[71]

(vii) Article XI Amendments; Emergency By-Laws

Section 11.4 of Article XI of the By-Laws addresses the adoption of emergency by-laws. The Exchange proposes to update Section 11.4 to reflect amendments to the emergency by-law provision of the Delaware General Corporation Law. Specifically, the Exchange proposes to provide that as provided in Section 11.4, the Board may adopt emergency by-laws which shall be operative during any emergency resulting from ''any emergency resulting from an attack on the United States or on a locality in which the Corporation conducts its business or customarily holds meetings of its Board of Directors or its stockholders, or during any nuclear or atomic disaster or during the existence of any catastrophe, including, but not limited to, an epidemic or pandemic, and a declaration of a national emergency by the United States government, or other similar emergency condition, irrespective of whether a quorum of the Board of Directors or a standing committee thereof can be readily convened for action.'' [72] In addition, and consistent with Delaware General Corporation Law, the Exchange proposes to update Section 11.4 to provide, in a final sentence to Section 11.4 of the By-Laws, that ''[n]othing contained in this Section 11.4 shall be deemed exclusive of any other provisions for emergency powers consistent with other sections of Delaware law which have been or may be adopted by corporations created under Delaware law.'' [73]

(viii) Article XIII Forum Selection

The Exchange proposes to adopt new language to provide the By-Laws with a customary forum selection provision. To effect this change, the Exchange proposes to add a new Article XIII titled ''Forum Selection'' providing as follows:[74]

> Unless the Corporation consents in writing to the selection of an alternative forum, (A) (i) any derivative action or proceeding brought on behalf of the Corporation, (ii) any action asserting a claim of breach of a fiduciary duty owed by any current or former director, officer, other employee or stockholder of the Corporation to the Corporation or the Corporation's stockholders, (iii) any action asserting a claim arising pursuant to any provision of Delaware law, the Restated Certificate of Incorporation or these By-Laws (as either may be amended or restated) or as to which Delaware law confers jurisdiction on the Court of Chancery of the State of Delaware or (iv) any action asserting a claim governed by the internal affairs doctrine of the law of the State of Delaware shall, to the fullest extent permitted by law, be exclusively brought in the Court of Chancery of the State of Delaware or, if such court does not have subject matter jurisdiction thereof, the federal district court of the State of Delaware; and (B) the federal district courts of the United States shall be the exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act of 1933, as amended. Notwithstanding the foregoing, This Section 13.1 shall not apply to claims seeking to enforce any liability or duty created by the Act. To the fullest extent permitted by law, any person or entity purchasing or otherwise acquiring or holding any interest in shares of capital stock of the Corporation shall be deemed to have notice of and consented to the provisions of this Section 13.1.

The Exchange believes that this proposed addition of Article XIII to the By-Laws is appropriate as it would provide the Corporation as well as litigants with greater certainty with respect to the applicable judicial forum for addressing claims or actions involving the Corporation.[75]

(ix) Non-Substantive Changes

The remaining proposed amendments to the By-Laws are non-substantive

[70] *See* proposed Section 10.4 of the By-Laws.

[71] *See* proposed Section 10.5 of the By-Laws.

[72] *See* proposed Section 11.4 of the By-Laws.

[73] *See* proposed Section 11.4 of the By-Laws. The Exchange further proposes to delete from Section 11.4 the following language as it has become obsolete: ''nuclear or atomic disaster, an attack on the United States or on a locality in which the Corporation conducts its business or customarily holds meetings of the Board or the stockholders, any catastrophe, or other emergency condition, as a result of which a quorum of the Board or a committee thereof cannot readily be convened for action.'' *See id.*

[74] *See* proposed Article XIII of the By-Laws.

[75] The Exchange notes that the bylaws of Cboe Global Markets, Inc. as well as those of CME Group, Inc., contain forum selection provisions similar to those proposed by the Exchange. *See* Article 11 (''Forum for Adjudication of Disputes'') of the Eight Amended and Restated Bylaws of Cboe Global Markets, Inc. (2024) *https://s202.q4cdn.com/174824971/files/doc_governance/2024/Dec/04/Cboe-Global-Markets-Eighth-AR-Bylaws-2ffa4c.pdf;* Article IX, Section 9.1 (''Forum for Adjudication of Certain Disputes'') of the Seventeenth Amended and Restated Bylaws of CME Group, Inc. (2022) *https://www.sec.gov/Archives/edgar/data/1156375/000119312522301477/d412380dex31.htm.*

changes designed to simplify and streamline the document. Specifically, the Exchange proposes to (1) amend Article I(k) and Article I(m) to correct typographical errors by deleting a period and substituting in its place a semicolon and by inserting a missing parenthesis respectively; (2) make non-substantive clarifying changes to subparagraph (p) of Article I; (3) amend Article I(s) to correct a typographical error by removing a period after ''and''''; and (4) delete from Section 3.1(a) the term ''shareholder'' and substitute therefor the word ''stockholder.'' the latter which more closely reflects established terminology of the By-Laws. The Exchange believes the proposed non-substantive changes are either administrative or clarifying in nature, and that, as such, they are in the public interest as they are designed to avoid confusion with respect to the operation of the By-Laws thus facilitating their use.

2. Statutory Basis

The Exchange believes that the proposed changes are consistent with Section 6(b) of the Act,[76] in general, and furthers the objectives of Section 6(b)(1) of the Act,[77] in particular, in that they enable the Exchange to be so organized so as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. The Exchange also believes that the proposed changes are consistent with Section 6(b) of the Act,[78] in general, and furthers the objectives of Section 6(b)(5) of the Act,[79] in particular, in that they are 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.

(a) *Proposed Changes to the Certificate*

The Exchange believes the proposed changes to paragraphs A and B of Article Sixth of the Certificate are in the public interest as they would update the Certificate, consistent with developments in Delaware General Corporation Law that enable companies incorporated in Delaware, such as NASDAQ, to limit the liability of certain of their officers in narrow circumstances, as discussed above. The Exchange notes that amendments providing for officer exculpation are increasingly common for public companies, and that the number of shareholder proposals calling for such amendments have continued to increase since 2022 when the Delaware law was passed.[80]

(b) Proposed Changes to the By-Laws

The Exchange believes that changes proposed for Article III of the By-Laws are in the public interest as they would update the By-Laws and conform them to current practices and developments in the law with respect to corporate matters such as procedures governing the annual and special meetings of stockholders, the conduct of such meetings, and the invocation of proxy access. The proposed changes to Article IV of the By-Laws are either clarifying in nature or otherwise purport to refine governance practices by providing the Corporation with greater flexibility with respect to such matters as the qualifications of Directors, quorum and voting, or otherwise update such provisions to make them more consistent with current governance practices as well as the policies and procedures of NASDAQ. The Exchange believes that proposed changes to Articles VII through XIII are in the public interest and consistent with the protection of investors as they are designed to accomplish several objectives, including updating the By-Laws to conform with current practices or recent developments in Delaware General Corporation Law, aligning the By-Laws with current NASDAQ policies and procedures, and enhancing the clarity of the By-Laws thus facilitating their proper application and use. Finally, the remaining changes can be characterized as non-substantive, because they are designed to either correct typographical errors, conform NASDAQ governance documents to terminology in the By-Laws, remove obsolete text, or otherwise make non-substantive revisions to the By-Laws to make them clearer and easier to use.

B. Self-Regulatory Organization's Statement on Burden on Competition

Because the proposed rule change relates to the governance of NASDAQ and not to the operations of the Exchange, 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.

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

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 (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–Phlx–2025–56 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–Phlx–2025–56. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection.

All submissions should refer to file number SR–Phlx–2025–56 and should

[76] 15 U.S.C. 78f(b).

[77] 15 U.S.C. 78f(b)(1).

[78] 15 U.S.C. 78f(b).

[79] 15 U.S.C. 78f(b)(5).

[80] *See supra* note 3 and accompanying text.

be submitted on or before October 22, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[81]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–19106 Filed 9–30–25; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104130; File No. SR–NASDAQ–2025–082]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend iShares Bitcoin Trust and iShares Ethereum Trust

September 29, 2025.

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 September 26, 2025, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the iShares® Bitcoin Trust (''IBIT'') and the iShares® Ethereum Trust (''ETHA'') to permit IBIT and ETHA to come under the generic listing standards of that rule. The Exchange requests that the Commission waive the five business day prior notice period under Rule 19b–4(f)(6)(iii).[3] While these amendments are effective upon filing, the Exchange has designated the proposed amendments to be operative by Q1 2026.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/nasdaq/rulefilings,* and at the principal office of the Exchange.

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 Commission approved the listing and trading of shares (''IBIT Shares'') of IBIT on the Exchange pursuant to Nasdaq Rule 5711(d)[4] on January 10, 2024.[5] The Commission also approved the listing and trading of shares (''ETHA Shares'') of ETHA on the Exchange pursuant to Nasdaq Rule 5711(d) on May 23, 2024.[6] The Exchange now proposes to permit IBIT and ETHA to operate in reliance on the Generic Listing Standards instead of the terms of the IBIT Filing and ETHA Filing, as applicable. IBIT will comply with the Generic Listing Standards by Q1 2026. ETHA will comply with the Generic Listing Standards by Q1 2026.

Upon switching over to the Generic Listing Standards, IBIT and ETHA will each meet the requirements of the Generic Listing Standards under Rule 5711(d) and will be required to comply with the continued listing standards on an ongoing basis, as set forth in that rule. Upon switching over, any requirements for listing as specified in the IBIT Filing and ETHA Filing, as applicable, that differ from the requirements of the Generic Listing Standards will no longer be applicable to such security.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange believes that its proposal to permit IBIT and ETHA to operate in reliance on the Generic Listing Standards instead of the terms of the IBIT Filing and ETHA Filing, as applicable, is consistent with the Act. In particular, the IBIT Shares and ETHA Shares would be listed and traded on the Exchange pursuant to the Generic Listing Standards in Rule 5711(d), which the Commission found are reasonably designed to prevent fraudulent and manipulative acts and practices and protects investors and the public interest.[9] Upon switching over to the Generic Listing Standards, IBIT and ETHA will each meet the requirements of the Generic Listing Standards under Rule 5711(d) and will be required to comply with the continued listing standards on an ongoing basis, as set forth in that rule.

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. As discussed above, IBIT and ETHA are converting their listings under the terms of the IBIT

[81] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6)(iii).

[4] The Commission approved Nasdaq Rule 5711(d) in Securities Exchange Act Release No. 66648 (March 23, 2012), 77 FR 19428 (March 30, 2012) (SR–NASDAQ–2012–013). The Commission subsequently approved amendments to Rule 5711(d) to adopt generic listing standards for Commodity-Based Trust Shares. *See* Securities Exchange Act Release No. 103995 (September 17, 2025), 90 FR 45414 (September 22, 2025) (SR–NASDAQ–2025–056; SR–CboeBZX–2025–104; SR–NYSEARCA–2025–54) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, to Adopt Generic Listing Standards for Commodity-Based Trust Shares) (''Generic Listing Standards'').

[5] *See* Securities Exchange Act Release Nos. 99306 (January 10, 2024), 89 FR 3008 (January 17, 2024) (SR–NYSEARCA–2021–90; SR–NYSEARCA–2023–44; SR–NYSEARCA–2023–58; SR–NASDAQ–2023–016; SR–NASDAQ–2023–019; SR–CboeBZX–2023–028; SR–CboeBZX–2023–038; SR–CboeBZX–2023–040; SR–CboeBZX–2023–042; SR–CboeBZX–2023–044; SR–CboeBZX–2023–072) (''Bitcoin ETP Approval''); and 103571 (July 29, 2025), 90 FR 36248 (August 1, 2025) (SR–NASDAQ–2025–008; SR–NASDAQ–2025–038; SR–CboeBZX–2025–010; SR–CboeBZX–2025–023; SR–CboeBZX–2025–031; SR–CboeBZX–025–033; SR–CboeBZX–2025–035; SR–CboeBZX–2025–050; SR–NYSEARCA–2025–38) (''In-Kind Approval'' and together with Bitcoin ETP Approval, the ''IBIT Filing'').

[6] *See* Securities Exchange Act Release No. 100224 (May 23, 2024), 89 FR 46937 (May 30, 2024) (Self-Regulatory Organizations; NYSE Arca, Inc.; The Nasdaq Stock Market LLC; Cboe BZX Exchange, Inc.; Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, To List and Trade Shares of Ether-Based Exchange-Traded Products) (''ETH ETP Approval''); and In-Kind Approval (In-Kind Approval together with ETH ETP Approval will hereinafter be referred to as the ''ETHA Filing'').

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] *See supra* note 4.

Filing and ETHA Filing, as applicable, to the Generic Listing Standards. Upon switching over to the Generic Listing Standards, IBIT and ETHA will each meet the requirements of the Generic Listing Standards under Rule 5711(d) and will be required to comply with the continued listing standards on an ongoing basis, as set forth in that rule. Accordingly, the Exchange does not believe its proposal would impose any undue 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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [10] and Rule 19b–4(f)(6) thereunder.[11] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) [12] thereunder.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [13] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NASDAQ–2025–082 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–NASDAQ–2025–082. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NASDAQ–2025–082 and should be submitted on or before October 22, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–19197 Filed 9–30–25; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange requested waiver of the five-day prefiling requirement for this proposal for the reasons stated in its filing, which the Commission hereby grants.

[13] 15 U.S.C. 78s(b)(2)(B).

[14] 17 CFR 200.30–3(a)(12) and (59).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 35770; File No. 812–15484]

DFA Investment Dimensions Group Inc., Dimensional Investment Group Inc., Dimensional ETF Trust and Dimensional Fund Advisors LP

September 29, 2025.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 18(f)(1), 18(i), 22(d) and 22(e) of the Act and rule 22c–1 under the Act and 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.

SUMMARY OF APPLICATION: Applicants request an order (''Order'') that would permit a registered open-end management investment company to offer one class of exchange-traded shares that operates as an exchange-traded fund (an ''ETF Class,'' and such shares, ''ETF Shares'') and one or more classes of shares that are not exchange-traded (each such class, a ''Mutual Fund Class,'' and such shares, ''Mutual Fund Shares,'' and each such fund, a ''Multi-Class ETF Fund''). The Order would provide Multi-Class ETF Funds with two broad categories of relief: (i) the relief necessary to permit standard exchange-traded fund (''ETF'') operations consistent with Rule 6c–11 under the Act (''ETF Operational Relief'') and (ii) the relief necessary for a fund to offer an ETF Class and one or more Mutual Fund Classes (''ETF Class Relief'').

APPLICANTS: DFA Investment Dimensions Group Inc. (''DFAIDG''), Dimensional Investment Group Inc. (''DIG''), Dimensional ETF Trust (''Trust'' and, together with DFAIDG and DIG, the ''Companies'') and Dimensional Fund Advisors LP (''Dimensional'' or ''Advisor'' and, collectively with the Companies, ''Applicants'').

FILING DATES: The application was filed on July 13, 2023, and amended on April 1, 2025, May 30, 2025 and September 26, 2025.

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 on any application by emailing the Commission's Secretary at *Secretarys-Office@sec.gov* and serving

Applicants with a copy of the request by email, if an email address is listed for the relevant applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. Hearing requests should be received by the Commission by 5:30 p.m. on October 16, 2025, 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 emailing the Commission's Secretary at *Secretarys-Office@sec.gov.*

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.* Applicants: Catherine L. Newell, Esq., Dimensional Fund Advisors LP, 6300 Bee Cave Road, Building One, Austin, TX 78746; Bruce G. Leto, Esq., *bleto@stradley.com,* Stradley Ronon Stevens & Young, LLP, and Michael W. Mundt, Esq., *mmundt@stradley.com,* Stradley Ronon Stevens & Young, LLP.

FOR FURTHER INFORMATION CONTACT: Christopher D. Carlson, Senior Counsel, Kris Easter Guidroz, Senior Counsel, Trace W. Rakestraw, Senior Special Counsel, or Kaitlin C. Bottock, Assistant Chief Counsel, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' third amended application, dated September 26, 2025, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system. The SEC's EDGAR system may be searched at *https://www.sec.gov/edgar/searchedgar/legacy/companysearch.html.* You may also call the SEC's Office of Investor Education and Advocacy at (202) 551–8090.

Applicants' Representations

1. Each of DFAIDG and DIG is organized as a Maryland corporation. The Trust is organized as a Delaware statutory trust. The Companies are registered with the Commission as open-end management investment companies under the Act. The offerings of the shares of DFAIDG, DIG, and ETF Trust also are registered pursuant to the Securities Act of 1933, as amended (''Securities Act''). The Order would apply to existing and future series of the Companies or other existing or future open-end management investment companies (or series thereof) registered under the Act (each a ''Fund,'' and together, the ''Funds'') that are advised by the Advisor.

2. Dimensional is a Delaware limited partnership and is registered with the Commission as an investment adviser under the Investment Advisers Act of 1940, as amended (the ''Advisers Act''). Any other Advisor [1] also will be registered with the Commission as an investment adviser under the Advisers Act. The Advisor serves or will serve as the investment adviser to each Fund pursuant to an investment management agreement with the relevant Company.

3. The Commission granted a series of exemptive orders between 2000 and 2007 permitting certain existing funds operating as mutual funds to offer a class of exchange-traded shares.[2] In 2019, the Commission adopted Rule 6c–11 under the Act to provide the exemptive relief necessary under the Act to permit ETF operations.[3] However, the Commission determined not to provide the exemptive relief necessary to allow for ETF classes as part of Rule 6c–11. The Adopting Release explained that ETF class relief raises policy considerations that are different from those that the Commission intended to address in Rule 6c–11.[4] The Adopting Release specifically noted that an ETF class that transacts with Authorized Participants on an in-kind basis and a mutual fund class that transacts with shareholders on a cash basis may give rise to differing costs to the portfolio.[5] As a result, certain costs may result from transactions through one class, but all fund shareholders generally would bear the costs.[6] The Commission concluded that share class ETFs should request relief through the exemptive applications process so that the Commission may assess all relevant policy considerations in the context of the facts and circumstances of particular applicants.[7]

4. Applicants state their belief that the ability of a Fund to offer both Mutual Fund Shares and ETF Shares could be beneficial to the Fund and to shareholders of each type of class, as discussed below. Applicants believe that the multi-class structure will allow investors to choose the manner in which they wish to hold interests in a Multi-Class ETF Fund based on the share class characteristics that are most important to the investor.

ETF Operational Relief

5. The Order would permit: (i) ETF Shares of the Multi-Class ETF Funds to be listed on a national securities exchange (''Exchange''), as defined in Rule 6c–11, and traded at market-determined prices; (ii) ETF Shares to be issued to and redeemed by ''Authorized Participants'' in ''Creation Units'' only (each term as defined in Rule 6c–11), except with respect to the Exchange Privilege (as defined below) and as permitted by Rule 6c–11(a)(2); (iii) certain affiliated persons of a Multi-Class ETF Fund to purchase Creation Units with (or redeem Creation Units for) ''Baskets,'' as defined in Rule 6c–11; and (iv) certain Multi-Class ETF Funds that include foreign investments in their Baskets to pay redemption proceeds more than seven calendar days after ETF Shares are tendered for redemption. The Order would provide the Multi-Class ETF Funds with the same relief as contained in Rule 6c–11, subject to the same conditions and requirements contained in Rule 6c–11, except as specifically described in the application.

ETF Class Relief

6. The Order would permit a Multi-Class ETF Fund to offer one ETF Class and one or more Mutual Fund Classes.[8] This Multi-Class ETF Fund structure would comply with Rule 18f–3 under

[1] The term ''Advisor'' includes (i) Dimensional, and (ii) any entity controlling, controlled by or under common control with, Dimensional or its successors. For the purposes of the requested Order, ''successor'' is limited to an entity resulting from a reorganization into another jurisdiction or a change in the type of business organization.

[2] Vanguard Index Funds, Investment Company Act Release Nos. 24680 (Oct. 6, 2000) (notice) and 24789 (Dec. 12, 2000) (order); The Vanguard Group, Inc., Investment Company Act Release Nos. 26282 (Dec. 2, 2003) (notice) and 26317 (Dec. 30, 2003) (order); Vanguard International Equity Index Funds, Investment Company Act Release Nos. 26246 (Nov. 3, 2003) (notice) and 26281 (Dec. 1, 2003) (order); and Vanguard Bond Index Funds, Investment Company Act Release Nos. 27750 (Mar. 9, 2007) (notice) and 27773 (Apr. 2, 2007) (order).

[3] *Final Rule: Exchange-Traded Funds,* Investment Company Act Release No. 33646 (Sept. 25, 2019) [84 FR 57162 (Oct. 24, 2019)] (''Adopting Release'').

[4] *Id.* at 122–23.

[5] *Id.* at 123.

[6] *Id.* at 122–23 (noting that ''costs can include brokerage and other costs associated with buying and selling portfolio securities in response to mutual fund share class cash inflows and outflows, cash drag associated with holding the cash necessary to satisfy mutual fund share class redemptions, and distributable capital gains associated with portfolio transactions.'').

[7] *Id.* at 124.

[8] A Multi-Class ETF Fund's Mutual Fund Shares will not be listed on any securities exchange, and the Multi-Class ETF Funds do not expect there to be, nor will the Funds permit or facilitate, a secondary market for, peer-to-peer trading of, or quotation on any quotation medium of, a Multi-Class ETF Fund's shares (other than as described in the application).

the Act, except for certain ways in which an ETF Class and Mutual Fund Class(es) would have different rights and obligations, as described below. The Multi-Class ETF Funds may offer an ''Exchange Privilege'' that would permit shareholders in a Mutual Fund Class to exchange Mutual Fund Shares for ETF Shares.[9]

7. Among other benefits, Applicants believe that an ETF Class would offer the following benefits to shareholders in a Fund's Mutual Fund Classes:

- In-kind transactions through the ETF Class in connection with creations and redemptions may contribute to lower portfolio transaction costs and greater tax efficiency and could allow a Fund to reduce some portfolio management costs.
- The ETF Class would represent an additional distribution channel for a Fund that could lead to additional asset growth and economies of scale.
- ETF Shares also could allow certain investors to engage in more frequent trading without disrupting the Fund portfolio.
- Applicants also believe that the Exchange Privilege could allow mutual fund shareholders to exchange Mutual Fund Shares for ETF Shares without adverse consequences to the Fund.

8. Applicants believe that Mutual Fund Classes would also offer benefits to shareholders in a Fund's ETF Class:

- Investor cash flows through a Mutual Fund Class can be used for efficient portfolio rebalancing.
- Cash flows through a Mutual Fund Class may allow for greater Basket flexibility, which could promote arbitrage efficiency and smaller spreads on the trading of ETF Shares in the secondary market.
- With respect to existing Funds, offering an ETF Class would permit investors that prefer the ETF distribution channel to gain access to established Fund investment strategies.
- Tax-free exchanges of shares from the Mutual Fund Class for shares of the ETF Class also may accelerate the development of an ETF shareholder base.
- Applicants also believe that the establishment of Mutual Fund Class(es) as part of an existing ETF could lead to cost efficiencies and economies of scale as it attracts additional investments into the Fund.

Applicants note these are the same types of benefits that the Commission originally recognized in adopting Rule 18f–3.

Initial Evaluation and Approval

9. Each Multi-Class ETF Fund will operate pursuant to a written plan required by Rule 18f–3(d) that addresses the Mutual Fund Class(es) and the ETF Class (the ''multiple class plan''). Before the first issuance of a share of any class in reliance on the Order, and before any material amendment of the multiple class plan, the board of directors of the Fund (''Board''), including the directors who are not interested persons of the Fund under Section 2(a)(19) of the Act (''Independent Directors''), will find that the multiple class plan is in the best interests of each Mutual Fund Class and the ETF Class individually and of the Fund as a whole. To assist in the Board's finding, the Advisor [10] shall prepare a written report pertaining to the Multi-Class ETF Fund (''Initial Advisor Report'').[11] As described in more detail in the application, the Initial Advisor Report shall contain, among other information: (i) a discussion of the reasonably expected [12] benefits and costs to each class individually and the Fund as a whole; (ii) a discussion of how the Advisor intends to manage the reasonably expected costs associated with the transition to a Multi-Class ETF Fund (if applicable), (iii) a discussion of the appropriateness of the Fund's investment strategy for the Multi-Class ETF Fund structure; and (iv) a discussion of any other potential material conflicts of interest, including any other sources of potential cross-subsidization, identified by the Advisor associated with operating a Multi-Class ETF Fund.[13]

Ongoing Monitoring Process

10. At the time of the Board's initial approval of the multiple class plan, the Advisor will recommend to the Board for approval a framework for ongoing monitoring of certain numerical thresholds (''Ongoing Monitoring Process''), which is intended to assist the Board with its ongoing oversight of the Multi-Class ETF Fund structure. The Ongoing Monitoring Process will consist of Advisor-recommended and Board-approved numeric thresholds, including the method for calculating such thresholds and the time periods over which to measure the Fund's performance against such numerical thresholds, with respect to the Fund's: (i) costs associated with portfolio transactions, (ii) cash levels and (iii) capital gains distributions.[14] The numerical threshold levels (including any changes thereto), the method of calculating the thresholds, and the time periods over which to measure the Fund's performance against such numerical thresholds will be reasonably designed to assist in the identification of material conflicts of interest between the Mutual Fund Class(es) and the ETF Class, including disparities in costs between the Mutual Fund Class(es), on the one hand, and ETF Class, on the other.[15] Any recommended changes to the numerical thresholds, or changes to the time periods over which to measure the Fund's performance against such numerical thresholds will be subject to Board approval.

11. If a Multi-Class ETF Fund exceeds an established numerical threshold, the Advisor will notify the Board no later than 30 days following the end of the applicable time period in which the threshold was exceeded.[16] The Advisor will provide the Board with a written explanation of the Advisor's assessment of the causes of the Fund exceeding the threshold(s), and any proposed recommendations for what, if any, remedial actions the Fund should take.[17]

[9] The Exchange Privilege would not permit shareholders of ETF Shares to exchange such shares for Mutual Fund Shares, except in situations where the ETF Class is terminated or where the Multi-Class ETF Fund merges into a Fund with no ETF Class.

[10] If a Fund retains or has retained an investment sub-adviser, the Fund's primary Advisor will be responsible for complying with the conditions.

[11] The Board's evaluation of the Multi-Class ETF Fund structure under the terms and conditions of the application does not impact the Board's evaluation of a multi-class fund that is not a Multi-Class ETF Fund and that is operating under Rule 18f–3.

[12] Information that is ''reasonably expected'' or ''reasonably estimated'' throughout the application may be based on reasonable assumptions and good faith estimates by the Advisor. This information will be based on historical data for existing Funds, if applicable.

[13] The Advisor may include any other information it deems necessary or helpful for the Board.

[14] The Advisor may recommend establishing additional thresholds designed to identify other conflicts of interest between the Mutual Fund Class(es) and the ETF Class.

[15] This would include with respect to cash drag from holding cash to meet Mutual Fund Class redemption requests, as well as transaction costs and realized capital gains or other tax consequences due to such requests.

[16] The Advisor may fulfill these Board notification requirements by notifying a designated committee, or a designated member, of the Board.

[17] Examples of remedial actions include: (i) adjustments to the use of in-kind transactions or trade execution strategy to manage costs associated with portfolio transactions; (ii) greater use of credit lines or other sources of cash to reduce uninvested cash; (iii) enhancements to tax lot management and harvesting of capital losses to reduce capital gains distributions; (iv) adjustments to transaction fees, purchase fees and/or redemption fees; (v) enhanced disclosure to investors; and (vi) discontinuation of a class, or conversion of an entire class of a Multi-Class ETF Fund into another class of that Multi-Class ETF Fund as otherwise permitted under the Act. The Board may consider additional corrective measures if deemed necessary.

Ongoing Board Approval

12. In addition to the initial evaluation and approval of the multiple class plan, the Board also will periodically, but in no case less frequently than annually, find that the multiple class plan continues to be in the best interests of each Mutual Fund Class and the ETF Class individually and of the Multi-Class ETF Fund as a whole. To inform this finding, the Advisor will provide a written report to the Board pertaining to the Multi-Class ETF Fund (''Ongoing Advisor Report''). As described in more detail in the application, the Ongoing Advisor Report shall contain, among other information: (i) a discussion of any observed benefits or cost savings to the Fund resulting from the Multi-Class ETF Fund structure; (ii) a discussion of any observed material conflicts of interest between the ETF Class and the Mutual Fund Class(es), or observed material negative consequences [18] to the ETF Class or the Mutual Fund Class(es) resulting from the Multi-Class ETF Fund structure; and (iii) any other information that the Board requests.[19]

Requested Exemptive Relief

1. Applicants request an order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 18(f)(1), 18(i), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, and 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.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general purposes of the Act.

Applicants' Legal Analysis and Discussion

ETF Operational Relief

3. Applicants seek the same exemptive relief as provided by Rule 6c–11, subject to the same requirements contained in Rule 6c–11 to launch a class of a Multi-Class ETF Fund that operates as an ETF, except as specifically described herein. Applicants assert they are unable to rely on Rule 6c–11 because ''exchange-traded fund'' is defined, in part, to mean a registered open-end management investment company ''whose shares are listed on an Exchange and traded at market-determined prices.'' Because this definition suggests that all of the investment company's shares must be listed on an Exchange, a Multi-Class ETF Fund would not meet this definition.

4. Section 5(a)(1) of the Act defines an ''open-end company'' as ''a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer.'' Section 2(a)(32) of the Act defines a ''redeemable security'' as ''any security . . . , under the terms of which the holder, upon its presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent.'' Applicants state that because the definition of ''exchange-traded fund'' in Rule 6c–11 requires that the ETF ''issues (and redeems) creation units to (and from) authorized participants in exchange for a basket and a cash balancing amount if any,'' a Multi-Class ETF Fund that permits a shareholder of Mutual Fund Shares to acquire individual ETF Shares directly from the Fund through the Exchange Privilege may not satisfy the definition of ''exchange-traded fund'' in Rule 6c–11.[20] Applicants further state that because ETF Shares are not individually redeemable, a possible question arises as to whether the definitional requirements of a ''redeemable security'' or an ''open-end company'' under the Act are met.[21] Applicants request relief from Section 2(a)(32) so that ETF Shares also are considered redeemable securities and from Section 5(a)(1) to permit a Multi-Class ETF Fund to register or remain registered as an open-end management investment company and redeem ETF Shares in Creation Units only.

5. Section 22(d) of the Act, among other things, prohibits investment companies, their principal underwriters, and dealers from selling a redeemable security to the public except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming, or repurchasing a redeemable security do so only at a price based on its net asset value (''NAV''). Applicants seek relief from these provisions, subject to the requirements of Rule 6c–11, because investors may purchase and sell individual ETF Shares from and to dealers on the secondary market at market-determined prices (*i.e.,* at prices other than those described in the prospectus or based on NAV).

6. Section 22(e) generally prohibits a registered open-end management investment company from postponing the date of satisfaction of redemption requests for more than seven days after the tender of a security for redemption. Applicants seek relief from section 22(e), subject to the requirements of Rule 6c–11, for an ETF Class to delay satisfaction of a redemption request for more than seven days if a local market holiday, or series of consecutive holidays, or the extended delivery cycles for transferring foreign investments to redeeming Authorized Participants, or the combination thereof, prevents timely delivery of the foreign investment included in the Basket.

7. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such person, from knowingly selling any security or other property to or purchasing any security or other property from the company. Applicants seek relief from Sections 17(a)(1) and 17(a)(2) of the Act to permit the Multi-Class ETF Funds to exchange in-kind Baskets with certain affiliated persons that serve as Authorized Participants to the same extent as Rule 6c–11 permits, and subject to the requirements of Rule 6c–11.

ETF Class Relief

8. Applicants request an order under Section 6(c) for relief from Sections 18(f)(1) and 18(i) of the Act in order for

[18] For example, this may include consequences on portfolio size, liquidity, liquidity risk management, and operations of the Multi-Class ETF Fund.

[19] The Advisor may include any other information it deems necessary or helpful for the Board.

[20] Applicants represent that any exchange pursuant to the Exchange Privilege will conform to the requirements of Section 11(a) of the Act. ETF Shares issued to a shareholder as part of the Exchange Privilege will be newly issued ETF Shares, and not ETF Shares purchased in the secondary market. The issuance of ETF Shares in connection with the Exchange Privilege will comply with the Securities Act.

[21] Applicants note that Rule 6c–11(b)(1) resolves this issue for exchange-traded funds relying on Rule 6c–11 by specifically providing that an exchange-traded fund share is considered a redeemable security within the meaning of Section 2(a)(32).

a Fund to offer an ETF Class and one or more Mutual Fund Classes.

9. Section 18(f)(1) of the Act provides that ''it shall be unlawful for any registered open-end investment company to issue any class of senior security or to sell any senior security of which it is the issuer'' with exceptions not here relevant. The term ''senior security'' is defined in Section 18(g) to mean ''any stock of a class having priority over any other class as to distribution of assets or payment of dividends.'' Section 18(i) provides that every share of stock issued by an open-end investment company ''shall be a voting stock and have equal voting rights with every other outstanding voting stock.'' Applicants note that the Commission generally takes the position that an open-end investment company that issues multiple classes could raise issues under Sections 18(f)(1) and 18(i) because differences in the rights accorded to, or expenses paid by, different shareholders of the same investment company may raise senior security issues under Section 18.

10. In 1995, the Commission adopted Rule 18f–3, which provides an exemption from Sections 18(f)(1) and 18(i) for any open-end investment company with a multi-class structure, provided that the company complies with the requirements of the rule. Although Applicants will comply substantially with the requirements of Rule 18f–3, the Funds would not be able to comply with the requirement in Rule 18f–3(a)(4) that, aside from the differences permitted by the rule, the Mutual Fund Classes and the ETF Class will have the same rights and obligations.

11. Applicants have identified seven ways in which Mutual Fund Shares and ETF Shares will have different rights.

- Mutual Fund Shares will be individually redeemable while ETF Shares generally will be redeemable only in Creation Units.
- ETF Shares will be tradable on an Exchange while Mutual Fund Shares will not.
- Any Exchange Privilege generally will be limited to the Mutual Fund Class (*i.e.,* the Exchange Privilege will not be offered to the ETF Class except as noted above).
- Dividends of Mutual Fund Shares may be automatically reinvested in additional Mutual Fund Shares at NAV, while holders of ETF Shares may only participate in a dividend reinvestment plan to the extent their broker-dealers make available the DTC book-entry and/or broker-dealer sponsored dividend reinvestment service.
- The Mutual Fund Classes and ETF Class may declare dividends on different days, as described below.
- It is currently expected that the record date for dividends on Mutual Fund Shares will be one business day before the ex-dividend date, whereas due to Exchange requirements, the record date for dividends on ETF Shares is expected to be the ex-dividend date.
- The dividend payment date for the Mutual Fund Shares is expected to be prior to the dividend payment date for ETF Shares.

12. Applicants represent that they do not believe that the differences in class rights noted above implicate the concerns at which Section 18 is directed (*i.e.,* excessive leverage, conflicts of interest, and investor confusion), but have proposed certain terms and conditions discussed below to address possible issues in this regard. Applicants represent that the issuance of classes of shares with different rights and obligations, and different dividend declaration and payable dates, does not create any opportunity for leverage. Rule 18f–3 contains provisions designed to minimize or eliminate potential conflicts between classes, such as requiring separate approval on any matter submitted to shareholders in which the interests of one class differ from the interests of any other class, and requiring the use of certain formulas for allocating income, gains and losses, and appreciation and depreciation. Applicants represent that the Funds will comply with these voting and allocation provisions.

13. For Multi-Class ETF Funds other than Daily/Monthly Declaration Multi-Class ETF Funds (as defined below), the dividend declaration date for Mutual Fund Shares is expected to be the ex-dividend date while the declaration date for ETF Shares is expected to be one business day before the ex-dividend date.[22] Applicants represent that the difference in the dates on which dividends of these Multi-Class ETF Funds are declared for Mutual Fund Shares and ETF Shares will be due solely to Exchange rules applicable to ETFs. Applicants further represent that there will not be an economic impact on a particular share class as a result of this difference in dividend declaration dates.[23]

14. Applicants note that it could be possible that certain Multi-Class ETF Funds may wish to declare dividends on a daily basis for their Mutual Fund Shares and on a monthly basis for their ETF Shares (''Daily/Monthly Declaration Multi-Class ETF Funds'').[24] Applicants believe that this flexibility could be desirable because declaring dividends on a daily basis for an ETF Class could create daily reporting obligations to the Exchange, which could be impractical. For Daily/Monthly Declaration Multi-Class ETF Funds, the net assets of the ETF Shares therefore would reflect the presence of accrued but undistributed income, while the net assets of the Mutual Fund Shares would not.[25] For a Daily/Monthly Declaration Multi-Class ETF Fund's income, realized capital gains and losses, and unrealized appreciation and depreciation (collectively, ''Allocable Items''), Applicants will allocate Allocable Items on the basis of an allocation ratio (''Allocation Ratio'') where class-level net assets would be adjusted to factor out differences potentially introduced by the application of different dividend declaration policies (the ''Asset Adjustment'') as described in more detail in the Application.

15. Applicants believe the use of the Asset Adjustment would prevent the daily allocation of Allocable Items to ETF Shares and Mutual Fund Shares within a Daily/Monthly Declaration Multi-Class ETF Fund from being affected by the classes' differing dividend declaration dates and, therefore, that the annualized rates of return of the ETF Shares and Mutual

[22] Applicants represent that the dividend rate for ETF Shares will be announced after market close on the ETF Class's declaration date, which is also the record date for the dividend for Mutual Fund Shares. Therefore, Applicants state that the dividend rate for ETF Shares will be announced after the deadline for receipt of an order to purchase Mutual Fund Shares to become a shareholder as of the Mutual Fund Class's record date. Applicants also represent that a Multi-Class ETF Fund will impose restrictions on exchanges around the dates of dividend payments if necessary to prevent a shareholder from collecting a dividend from both the Mutual Fund Class and the ETF Class as a result of an exchange of shares.

[23] In particular, the ex-dividend date will be the same for all classes of a Multi-Class ETF Fund, and the Multi-Class ETF Fund will adjust the NAV for all classes on the same day as a result of the dividends to be paid.

[24] For example, some fixed income mutual funds may declare dividends on a daily basis, while fixed income ETFs typically declare dividends on monthly basis.

[25] If dividends are declared monthly, each day's accrued income would be reflected as an increase in the shares' net assets and NAV. At the end of the month, on the ex-dividend date, the net assets and NAV per share would decrease by the amount of the declared dividend. By contrast, if dividends are declared daily, as would be the case with the Mutual Fund Shares of a Daily/Monthly Declaration Multi-Class ETF Fund, the amount of the daily income accrual generally would be offset by a corresponding distribution payable liability, except in unusual circumstances where the daily income accrual may be larger than the daily declared dividend. As a result, the net effect on the Mutual Fund Shares' net assets and NAV normally would be zero.

Fund Shares generally would differ only by the expense differentials among the classes, as required by Rule 18f–3(c)(l)(v) under the Act.[26] Applicants anticipate that as a result of the application of the Asset Adjustment to the Allocation Ratio, there would not be a material economic impact on a particular share class as a result of the difference in dividend declaration dates for the Daily/Monthly Declaration Multi-Class ETF Funds.

16. In addition to the differences in dividend declaration dates, the record date for dividend distributions for Mutual Fund Shares is expected to be one business day before the ex-dividend date, while the record date for dividend distributions for ETF Shares is expected to be the ex-dividend date. Applicants expect that the difference in the record dates for Mutual Fund Shares and ETF Shares will be due solely to Exchange rules applicable to ETFs.[27]

17. Although Mutual Fund Shares and ETF Shares may both pay cash dividends, the cash payment date for Mutual Fund Shares is expected to be one or more business days before the cash payment date for ETF Shares. To avoid a potential conflict from the situation where the dividends to be paid to the ETF Class remain invested for the benefit of the entire Multi-Class ETF Fund, Applicants represent that the cash held to pay dividends would be held in a custodial account and would not be invested outside of participation in cash sweep vehicles (including money market funds), custodial credit earning programs, or interest-bearing accounts.[28]

18. With respect to dividend reinvestment, Applicants note that shareholders in the Mutual Fund Class who wish to reinvest their dividends will be able to do so on the ex-dividend date and, in certain cases, may be able to reinvest the cash dividend automatically in additional Mutual Fund Shares. However, shareholders in the ETF Class who wish to reinvest their dividends will generally not be able to reinvest their dividends until several days later, after the cash payments have been received by the ETF Class shareholders for reinvestment, and then only to the extent the broker-dealer through which an investor buys the ETF Shares offers an ETF dividend reinvestment program. As a result of the difference in when dividends are paid and received for reinvestment, Mutual Fund Class shareholders who reinvest dividends will be continuously invested, while ETF Class shareholders who reinvest will be ''out of the market'' for several days with respect to the amount of the dividend.[29] Applicants do not believe that this difference between Mutual Fund Classes and ETF Classes resulting from the different dividend payment schedules is inconsistent with the purposes underlying Section 18 of the Act.

19. With respect to voting rights, Applicants state that because shareholders of each Multi-Class ETF Fund have voting rights based on the number of shares owned (including fractional shares) or the dollar amount of shares owned (including fractional dollar amounts), and because the shareholders in the Mutual Fund Class may be able to reinvest dividends sooner than shareholders in the ETF Class, each Mutual Fund Class shareholder could obtain more voting power than an ETF Class shareholder in the days immediately following an ex-dividend date. In addition, because shareholders of each Daily/Monthly Declaration Multi-Class ETF Fund may have voting rights based on the NAV of their shares, the accrual of dividends in the NAV of ETF Shares and not Mutual Fund Shares could have an effect on the voting power of the respective classes of a Daily/Monthly Declaration Multi-Class ETF Fund. However, Applicants expect that this effect will be minor because the intra-month difference in NAV of the respective classes due to the accrual of dividends is not expected to be significant with respect to proxy voting.

20. Applicants state that they believe their proposed treatment of voting rights meets the standards of Section 18(i) because every share issued by the Multi-Class ETF Funds will have equal voting rights in that each share will be entitled to one vote per share and a fractional vote per fractional share or, alternatively, one vote per each dollar of NAV (number of shares owned multiplied by the NAV per share) and a fractional vote per each fractional dollar amount.[30]

21. With respect to the costs resulting from the cash flows associated with Mutual Fund Classes that could impact all classes, Applicants state these costs might be viewed as a potential conflict between the classes, and Applicants represent that they will consider it as such under the monitoring, evaluation, oversight and approval processes described in the application. In particular, in addition to the requirements of Rule 18f–3, Applicants propose the monitoring and oversight processes involved in Initial and Ongoing Advisor Reports, Ongoing Monitoring Process and the Ongoing Board Approvals will help ensure that the Advisor and the Board, including the Independent Directors, are focused on potential conflicts of interest between the classes as an initial and ongoing matter.

22. Applicants also will take steps to inform and educate investors regarding the characteristics of the Multi-Class ETF Fund structure, including the potential that transactions through one class could generate portfolio transaction costs and tax consequences for shareholders in other classes.

23. While Applicants believe there is limited potential for confusion between the classes, they represent that they will take numerous steps to ensure that investors clearly understand the structure of a Multi-Class ETF Fund and the differences between Mutual Fund Shares and ETF Shares (collectively, ''Disclosure Steps''), including: (i) all references to the ETF Shares will use a generic term such as ''ETF'' in connection with such shares, or a form of trade name, rather than the Fund name; (ii) there will be separate prospectuses for a Fund's ETF Shares and Mutual Fund Shares; (iii) each Mutual Fund Class will prominently disclose in its prospectus and on its website that the Fund offers an ETF Class, and vice versa; (iv) the cover and summary section of a Fund's ETF Shares prospectus will include

[26] The Board of a Daily/Monthly Declaration Multi-Class ETF Fund would determine that, after applying the Asset Adjustment, the annualized rates of return of the ETF Shares and Mutual Fund Shares generally will differ only by the expense differentials among the classes as required by Rule 18f–3(c)(1)(v) under the Act.

[27] Applicants do not expect this difference in record dates to have any material economic impact on a particular share class. In the case of Multi-Class ETF Funds that are not Daily/Monthly Declaration Multi-Class ETF Funds, the difference in record dates does not create an economic difference between shareholders because all shareholders up to and including shareholders that purchase shares in either class on the day before the ex-dividend date would be entitled to the dividend. In the case of the Daily/Monthly Declaration Multi-Class ETF Funds, the application of the Asset Adjustment to the Allocation Ratio as described above also should provide that there will be no material economic impact due to the differences in record dates between the classes.

[28] Applicants represent that they anticipate any earnings on such cash held to be negligible.

[29] This difference will affect the relative performance of the classes because, during the period when the dividend is out of the market, ETF Class shareholders will not receive income or experience appreciation or depreciation on the amount of the dividend.

[30] Applicants assert that even if one takes the position that the ETF Class and Mutual Fund Class(es) have different voting rights as a result of their different dividend policies, Applicants' proposal merits an exemption from Section 18(i) because, given the immaterial difference in voting power between the classes, it is extremely unlikely that the outcome of a proxy vote would ever be affected.

disclosure that the ETF Shares are listed on an Exchange and are not individually redeemable; (v) to the extent Mutual Fund Shares may be converted into ETF Shares as part of an Exchange Privilege, a Fund's Mutual Fund Shares prospectus will contain appropriate disclosure about the ETF Shares and the Exchange Privilege; (vi) the ETF Shares will not be marketed as a mutual fund investment; [31] (vii) the prospectus for each Fund's ETF Shares will disclose, to the extent applicable, that shareholders of ETF Shares will generally receive cash dividend payments later than shareholders of Mutual Fund Shares and may reinvest such cash automatically in additional ETF Shares only if the broker through whom the investor purchased shares makes such option available, and Daily/Monthly Declaration Multi-Class ETF Funds also will describe the applicable dividend declaration dates for the Mutual Fund Class (daily) or the ETF Class (monthly) in the relevant prospectus for each class; (viii) the Fund will provide plain English disclosure on its website about ETF Shares and how they differ from Mutual Fund Shares; and (ix) any Fund prospectus will include appropriate disclosure in its registration statement regarding the Multi-Class ETF Fund structure, as described in greater detail in the application.

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

1. A Multi-Class ETF Fund will operate an ETF Class as an ''exchange-traded fund'' in compliance with the requirements of Rule 6c–11 under the Act, except that a Multi-Class ETF Fund will list only one class of its shares on an Exchange and also may offer an Exchange Privilege, and will comply with the requirements of Form N–1A and reporting forms such as Form N–CEN applicable to exchange-traded funds that rely on Rule 6c–11.

2. A Multi-Class ETF Fund will comply with Rule 18f–3 under the Act, except to the extent that the ETF Class and Mutual Fund Class have different rights and obligations as described in the application. As required by Rule 18f–3, before the first issuance of ETF Shares, and before any material amendment of a written plan under Rule 18f–3 to include an ETF Class, a majority of the directors of a Fund, and a majority of the Independent Directors, shall find that the plan is in the best interests of each Mutual Fund Class and the ETF Class individually and of the Multi-Class ETF Fund as a whole.

3. To assist in the initial Board consideration of the appropriateness of operating a Multi-Class ETF Fund that has both an ETF Class and Mutual Fund Class(es), the Advisor shall prepare and deliver to the Board the Initial Advisor Report as described in the application. The Initial Advisor Report will assist the Board in its finding pursuant to condition 2 and in evaluating the potential for any conflicts between the Mutual Fund Class(es) and the ETF Class based on current and historical information, as applicable.

4. The Advisor will recommend for the Board's approval the Ongoing Monitoring Process designed to help determine whether a Multi-Class ETF Fund has encountered any issues relating to the multi-class structure, including any conflicts between the Mutual Fund Class(es) and the ETF Class.

5. Each Multi-Class ETF Fund will be subject to an Ongoing Monitoring Process that is approved by the Board, and the Board of the Multi-Class ETF Fund periodically, but no less frequently than annually, will evaluate the multiple class plan of the Multi-Class ETF Fund. A majority of the directors of a Multi-Class ETF Fund, and a majority of the Independent Directors, shall find that the multiple class plan continues to be in the best interests of each Mutual Fund Class and the ETF Class individually and of the Multi-Class ETF Fund as a whole.

6. To inform this periodic evaluation, the Advisor shall prepare and deliver to the Board of the Multi-Class ETF Fund the Ongoing Advisor Report as described in the application. The Board will consider whether the Ongoing Advisor Report suggests any issues relating to the multi-class structure, including conflicts between the Mutual Fund Class(es) and the ETF Class, that require additional Board action.

7. Each Multi-Class ETF Fund will take the Disclosure Steps outlined in the application.

8. In addition to complying with Rule 6c–11(d) under the Act, each Multi-Class ETF Fund will preserve for a period not less than six years, the first two in an easily accessible place, (i) any documents created pursuant to the requirements in conditions 2, 3, 5, and 6; and (ii) any documents created pursuant to the Ongoing Monitoring Process that evidence a Multi-Class ETF Fund has exceeded or not exceeded an established threshold, as well as any documents provided to the Board as part of the Ongoing Monitoring Process.

9. The requested ETF Operational Relief and ETF Class Relief to operate one or more Multi-Class ETF Funds will expire on the compliance date (or such other date established by the Commission) of any Commission rule under the Act that provides relief permitting the operation of a Multi-Class ETF Fund structure.

By the Commission.

Sherry R. Haywood,

Assistant Secretary.

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[31] Marketing materials may refer to ETF Shares as an interest in an investment company or Multi-Class ETF Fund, but will not make reference to a ''mutual fund'' except to compare or contrast the ETF Shares with Mutual Fund Shares. Where appropriate, there may be express disclosure that ETF Shares are not a mutual fund product.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104108; File No. SR–NASDAQ–2025–080]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of a Proposed Rule Change To Amend the Amended and Restated Certificate of Incorporation and By-Laws of Its Parent Corporation, Nasdaq, Inc.

September 26, 2025.

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 September 26, 2025, The Nasdaq Stock Market LLC (''Nasdaq'' 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 publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Amended and Restated Certificate of Incorporation (''Certificate'') and By-Laws (''By-Laws'') of its parent corporation, Nasdaq, Inc. (''NASDAQ'' or ''Corporation''). The proposed changes would align the Certificate with certain amendments to the Delaware General Corporation Law as well as update the By-Laws to reflect recent changes in law and best practices, as discussed below.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/nasdaq/rulefilings,* and at the principal office of the Exchange.

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 is proposing to update the Certificate to reflect certain amendments to the Delaware General Corporation Law. The Exchange is also proposing to update the By-Laws to reflect recent changes in law and best practices as discussed below.

(a) Proposed Amendments to the Certificate

(1) Background

On April 23, 2025, NASDAQ's Board of Directors approved proposed amendments to the Certificate to provide for limited officer exculpation. On June 11, 2025, NASDAQ held its Annual Meeting of Stockholders, during which its stockholders considered and approved the Certificate amendments. In 2022, Delaware amended the Delaware General Corporation Law to enable companies incorporated in Delaware, such as NASDAQ, to limit the liability of certain of their officers in narrow circumstances. This change was made to address situations where directors would be dismissed from litigation, but the officers, who were not exculpated, had to continue in the litigation to show their actions were not grossly negligent. Generally, this issue arises in the mergers and acquisitions context and often relates to claims that a particular disclosure document was deficient.

The Certificate amendment would exculpate covered officers from monetary liability for breach of the duty of care in a manner similar to that already permitted for directors. However, it would not exculpate such officers in connection with derivative actions. Failing to adopt the Certificate amendment could potentially expose the Company to higher litigation expenses associated with lawsuits, regardless of merit, and/or impact the Company's recruitment and retention of exceptional officer candidates who conclude that the potential exposure to liabilities, costs of defense, and other risks of proceedings exceed the benefits of serving as one of the Company's officers. The Exchange notes that amendments providing for officer exculpation are increasingly common for public companies, and that the number of shareholder proposals calling for such amendments—the majority of which have been approved by wide margins—have continued to increase since 2022 when the Delaware law was passed.[3]

Under NASDAQ's Certificate and By-Laws, the Exchange must determine whether proposed amendments to the Certificate must be filed with the Commission prior to taking effect. On April 30, 2025, the Board of the Exchange determined that the proposed amendments to the Certificate must be filed with the Commission.

(2) Proposed Amendments

To effect the changes discussed above, the Exchange proposes to amend Article Sixth of NASDAQ's Amended and Restated Certificate of Incorporation as follows. Paragraph A of Article Sixth of the Certificate provides that ''[a] director of Nasdaq shall not be liable to Nasdaq or its stockholders for monetary damages for breach of fiduciary duty as a director, except to the extent that such exemption from liability or limitation thereof is not permitted under the General Corporation Law of the State of Delaware as the same exists or may hereafter be amended.'' Paragraph B of Article Sixth provides that ''[a]ny repeal or modification of paragraph A shall not adversely affect any right or protection of a director of Nasdaq existing hereunder with respect to any act or omission occurring prior to such repeal or modification.'' In each of these provisions, the Exchange proposes to add, after each instance of the word ''director,'' the words ''or officer.'' [4]

The Exchange believes the proposed changes to paragraphs A and B of Article Sixth of the Certificate would update the Certificate to reflect amendments to the Delaware General Corporation Law [5] that enable companies incorporated in Delaware, such as NASDAQ, to limit the liability of certain of their officers in narrow circumstances, as discussed above.

(b) Proposed Amendments to the By-Laws

(1) Background

On April 23, 2025, NASDAQ's Board of Directors approved proposed amendments to the By-Laws to reflect changes in law and best practices that have occurred since the most recent amendments to the By-Laws in 2016. As discussed above, under NASDAQ's Certificate and By-Laws, the Exchange must determine whether proposed amendments to the By-Laws must be filed with the Commission prior to taking effect. On April 30, 2025, the Exchange determined that the proposed amendments to the By-Laws must be filed with the Commission.

(2) Proposed Amendments

To effect the changes discussed above, the Exchange proposes to amend the By-Laws as follows.

(i) Article III Meetings of Stockholders

Section 3.1(b) of Article III of the By-Laws sets forth the requirements for a stockholder's notice to NASDAQ of nominations or other business to be considered at an annual meeting. Section 3.1(b)(i) of the By-Laws currently sets forth the information that a stockholder must provide to NASDAQ about each person whom the stockholder proposes to nominate for election as a director. Section 3.1(b)(i) of the By-Laws provides in part that the Corporation may require any proposed nominee to furnish such other information it may reasonably require to determine the eligibility of such proposed nominee to serve as director of the Corporation or that could be material to a reasonable stockholder's understanding of the independence, or lack of independence, of such proposed nominee.[6] The Exchange proposes to

[3] *See, e.g.,* Andrew J. Noreuil and Andrew J. Stanger, *Developments and Trends in Delaware Officer Exculpation Charter Amendments,* Harv. L. Sch. F. On Corp. Governance (June 14, 2024), *https://corpgov.law.harvard.edu/2024/06/14/developments-and-trends-in-delaware-officer-exculpation-charter-amendments/;* Megan W. Shaner, *Understanding Officer Exculpation Under the MBCA Amendments,* Bus. L. Today (Nov. 19, 2024) *https://businesslawtoday.org/2024/11/understanding-officer-exculpation-mbca-amendments/.*

[4] *See* proposed Article Sixth of the Certificate.

[5] *See* 8 Del. C. Section 102(b)(7).

[6] *See* Section 3.1(b)(1) of the By-Laws. As discussed below, the Exchange is also proposing a non-substantive change to Section 3.1(a) of the By-Laws to delete the term ''shareholder'' and substitute therefor the word ''stockholder'' to more closely track established terminology of the By-

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amend Section 3.1(b)(i) to narrow the scope of information that may be requested under this provision. Specifically, the Exchange proposes to provide that the Corporation may require any proposed nominee to furnish such other information as it may reasonably require to determine whether the proposed nominee is qualified under the Restated Certificate of Incorporation, the By-Laws, the rules and regulations of any stock exchange applicable to the Corporation, or any law or regulation applicable to the Corporation to serve as a director and/or independent director of the Corporation.[7] The Exchange believes that the proposed changes address concerns that the current provision is unnecessarily open-ended by limiting the information that may be requested to information on the nominee's qualifications to serve as director and/or independent director of the Corporation. The Exchange also proposes certain clarifying changes to Section 3.1(b)(i) of the By-Laws. Specifically, the Exchange proposes to insert, in its first full sentence, the word ''Corporation's'' and the words ''of such Proposing Person and in the accompanying proxy card.''[8] The Exchange believes these proposed non-substantive changes would facilitate the application of this provision by rendering it more specific and clearer to understand.

Section 3.1(b) of the By-Laws sets forth requirements for notices from a Proposing Person[9] to NASDAQ regarding nominations or other business to be considered at an annual meeting. Section 3.1(b)(iii) of the By-Laws sets out the information required to be provided with respect to each Proposing Person. Information required to be provided under current Section 3.1(b)(iii)(C) includes ''a description of any agreement, arrangement or understanding with respect to the nomination or proposal between or among such stockholder and/or such beneficial owner, any of their respective affiliates or associates, and any others acting in concert with any of the foregoing.''[10] The Exchange proposes to amend Section 3.1(b)(iii)(C) to delete the reference to others ''acting in concert with any of the foregoing.''[11] The Exchange believes this proposed change is appropriate to conform the By-Laws to current practices because the ''acting in concert'' language has been challenged by plaintiffs or otherwise used in search of potential litigation targets. The Exchange thus believes it is appropriate to delete such language from the advance notice requirements under this section of the By-Laws.[12]

Section 3.1(b)(iii)(I) requires that a Proposing Person describe any significant equity interest or any Synthetic Equity Interest or Short Interest in any principal competitor of the Corporation held by such Proposing Person. The Exchange proposes to add a parenthetical stating the term ''principal competitor'' as used in this subsection shall be ''as defined for purposes of Section 8 of the Clayton Antitrust Act of 1914.''[13] The Exchange believes that the proposed change would address a textual ambiguity in this subsection by providing greater clarity with respect to the scope of the term ''principal competitor,'' which the current subsection does not define.

Section 3.1(b)(iii)(J) further requires a Proposing Person to describe any direct or indirect interest of such Proposing Person in any contract with the Corporation, any affiliate of the Corporation, or any principal competitor of the Corporation (including, in any such case, any employment agreement, collective bargaining agreement or consulting agreement.[14] The Exchange proposes adding two parentheticals to this subsection. The first parenthetical would state that an ''affiliate,'' as that term is used in this subsection, would be ''as reflected on the most recent Form 10–K of the Corporation.''[15] The second parenthetical would clarify that ''principal competitor,'' as provided in this subsection, would be ''as defined for purposes of Section 8 of the Clayton Antitrust Act of 1914.''[16] The Exchange believes that the proposed changes would address textual ambiguities in this subsection by providing greater clarity with respect to the scope of the terms ''affiliate'' and ''principal competitor,'' which terms the current subsection does not define.

Section 3.1(b)(iii)(K) further requires Proposing Persons to describe any pending or threatened litigation in which such Proposing Person is a party or material participant involving the Corporation or any of its officers or Directors, or any affiliate of the Corporation.[17] The Exchange proposes to add a parenthetical to clarify, consistent with proposed changes to Section 3.1(b)(iii)(J), that an ''affiliate,'' as used in this subsection, shall be ''as reflected on the most recent Form 10–K of the Corporation.''[18]

Section 3.1(b)(iii)(L) of the By-Laws requires Proposing Persons to describe any material transaction occurring, in whole or in part, during the then immediately preceding 12-month period between such Proposing Person, on the one hand, and the Corporation, any affiliate of the Corporation or any principal competitor of the Corporation. Consistent with proposed changes to Section 3.1(iii)(b)(I)–(K), the Exchange proposes adding two parentheticals: the first stating that an ''affiliate,'' as that term is used in this subsection, would be ''as reflected on the most recent Form

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Laws and thus make them clearer and easier to understand. *See* proposed Section 3.1(a) of the By-Laws.

[7] To effect these changes, the Exchange proposes to delete, from the final sentence of Section 3.1(b)(i) the following: (1) the romanette (i); (2) the words ''eligibility of such''; and (3) the phrase ''or (ii) that could be material to a reasonable stockholder's understanding of the independence, or lack of independence, of such proposed nominee.'' Further, the Exchange proposes to amend the final sentence of Section 3.1(b)(i) of the By-Laws as follows: (1) insert, immediately after the words ''to determine'' the word ''whether''; (2) insert, immediately after ''proposed nominee, the words ''is qualified under the Restated Certificate of Incorporation, these By-Laws, the rules and regulations of any stock exchange applicable to the Corporation, or any law or regulation applicable to the Corporation''; and (3) insert, immediately after the words ''to serve as a director'' the phrase ''and/or independent director.'' *See* proposed Section 3.1(b)(i) of the By-Laws. As discussed below, the Exchange is also proposing a non-substantive change to Section 3.1(a) of the By-Laws to delete therefrom the word ''shareholder'' and substitute therefor the word ''stockholder.'' *See* proposed Section 3.1(a) of the By-Laws.

[8] *See* proposed Section 3.1(b)(i) of the By-Laws. The Exchange also proposes a non-substantive change to Section 3.1(b)(i) to replace the term ''Requesting Person'' with ''Proposing Person'' as that term and not ''Requesting Person,'' is defined in the Section 3.1(c) of the By-Laws.

[9] The term '' Proposing Person'' means ''(i) the stockholder providing the notice of business or the notice of the nomination, as applicable, proposed to be brought before an annual meeting, (ii) any beneficial owner or beneficial owners, if different, on whose behalf such business is proposed to be brought before the meeting or the notice of the nomination proposed to be made at the meeting is made, as applicable, and (iii) any affiliate or associate (each within the meaning of Rule 12b–2 under the Act for purposes of these By-Laws) of such stockholder or beneficial owner.'' *See* Section 3.1(c) of the By-Laws.

[10] *See* Section 3.1(b)(iii)(C) of the By-Laws.

[11] *See* proposed Section 3.1(b)(iii)(C) of the By-Laws. The Exchange is also proposing conforming changes to express ''others'' in the singular ''other'' and to add, immediately thereafter, the word ''person.''

[12] As proposed, Section 3.1(b)(iii)(C) would require the Proposing Person to describe ''any agreement, arrangement or understanding with respect to the nomination or proposal between or among such stockholder and/or such beneficial owner, any of their respective affiliates or associates, and any other person.'' *See* proposed Section 3.1(b)(iii)(C) of the By-Laws.

[13] *See* proposed Section 3.1(b)(iii)(I) of the By-Laws.

[14] *See* Section 3.1(b)(iii)(J) of the By-Laws.

[15] *See* proposed Section 3.1(b)(iii)(J) of the By-Laws.

[16] *See id.*

[17] *See* Section 3.1(b)(iii)(K) of the By-Laws.

[18] *See* proposed Section 3.1(b)(iii)(K) of the By-Laws.

10–K of the Corporation;'' [19] the second would clarify that ''principal competitor,'' as provided in this subsection, would be ''as defined for purposes of Section 8 of the Clayton Antitrust Act of 1914.'' [20] The Exchange believes that these proposed changes to Section 3.1(b)(iii)(L) would—consistent with similarly proposed changes to Section 3.1(b)(iii)(I)–(K)—provide greater clarity with respect to the meaning of the terms ''affiliate'' and ''principal competitor,'' which terms the current Section 3.1(b)(iii)(L) does not define.

Section 3.1(b)(iii)(O) requires notice to the Corporation if a Proposing Person intends to act as part of a group to solicit or deliver proxies in support of a proposal or the election of a nominee under specified circumstances. Specifically, Section 3.1(b)(iii)(O) of the By-Laws requires a representation as to whether the Proposing Person intends or is part of a group which intends (1) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to approve or adopt the proposal or elect the nominee and/or (2) otherwise to solicit *proxies* from stockholders in support of such proposal or nomination.[21] The Exchange proposes to amend to Section 3.1(b)(iii)(O) to clarify, in Section 3.1(b)(iii)(O)(2), that the representation required to be provided under that subsection would extend to the solicitation of proxies *or votes* from stockholders in support of any proposal or proposed nominee.[22] As further proposed, new Section 3.1(b)(iii)(O)(3) would specify that the representation required under Section 3.1(b)(iii) extends to whether the Proposing Person intends or is part of a group which intends ''to solicit proxies or votes in support of any proposed nominee in accordance with Rule 14a–19 promulgated under the Act.'' [23] The Exchange believes that the proposed changes to Section 3.1(iii)(O) enhance the transparency of this provision by providing greater specificity with respect to the content of representations required to be provided under this subsection. Similarly, proposed Section 3.1(iii)(O)(3) would enhance the clarity of this provision by specifying that the representation required under this section extends to whether the stockholder intends to act as part of a group to solicit proxies under the SEC's universal proxy rule.

Section 3.1(d) of the By-Laws addresses stockholder notice requirements with respect to nominees for additional directorships if the number of directors to be elected to the Board at an annual meeting is increased effective at the annual meeting.[24] Section 3.1(d) provides no limitations on the number of nominees that may be nominated under such circumstances.[25] The Exchange proposes to amend Section 3.1(d) to set limits on the number of nominees that may be nominated in such cases to not exceed the number of directors to be elected at the subject annual meeting. Specifically, the Exchange proposes to provide, in a new final sentence to Section 3.1(d) of the By-Laws, that the number of nominees a Proposing Person may nominate for election at the annual meeting on its own behalf (or in the case of a Proposing Person giving the notice on behalf of a beneficial owner, the number of nominees a Proposing Person may nominate for election at the annual meeting on behalf of such beneficial owner) shall not exceed the number of directors to be elected at such annual meeting.[26]

The Exchange believes that the proposed changes to Section 3.1(d) of the By-Laws would align the By-Laws with current practices by safeguarding against the practice of proposing multiple nominees and then deciding—at the last minute—which nominees will actually stand for election. This in turn would spare the Corporation and its stockholders from needless expenditure of time and resources to vet the surplus nominees.

Section 3.2(a) of the By-Laws addresses requirements for requesting a special meeting of the stockholders, including procedures for determining the requisite percentage of stockholders necessary to support a special meeting request. The Exchange proposes to amend Section 3.2(a) of the By-Laws to remove the phrase ''acting in concert'' and substitute therefor the words ''knowingly coordinating.'' [27] The Exchange believes this proposed change would mitigate against the potential for plaintiff's firms to leverage the ''acting in concert'' requirement to find targets for potential litigation.

The Exchange further proposes to amend Section 3.2(a) to remove a reference to the binding nature of the Board's determination with respect to whether the special meeting request is in proper form.[28] Specifically, the Exchange proposes to delete from the final sentence in Section 3.2(a) the words ''and such determination shall be binding on the Corporation and the stockholders.'' [29] The Exchange believes that the proposed changes would align the By-Laws with current practices because it would remove all references to the binding or final nature of Board actions, which language has been the challenged on the basis that it purports to limit or foreclose judicial review by Delaware courts.

Section 3.3 of the By-Laws governs determinations regarding nominations or business eligible to be considered at annual or special meetings. Section 3.3(a) provides, in part, that the chairman of the meeting has the power and duty to determine whether a nomination or business proposed to be brought before the meeting was made or proposed in accordance with the By-Laws and, if not so made or proposed, to declare that such nomination or business shall be disregarded.[30] The Exchange proposes to amend that provision of Section 3.3(a) to add a parenthetical stating that, in advance of any meeting of stockholders, the Board of Directors or an authorized committee thereof shall have the same powers and duties, including the power to declare that a particular nomination or business shall be disregarded.[31] The Exchange believes the proposed changes align the By-Laws with current practices because plaintiffs have argued that a determination to disregard a matter from

[19] *See* proposed Section 3.1(b)(iii)(I)–(K) of the By-Laws.

[20] *See id.*

[21] *See* Section 3.1(b)(iii)(O) of the By-Laws.

[22] To effect this change, the Exchange proposes to insert, immediately after ''otherwise to solicit proxies'' in Section 3.1(b)(iii)(O)(2), the words ''or votes.'' *See* proposed Section 3.1(b)(iii)(O)(2).

[23] *See* proposed Section 3.1(b)(iii)(O)(3) of the By-Laws. The Exchange proposes a conforming change to insert, at the conclusion of Section 3.1(b)(iii)(O)(2) the following: ''and/or.'' *See* proposed Section 3.1(b)(iii)(O)(2) of the By-Laws.

[24] *See* Section 3.1(d) of the By-Laws.

[25] *See id.*

[26] *See* proposed Section 3.1(d) of the By-Laws.

[27] *See* proposed Section 3.2 of the By-Laws.

[28] *See* Section 3.2(a) of the By-Laws.

[29] *See* proposed Section 3.2(a) of the By-Laws. The Exchange further proposes to make a non-substantive change to Section 3.2(a) of the By-Laws to capitalize the word ''secretary'' to conform to other usages of such word in the By-Laws. The Exchange also proposes to correct a typographical error in Section 3.2(c) of the By-Laws to express the word ''Business'' therein in the singular as ''business'' is not a defined term. *See* proposed Section 3.2(c) of the By-Laws.

[30] *See* Section 3.3(a) of the By-Laws.

[31] *See* proposed Section 3.3 of the By-Laws. To effect this change, the Exchange proposes to insert, immediately after the words ''Except as otherwise provided by law, the chairman of the meeting'' a parenthetical to read as follows: ''(or, in advance of any meeting of stockholders, the Board of Directors or an authorized committee thereof).'' The Exchange also proposes to make a non-substantive conforming change to Section 3.3(a) to insert, immediately after the word ''proxies'' in the second full sentence of Section 3.3(a) the words ''or votes,'' consistent with changes proposed for Section 3.1(b)(iii)(O) of the By-Laws.

consideration at a meeting should be subject to fiduciary duties. The proposed changes clarify that the chair of a meeting must be a director or officer whose decisions, in turn, are subject to fiduciary duties.

The Exchange further proposes to amend Section 3.3(a) to clarify that the Corporation may disregard nominees proposed by a stockholder under the Commission's universal proxy rule if the shareholder has failed to comply with that rule. To effect that change, the Exchange proposes to insert, at the conclusion of current Section 3.3(a), new text providing as follows:

Notwithstanding anything to the contrary in these By-Laws, unless otherwise required by law, if any Proposing Person (i) provides notice pursuant to Rule 14a–19(b) promulgated under the Act with respect to any proposed nominee and (ii) subsequently fails to comply with the requirements of Rule 14a–19(a)(2) or Rule 14a–19(a)(3) promulgated under the Act (or fails to timely provide reasonable evidence sufficient to satisfy the Corporation that such Proposing Person has met the requirements of Rule 14a–19(a)(3) promulgated under the Act in accordance with the following sentence), then the nomination of each such proposed nominee shall be disregarded, notwithstanding that proxies or votes in respect of the election of such proposed nominees may have been received by the Corporation (which proxies and votes shall be disregarded). Upon request by the Corporation, if any Proposing Person provides notice pursuant to Rule 14a–19(b) promulgated under the Act, such Proposing Person shall deliver to the Corporation, no later than five (5) business days prior to the applicable meeting, reasonable evidence that it has met the requirements of Rule 14a–19(a)(3) promulgated under the Act.

This proposed change to Section 3.3(a) would align the By-Laws with current practices by specifying that failure to comply with requirements of the Commission's universal proxy rule would constitute grounds for the Corporation to disregard a stockholder's proposed nomination, as well as setting out redress procedures for stockholders seeking to demonstrate that such requirements have been met.

Section 3.4 of the By-Laws governs the conduct of meetings. Section 3.4 provides in part that the date and time of the opening and closing of the polls for each matter to be voted upon at a meeting must be announced at the meeting by the person presiding over the meeting. The Exchange proposes to amend Section 3.4 to clarify, consistent with the advance notice provisions in Section 3.1 of the By-Laws, that the person presiding over a meeting must be a chairman of the meeting who shall be an officer or director of the Corporation.[32] The Exchange believes this proposed change enhances the clarity of Section 3.4 by specifying, consistent with the advance notice provisions under Section 3.1 of the By-Laws, that the chairman and presiding person of the meeting must be an officer or director of the Corporation. Section 3.4 also provides in part that the person presiding over a meeting shall have the right to, among other things, convene and adjourn the meeting.[33] The Exchange proposes to clarify that the presiding person also shall have the right to recess the meeting for any or no reason.[34] The Exchange believes this proposed change will make explicit that the presiding person's rights with respect to the conduct of the meeting includes the right to recess the meeting for any or no reason, thereby enhancing the clarity and transparency of this rule.

Section 3.6(d) of the By-Laws governs the amount of shares that a stockholder must own to invoke proxy access. Section 3.6(d) provides in part that ''[w]hether outstanding shares of the common stock of the Corporation are 'owned' for these purposes shall be determined by the Board or any committee thereof, in each case, in its sole discretion.'' [35] The Exchange proposes to amend Section 3.6(d) to delete therefrom the words ''in each case, in its sole discretion.'' [36] The Exchange further proposes to remove from Section 3.6(h)(ii), Section 3.6(h)(viii), Section 3.6(i)(i), and Section 3.6(k) of the By-Laws similar references to the finality or ''binding'' nature of decisions by the Board (or persons authorized by the Board), any committee thereof, or the chairman of a meeting of stockholders.[37] These proposed changes align the By-Laws with current practice because provisions that purport to assign a binding effect to or otherwise finality to the decisions of the Board—such as those proposed to be deleted—are likely targets by litigants who argue that such provisions unlawfully purport to foreclose judicial review.

Finally, Section 3.6(m) provides that Section 3.6 shall be the exclusive method for stockholders to include nominees for director in the Corporation's proxy materials. The Exchange proposes to amend Section 3.6(m) to provide an exception for nominees for director in the Corporation's proxy materials submitted pursuant to, and in compliance with, the Commission's universal proxy rule.[38] The proposed changes to Section 3.6(m) align the By-Laws with current practice by providing that, in addition to the exclusive method set out in Section 3.6 of the By-Laws, stockholders may also include nominees for such purposes pursuant to and consistent with requirements under the SEC's universal proxy rule.[39]

(ii) Article IV Board of Directors

Section 4.3 of Article IV of the By-Laws governs qualifications for Directors of the Corporation. This section currently provides in part the Board may include at least one, but not more than two, Issuer Directors. The Exchange proposes to amend Section 4.3 to remove limitations on the number Issuers Directors on the Board.[40] The proposed change would provide the Corporation with greater flexibility with respect to the number of Issuer Directors that may be members of the Board, as NASDAQ is frequently in search of officers of NASDAQ-listed companies to join the Board.

Section 4.9 of the By-Laws governs quorum and voting. Section 4.9 provides in part that, in general, a quorum for the transaction of all business at all meetings of the Board shall consist of a majority of the Board.[41] The Exchange proposes to make a clarifying change to specify that for purposes of this section, a majority of the Board, means a majority of the total numbers of directors constituting the Board.[42] The Exchange believes this proposed change would provide greater clarity to and facilitate the application of this provision. The Exchange further proposes to amend Section 4.9 to clarify the process through which notice of meetings adjourned to another time and place may be given to each member of the Board.[43] Specifically, the Exchange proposes to clarify in Section 4.9 that in

[32] *See* proposed Section 3.4 of the By-Laws. To effect this change, the Exchange proposes to insert, in the first full sentence of Section 3.4 and immediately after ''shall be announced at the meeting by the'' the words ''chairman of the meeting who shall be an officer or director of the Corporation and who shall be the.'' *See id.*

[33] *See* Section 3.4 of the By-Laws.

[34] *See* proposed Section 3.4 of the By-Laws.

[35] *See* Section 3.6(d) of the By-Laws.

[36] *See* proposed Section 3.6(d) of the By-Laws.

[37] *See* proposed Section 3.6(h)(ii), Section 3.6(h)(viii), Section 3.6(i)(i), and Section 3.6(k) of the By-Laws.

[38] To effect this proposed change, the Exchange proposes to add immediately after the conclusion of current Section 3.6(m) the words ''other than nominees included pursuant to, and in compliance with, Section 14a–19 of the Act.'' *See* proposed Section 3.6(m) of the By-Laws.

[39] *See* proposed Section 3.6(m) of the By-Laws.

[40] To effect this change, the Exchange proposes to delete from Section 4.3 of the By-Laws the words ''at least one, but no more than two.'' *See* proposed Section 4.3 of the By-Laws.

[41] *See* Section 4.9 of the By-Laws.

[42] *See* proposed Section 4.9 of the By-Laws.

[43] *See* proposed Section 4.9 of the By-Laws.

the absence of a quorum, a majority of the Directors present may adjourn the meeting to another time and place, and that notice of the time, place and purposes of any such adjourned meeting will be given in accordance with the By-Laws.[44] The Exchange further proposes to clarify that, if the notice of such adjourned meeting is announced at the meeting at which the adjournment is taken, notice need only be given to the Directors not present at such meeting.[45] The Exchange believes this proposed change would provide greater clarity to the By-Laws by providing a clear and practical process for giving notices of adjournments to members of the Board.

Section 4.12 of the By-Laws governs the process for providing notice of any meeting to Directors of the Board as well as related waivers of such notice. The Exchange proposes to amend Section 4.12 to remove obsolete references to certain modes of communication (both for transmission and confirmation of receipt) other than facsimile, email, or other means of electronic transmission.[46] The Exchange believes this proposed change would provide greater clarity to and facilitate the application of this provision by eliminating modes of communications, such as telegram, telefax, cable, and radio, that are no longer in use. In addition, the proposed amendments reflect current practices, as a substantial amount of communications between NASDAQ and its directors outside of Board meetings occurs in electronic form.

Section 4.13 of the By-Laws governs matters relating to committees of the Board. The Exchange proposes to amend Section 4.13(a) of the By-Laws to specify that the Corporation has opted into Section141(c)(2) of Delaware law.[47] Section 141(c) of Delaware law describes the formation and powers of board committees. Opting into Section 141(c)(2) of Delaware law is a common and recommended practice for Delaware corporations such as NASDAQ, in part because it provides corporations with greater flexibility with respect to the formation and powers of board committees, such as by allowing greater delegations of authority, including as it relates to setting terms of stock. The Exchange believes that opting into Section 141(c)(2) is appropriate to provide the Corporation with greater flexibility with respect to the functions and powers of committees of the Board.

The Exchange further proposes to amend Section 4.13 of the By-Laws to remove from Section 4.13(c) limitations on the ability of committees to take certain actions, such as the authorization of preferred stock designations. As a substitute for that limiting language, the Exchange proposes to insert new text in Section 4.13(c) of the By-Laws that would conform this subsection with the Delaware General Corporation Law, which removes limitations on the ability of committees to take certain actions, such as the authorization of preferred stock designations, as it relates to the powers of committees of the Board.[48] Consistent with proposed changes for Section 4.13(a), the Exchange believes this proposed change to Section 4.13(c) of the By-Laws would align this provision with current Delaware General Corporation Law, thereby updating the By-Laws as well as providing the Corporation with greater flexibility with respect to committees of the Board.

The Exchange proposes to amend Section 4.13(d)–(g) of the By-Laws to remove all references to limitations on the terms of committee members.[49] To effect that change, the Exchange proposes to (1) remove from Section 4.13(d) of the By-Laws the words ''[a]n Executive Committee member shall hold office for a term of one year'';[50] (2) remove from Section 4.13(e) of the By-Laws the words ''[a] Finance Committee member shall hold office for a term of one year'';[51] (3) remove from Section 4.13(f) of the By-Laws the words ''[a] Management Compensation Committee member shall hold office for a term of one year'';[52] and (4) remove from Section 4.13(g) of By-Laws the words ''an Audit Committee member shall hold office for a term of one year.''[53] The Exchange believes that deleting all references to committee members having a limited term is appropriate because term limits are not customary in by-laws as they create unnecessary administrative burdens for and limit the flexibility of a board. The Exchange notes that the proposed changes also align the By-Laws with current practice as the typical practice of the Board is to provide, in the annual resolutions regarding committee appointments, that committee members are appointed for one year or until their successors are duly elected.

The Exchange further proposes to amend Section 4.13(g) of the By-Laws to delete language specifying the Chair of the Audit Committee must be a Public Director.[54] The Exchange believes that this proposed change would eliminate unnecessary restrictions regarding, as well as provide the Corporation with greater flexibility with respect to, those who may serve as Audit Committee Chair since the Chair of the Audit Committee must in any event satisfy the independence standards in SEC as well as NASDAQ rules.[55] The proposed change would, for example, allow an issuer representative to be appointed as Chair of the Audit Committee. Finally, the Exchange proposes a non-substantive, clarifying change to Section 4.13(g) to provide that the Audit and Risk Committee (or such committee as the same may be renamed from time to time or any successor of such committee

[44] *See* proposed Section 4.9 of the By-Laws.

[45] *See* proposed Section 4.9 of the By-Laws. The Exchange proposes to make a conforming change to Section 4.9 to delete from the second full sentence thereof the words ''until a quorum be present.'' *See id.*

[46] *See* proposed Section 4.12(a)–(b) of the By-Laws. To effect this change, the Exchange proposes to (1) delete from Section 4.12(a)(ii) the words ''telegraph, telefax, cable, radio, wireless'' and substitute therefor the word ''facsimile''; (2) delete from Section 4.12(a)(ii) the word ''written''; and (3) delete from Section 4.12(b) the parenthetical ''(or by telegram, telefax, cable, radio, wireless, email or other means of written electronic transmission and subsequently confirmed in writing or by electronic transmission).'' *See id.*

[47] *See* proposed Section 4.13(a) of the By-Laws. To effect this change, the Exchange proposes to insert, as the first full sentence in Section 4.13(a) the words ''The Corporation has opted into Section 141(c)(2) of Delaware law.'' *See id.*

[48] *See* proposed Section 4.13(c) of the By-Laws. To effect this change, the Exchange proposes to delete from Section 4.13(c) the words ''amending the Restated Certificate of Incorporation or the By-Laws of the Corporation; adopting an agreement of merger or consolidation; recommending to the stockholders the sale, lease, or exchange of all or substantially all the Corporation's property and assets; or recommending to the stockholders a dissolution of the Corporation or a revocation of a dissolution. Unless the resolution of the Board expressly so provides, no committee shall have the power or authority to authorize the issuance of stock.'' The Exchange further proposes to amend Section 4.13(c) to insert, immediately after the words ''no committee shall have the power or authority of the Board with regard to:'' the following: ''(a) approving or adopting, or recommending to the stockholders, any action or matter (other than the election or removal of directors) expressly required by Delaware law to be submitted to stockholders for approval or (b) adopting, amending or repealing any By-Law of the Corporation.'' *See id.*

[49] *See* Section 4.13(d)–(g) of By-Laws.

[50] *See* proposed Section 4.13(d) of By-Laws.

[51] *See* proposed Section 4.13(e) of the By-Laws.

[52] *See* proposed Section 4.13(f) of the By-Laws.

[53] *See* proposed Section 4.13(g) of the By-Laws.

[54] See proposed Section 4.13(g) of the By-Laws.

[55] *See* proposed Section 4.13(g) of the By-Laws. To effect this change, the Exchange proposes to insert in the first full sentence of Section 4.13(g) of the By-Laws and immediately after the words ''[t]he Audit'' the words and symbol ''& Risk'' and further insert, immediately following the word ''Committee'' a parenthetical reading as follows: ''(such committee as the same may be renamed from time to time or any successor of such committee delegated with similar duties, the ''Audit Committee'').''The Exchange also proposes to renumber Section 4.13(g)(i) to delete the ''(i)'' and subsume the text of Section 4.13(g)(i) with that of proposed Section 4.13(g). *See* proposed Section 4.13(g) of the By-Laws.

delegated with similar duties) shall be known as the ''Audit Committee.'' [56] The Exchange believes these proposed changes to Section 4.13(g) would provide greater flexibility to the Corporation with respect to those that may serve as Chair of the Audit Committee as well as enhance the clarity of and thus facilitate the application of the By-Laws by making the term ''Audit Committee'' a more clearly defined term.

The Exchange proposes to amend Section 4.13(h)(ii) of the By-Laws to remove language providing that a ''majority vote of'' the Board is required to remove a member of the Nominating & Governance Committee.[57] This change removes duplicative language and reduces potential confusion since the voting standards for all decisions of the board are set forth separately in Section 4.9(b) of the By-Laws.

Section 4.13(j) of the By-Laws provides that, in general, a majority of a committee shall constitute a quorum for the transaction of business.[58] The Exchange proposes to amend Section 4.13(j) to specify that a majority of the members of a committee then serving in office (rather than a majority of total directors on the committee as Section 4.13(j) currently provides) shall constitute a quorum for the transactions of business.[59] The Exchange believes this proposed change would remove barriers to and facilitate the work of Board committees since a vacancy in a committee would not be a barrier to action, as the quorum would be based on the directors then serving rather than the total number of directors on the committee.

(iii) Article VII Officers, Agents, and Employees

Article VII of the By-Laws governs matters relating to the officers, agents, and employees of the Corporation. The Exchange proposes to amend certain provisions in Article VII to delete references to a corporate structure that no longer reflects the structure at NASDAQ. Specifically, Article VII generally envisions a corporate structure where a President is a director and/or has executive authority over the entire company. The Exchange proposes to amend certain sections of Article VII to delete references to such a structure and replace them with language suited for a corporate structure with multiple presidents, such as the current structure of NASDAQ. To effect these changes, the Exchange proposes to amend several provisions of Article VII as follows.

Section 7.1 of the By-Laws governs matters relating to the principal officers of the Corporation. Section 7.1 specifies the principal officers to be elected by the Board, including, among others, a Chair and a President. The Exchange proposes to amend Section 7.1 to provide that the principal officers to be elected by the Board may—rather than must—include the roles set out in Section 7.1. The Exchange further proposes to amend Section 7.1 to provide that one or more Presidents, rather than only a President, may elected by the Board, among other principal officers. Section 7.1 further provides that in part that one person may not hold the offices and perform the duties of both President and Vice President or of President and Secretary. The Exchange proposes to amend Section 7.1 of the By-Laws to delete references to ''President and Vice President or of President'' and substitute therefor the words ''Chief Executive Officer.'' [60] As thus proposed, one person could not hold the offices and perform the duties of both Chief Executive Officer and Secretary (rather than of President and Vice President or of President and Secretary).[61]

For the reasons discussed above in connection with Article VII of the By-Laws more broadly, the Exchange further proposes to amend Section 7.3 (Subordinate Officers, Agents, or Employees), Section 7.5 (Resignation and Removal of Officers), Section 7.9 (President), Section 7.10 (Vice President), Section 7.11 (Secretary), and Section 7.13 (Treasurer) of the By-Laws as follows.

First, the Exchange proposes to delete from Sections 7.3 and 7.5(a) of the By-Laws the following: '', the President.''

With respect to Section 7.9 of the By-Laws, the Exchange proposes to (1) delete the words ''[t]he President shall, in the absence of the Chair of the Board and the Chief Executive Officer, preside at all meetings of the Board and stockholders at which the President is present. The President shall have general supervision over the business and affairs of the Corporation,'' substituting therefor the words ''The Board or the Chief Executive Officer may appoint one or more Presidents and each.'' The Exchange would further amend Section 7.9 to (1) delete from its final sentence the word ''The'' replacing it with ''Each''; (2) delete also from that final sentence the word ''the'' and replacing it with ''such''; and (3) insert, also in that final sentence and immediately after ''the Board'' the words ''or the Chief Executive Officer.''

With respect to Section 7.11 and Section 7.13 of the By-Laws, the Exchange proposes to amend these two sections to delete, from their respective final sentences, the words ''or the President,'' substituting therefore the words ''or any other person delegated such power by the Board or Chief Executive Officer.'' Consistent with similarly proposed changes to Article VII of the By-Laws, the Exchange believes that the proposed changes to Sections 7.11 and Section 7.13 of the By-Laws would remove impediments to the proper administration of the By-Laws as they would more closely align such By-Laws with the current corporate structure at NASDAQ as well as provide the Corporation with greater flexibility in the application of these provisions.

The Exchange believes the proposed changes to these provisions of Article VII of the By-Laws would enhance the transparency of and facilitate the application of the By-Laws because they replace obsolete or inaccurate textual references to an outdated corporate structure with updated text designed to more closely reflect the current structure of NASDAQ.

Section 7.10 of the By-Laws governs the selection of Vice Presidents. The Exchange proposes to amend Section 7.10 of the By-Laws to provide greater clarity with respect to the duties of as well as the process for selecting Vice Presidents of the Corporation. Specifically, the Exchange proposes to amend Section 7.10 of the By-Laws to provide that the Board, the Chief Executive Officer or any other person delegated such power by the Board or Chief Executive Officer, may appoint one or more Vice Presidents. The Exchange further proposes to clarify that, any Vice President may have such additional designations in such Vice President's title as the Board, the Chief Executive Officer, or the authorized person appointing such Vice President may determine.[62] As proposed, each Vice President would have all powers and duties usually incident to the office of a Vice President, except as specifically limited by the Board, the Chief Executive Officer or the authorized person appointing such Vice President.[63] The Exchange also proposes to clarify in the next to final sentence of Section 7.10 that, in addition to the Board and the Chief Executive, as provided under this

[56] *See* proposed Section 4.13(g) of the By-Laws.

[57] *See* Section 4.13(h) of the By-Laws.

[58] *See* Section 4.13(j) of the By-Laws.

[59] *See* proposed Section 4.13(j) of the By-Laws.

[60] *See* proposed Section 7.1 of the By-Laws.

[61] *See* proposed Section 7.1 of the By-Laws.

[62] *See* proposed Section 7.10 of the By-Laws.

[63] *See* proposed Section 7.10 of the By-Laws.

section, the authorized person appointing such Vice President may also assign such Vice President other duties and powers as the Vice Presidents shall be authorized to exercise and perform pursuant to the By-Laws.[64] The Exchange believes that the proposed changes to Section 7.10 of the By-Laws would provide greater clarity with respect to the duties of and the process for selecting the Vice Presidents, thereby facilitating the application of the By-Laws with respect to Vice Presidents of the Corporation.

(iv) Article VIII Indemnification

Section 8.1 of Article VIII of the By-Laws governs indemnification of Directors, officers, employees, and agents of the Corporation. Subsection (j) of Section 8.1 addresses circumstances in which a claim for indemnification or advancement of expenses is not paid in full within 60 days after a written claim under this provision has been received by the Corporation. The Exchange proposes to amend Section 8.1(j) to clarify that the Corporation will not be required to pay claims or expenses under this provision if prohibited by law. To effect this change, the Exchange proposes to insert within the first full sentence and immediately after ''[the indemnified person] shall be entitled to be paid the expense of prosecuting such claim'' the words ''to the fullest extent permitted by law.'' [65] The Exchange believes this proposed change is appropriate as it would enhance the clarity of this provision by specifying that the extent of the Corporation's obligation to pay claims or expenses under this provision is limited to those claims or expenses not prohibited by law.

(v) IX Capital Stock

Section 9.2(a) of Article IX of the By-Laws governs requirements for signatures on stock certificates of the Corporation. Section 9.2(a) provides in part that shares of capital stock of the Corporation represented by certificates shall be signed in the name of the Corporation by two officers, with one being the Chair of the Board, the Chief Executive Officer, the President, or a Vice President, and the other being the Secretary, the Treasurer, or such other officer that may be authorized by the Board.

The Exchange proposes to amend Section 9.2(a) to broaden the scope of officers authorized to sign stock certificates. Specifically, the Exchange proposes to provide that Shares of capital stock of the Corporation represented by certificates shall be signed in the name of the Corporation by two authorized officers which shall include, without limitation, the Chair of the Board, the Chief Executive Officer, the President, any Vice President, the Secretary, and the Treasurer.[66] The Exchange believes the proposed changes to Section 9.2(a) would remove unnecessary limitations on officers authorized to sign stock certificates thereby providing greater flexibility in the By-Laws with respect to officers authorized to perform this important function.

Section 9.3 of the By-Laws governs matters relating to holders of record as shown on the stock ledger of the Corporation. Section 9.3(b) of the By-Laws provides that the Corporation shall be entitled to treat the holder of record of shares of capital stock as shown on the stock ledger as the owner thereof and as the person entitled to vote such shares and to receive notice of meetings, and for all other purposes. That subsection further provides that the Corporation shall not be bound to recognize any equitable or other claim to or interest in any share of capital stock on the part of any other person, whether or not the Corporation shall have express or other notice thereof.[67] The Exchange proposes to amend Section 9.3(b) to provide for the possibility that applicable law might require a different outcome. Specifically, the Exchange proposes to provide that the Corporation shall, to the fullest extent permitted by law, be entitled to treat the holder of record of shares of capital stock as shown on the stock ledger as the owner thereof and as the person entitled to vote such shares and to receive notice of meetings, and for all other purposes. As further proposed, Section 9.3 would provide that the Corporation shall not be bound to recognize any equitable or other claim to or interest in any share of capital stock on the part of any other person, whether or not the Corporation shall have express or other notice thereof, except as required by law.[68] The Exchange believes the proposed changes to Section 9.3 of the By-Laws would ensure the enforceability of this provision by recognizing that there may be circumstances where its application would be subject to and possibly limited or otherwise affected by applicable law.

Section 9.6 of the By-Laws governs matters relating to lost, stolen, destroyed, and mutilated certificates for shares of stock of the Corporation. Section 9.6 sets out procedures for addressing the issuance of a new certificate or uncertified shares in the event that any certificate for stock of the Corporation becomes mutilated, lost, stolen, or destroyed. The Exchange proposes to amend Section 9.6 to delete language providing that the Board or a committee thereof is authorized to take action to address each such instance of lost, stolen, destroyed, or mutilated certificates and in its place provide that the Corporation (rather than solely the Board) shall have the authority to do so.[69] The Exchange believes this proposed change would remove obstacles to and facilitate the reissuance of new certificates under the specified circumstances by providing that the Corporation is authorized to act under those circumstances and by removing unnecessary requirements for the Board to take action in each and every instance that that a new certificate to replace a

[64] *See* proposed Section 7.10 of the By-Laws. To effect the proposed changes to Section 7.10, the Exchange proposes to (1) delete therefrom the words ''The Board shall elect'' and substitute therefor the words ''The Board, the Chief Executive Officer or any other person delegated such power by the Board or Chief Executive Officer, may appoint''; (2) delete, from the second sentence of Section 7.10 the words ''[i]n the absence or disability of the President or if the office of President becomes vacant, the Vice Presidents in the order determined by the Board, or if no such determination has been made, in the order of their seniority, shall perform the duties and exercise the powers of the President, subject to the right of the Board at any time to extend or restrict such powers and duties or to assign them to others''; (3) insert, in the third sentence of Section 7.10 of the By-Laws and immediately following the words ''as the Board'' the words ''the Chief Executive Officer, or the authorized person appointing such Vice President''; (4) delete, from the fourth sentence of Section 7.10 the words ''The Vice Presidents shall generally assist the President in such manner as the President shall direct'' substituting therefor the words ''Each Vice President shall have all powers and duties usually incident to the office of a Vice President, except as specifically limited by the Board, the Chief Executive Officer or the authorized person appointing such Vice President.''; and (5) insert in the final sentence of Section 7.10 of the By-Laws and immediately after the words ''the Chief Executive Officer or the'' the words ''authorized person appointing such Vice.'' *See id.*

[65] *See* proposed Section 8.1(j) of the By-Laws.

[66] *See* proposed Section 9.2 of the By-Laws. To effect this change as well as make conforming changes to Section 9.2 of the By-Laws, the Exchange proposes to (1) insert, immediately after ''certificates shall be signed in the name of the Corporation by two'' the word ''authorized''; (2) insert, immediately after ''officers'' the words ''which shall include, without limitation,''; and (3) delete the words ''with one being,'' as well as ''or a,'' ''and the other being,'' and '', or such other officer that may be authorized by the Board.'' *See id.*

[67] *See* Section 9.3(b) of the By-Laws.

[68] *See* proposed Section 9.3(b) of the By-Laws.

[69] *See* proposed Section 9.6 of the By-Laws. To effect his change, the Exchange proposes to (1) delete from the fourth sentence of Section 9.6 the words ''Board or such committee'' and substitute therefor the word ''Corporation'' and (2) delete from the fifth sentence the word ''Board,'' substituting therefor the word ''Corporation.'' *See id.*

mutilated, lost, stolen, or destroyed certificate is sought.

(vi) Article X Miscellaneous Provisions

Section 10.4 of Article X of the By-Laws governs procedures relating to the execution of instruments, contracts, and the like. The Exchange proposes to delete Section 10.4 in its entirety and provide new text to better align the provisions of this section with Nasdaq's policies and procedures on signature authority. Specifically, the Exchange proposes to provide that, except as otherwise provided by law, all contracts and other documents requiring signature entered into by or on behalf of the Corporation, including, without limitation, all (i) checks, drafts, bills of exchange, notes, or other obligations or orders for the payment of money, (ii) deeds, bonds, mortgages, contracts, and other obligations or instruments, and (iii) applications, instruments, and papers required by any department of the United States Government or by any state, county, municipal, or other governmental authority, shall, in each case, be executed by such officer(s), employee(s), agent(s), or other person(s) as the Board, a duly authorized committee thereof, or the Chief Executive Officer may designate from time to time. As further proposed, the authority to execute any contract or document in the name and on behalf of the Corporation granted in accordance with this Section may (1) be general or confined to specific instances, (2) be designated by name, title, or role, (3) include the power to delegate signature authority further to one or more other persons, whether by name, title, or role, to the extent authorized by the Board, a duly authorized committee thereof, or the Chief Executive Officer, and (4) be revoked at any time by the Board, any committee thereof, or the Chief Executive Officer.[70] The Exchange believes that the proposed changes to Section 10.4 of the By-Laws would enhance clarity and facilitate the application of the By-Laws by removing language that has become obsolete and replacing it with provisions that more closely reflect Nasdaq's current policies and procedures on signature authority.

Section 10.5 of the By-Laws governs the form of records of the Corporation. The Exchange proposes to delete Section 10.5 in its entirety and insert in its place new text that would conform this provision with the updated Delaware statute governing signature authority. Specifically, the Exchange proposes to provide that any records administered by or on behalf of the Corporation in the regular course of its business, including its stock ledger, books of account, and minute books, may be kept on, or by means of, or be in the form of, any information storage device, method, or one or more electronic networks or databases (including one or more distributed electronic networks or databases), provided that the records so kept can be converted into clearly legible paper form within a reasonable time and otherwise comply with applicable law.[71]

(vii) Article XI Amendments; Emergency By-Laws

Section 11.4 of Article XI of the By-Laws addresses the adoption of emergency by-laws. The Exchange proposes to update Section 11.4 to reflect amendments to the emergency by-law provision of the Delaware General Corporation Law. Specifically, the Exchange proposes to provide that as provided in Section 11.4, the Board may adopt emergency by-laws which shall be operative during any emergency resulting from ''any emergency resulting from an attack on the United States or on a locality in which the Corporation conducts its business or customarily holds meetings of its Board of Directors or its stockholders, or during any nuclear or atomic disaster or during the existence of any catastrophe, including, but not limited to, an epidemic or pandemic, and a declaration of a national emergency by the United States government, or other similar emergency condition, irrespective of whether a quorum of the Board of Directors or a standing committee thereof can be readily convened for action.'' [72] In addition, and consistent with Delaware General Corporation Law, the Exchange proposes to update Section 11.4 to provide, in a final sentence to Section 11.4 of the By-Laws, that ''[n]othing contained in this Section 11.4 shall be deemed exclusive of any other provisions for emergency powers consistent with other sections of Delaware law which have been or may be adopted by corporations created under Delaware law.'' [73]

(viii) Article XIII Forum Selection

The Exchange proposes to adopt new language to provide the By-Laws with a customary forum selection provision. To effect this change, the Exchange proposes to add a new Article XIII titled ''Forum Selection'' providing as follows: [74]

> Unless the Corporation consents in writing to the selection of an alternative forum, (A) (i) any derivative action or proceeding brought on behalf of the Corporation, (ii) any action asserting a claim of breach of a fiduciary duty owed by any current or former director, officer, other employee or stockholder of the Corporation to the Corporation or the Corporation's stockholders, (iii) any action asserting a claim arising pursuant to any provision of Delaware law, the Restated Certificate of Incorporation or these By-Laws (as either may be amended or restated) or as to which Delaware law confers jurisdiction on the Court of Chancery of the State of Delaware or (iv) any action asserting a claim governed by the internal affairs doctrine of the law of the State of Delaware shall, to the fullest extent permitted by law, be exclusively brought in the Court of Chancery of the State of Delaware or, if such court does not have subject matter jurisdiction thereof, the federal district court of the State of Delaware; and (B) the federal district courts of the United States shall be the exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act of 1933, as amended. Notwithstanding the foregoing, This Section 13.1 shall not apply to claims seeking to enforce any liability or duty created by the Act. To the fullest extent permitted by law, any person or entity purchasing or otherwise acquiring or holding any interest in shares of capital stock of the Corporation shall be deemed to have notice of and consented to the provisions of this Section 13.1.

The Exchange believes that this proposed addition of Article XIII to the By-Laws is appropriate as it would provide the Corporation as well as litigants with greater certainty with respect to the applicable judicial forum for addressing claims or actions involving the Corporation.[75]

(ix) Non-Substantive Changes

The remaining proposed amendments to the By-Laws are non-substantive

[70] *See* proposed Section 10.4 of the By-Laws.

[71] *See* proposed Section 10.5 of the By-Laws.

[72] *See* proposed Section 11.4 of the By-Laws.

[73] *See* proposed Section 11.4 of the By-Laws. The Exchange further proposes to delete from Section 11.4 the following language as it has become obsolete: ''nuclear or atomic disaster, an attack on the United States or on a locality in which the Corporation conducts its business or customarily holds meetings of the Board or the stockholders, any catastrophe, or other emergency condition, as a result of which a quorum of the Board or a committee thereof cannot readily be convened for action.'' *See id.*

[74] *See* proposed Article XIII of the By-Laws.

[75] The Exchange notes that the bylaws of Cboe Global Markets, Inc. as well as those of CME Group, Inc., contain forum selection provisions similar to those proposed by the Exchange. *See* Article 11 (''Forum for Adjudication of Disputes'') of the Eight Amended and Restated Bylaws of Cboe Global Markets, Inc. (2024) *https://s202.q4cdn.com/174824971/files/doc_governance/2024/Dec/04/Cboe-Global-Markets-Eighth-AR-Bylaws-2ffa4c.pdf;* Article IX, Section 9.1 (''Forum for Adjudication of Certain Disputes'') of the Seventeenth Amended and Restated Bylaws of CME Group, Inc. (2022) *https://www.sec.gov/Archives/edgar/data/1156375/000119312522301477/d412380dex31.htm.*

changes designed to simplify and streamline the document. Specifically, the Exchange proposes to (1) amend Article I(k) and Article I(m) to correct typographical errors by deleting a period and substituting in its place a semicolon and by inserting a missing parenthesis respectively; (2) make non-substantive clarifying changes to subparagraph (p) of Article I; (3) amend Article I(s) to correct a typographical error by removing a period after ''and;'' and (4) delete from Section 3.1(a) the term ''shareholder'' and substitute therefor the word ''stockholder.'' the latter which more closely reflects established terminology of the By-Laws. The Exchange believes the proposed non-substantive changes are either administrative or clarifying in nature, and that, as such, they are in the public interest as they are designed to avoid confusion with respect to the operation of the By-Laws thus facilitating their use.

2. Statutory Basis

The Exchange believes that the proposed changes are consistent with Section 6(b) of the Act,[76] in general, and furthers the objectives of Section 6(b)(1) of the Act,[77] in particular, in that they enable the Exchange to be so organized so as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. The Exchange also believes that the proposed changes are consistent with Section 6(b) of the Act,[78] in general, and furthers the objectives of Section 6(b)(5) of the Act,[79] in particular, in that they are 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.

(a) Proposed Changes to the Certificate

The Exchange believes the proposed changes to paragraphs A and B of Article Sixth of the Certificate are in the public interest as they would update the Certificate, consistent with developments in Delaware General Corporation Law that enable companies incorporated in Delaware, such as NASDAQ, to limit the liability of certain of their officers in narrow circumstances, as discussed above. The Exchange notes that amendments providing for officer exculpation are increasingly common for public companies, and that the number of shareholder proposals calling for such amendments have continued to increase since 2022 when the Delaware law was passed.[80]

(b) Proposed Changes to the By-Laws

The Exchange believes that changes proposed for Article III of the By-Laws are in the public interest as they would update the By-Laws and conform them to current practices and developments in the law with respect to corporate matters such as procedures governing the annual and special meetings of stockholders, the conduct of such meetings, and the invocation of proxy access. The proposed changes to Article IV of the By-Laws are either clarifying in nature or otherwise purport to refine governance practices by providing the Corporation with greater flexibility with respect to such matters as the qualifications of Directors, quorum and voting, or otherwise update such provisions to make them more consistent with current governance practices as well as the policies and procedures of NASDAQ. The Exchange believes that proposed changes to Articles VII through XIII are in the public interest and consistent with the protection of investors as they are designed to accomplish several objectives, including updating the By-Laws to conform with current practices or recent developments in Delaware General Corporation Law, aligning the By-Laws with current NASDAQ policies and procedures, and enhancing the clarity of the By-Laws thus facilitating their proper application and use. Finally, the remaining changes can be characterized as non-substantive, because they are designed to either correct typographical errors, conform NASDAQ governance documents to terminology in the By-Laws, remove obsolete text, or otherwise make non-substantive revisions to the By-Laws to make them clearer and easier to use.

B. Self-Regulatory Organization's Statement on Burden on Competition

Because the proposed rule change relates to the governance of NASDAQ and not to the operations of the Exchange, 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.

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

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 (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NASDAQ–2025–080 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–NASDAQ–2025–080. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NASDAQ–2025–080

[76] 15 U.S.C. 78f(b).
[77] 15 U.S.C. 78f(b)(1).
[78] 15 U.S.C. 78f(b).
[79] 15 U.S.C. 78f(b)(5).
[80] *See supra* note 3 and accompanying text.

and should be submitted on or before October 22, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[81]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–19105 Filed 9–30–25; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104110; File No. SR–BX–2025–024]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing of a Proposed Rule Change To Amend the Amended and Restated Certificate of Incorporation and By-Laws of Its Parent Corporation, Nasdaq, Inc.

September 26, 2025.

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 September 26, 2025, Nasdaq BX, Inc. (''BX'' 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 publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Amended and Restated Certificate of Incorporation (''Certificate'') and By-Laws (''By-Laws'') of its parent corporation, Nasdaq, Inc. (''NASDAQ'' or ''Corporation''). The proposed changes would align the Certificate with certain amendments to the Delaware General Corporation Law as well as update the By-Laws to reflect recent changes in law and best practices, as discussed below.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/bx/rulefilings* and at the principal office of the Exchange.

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 is proposing to update the Certificate to reflect certain amendments to the Delaware General Corporation Law. The Exchange is also proposing to update the By-Laws to reflect recent changes in law and best practices as discussed below.

(a) Proposed Amendments to the Certificate

(1) Background

On April 23, 2025, NASDAQ's Board of Directors approved proposed amendments to the Certificate to provide for limited officer exculpation. On June 11, 2025, NASDAQ held its Annual Meeting of Stockholders, during which its stockholders considered and approved the Certificate amendments. In 2022, Delaware amended the Delaware General Corporation Law to enable companies incorporated in Delaware, such as NASDAQ, to limit the liability of certain of their officers in narrow circumstances. This change was made to address situations where directors would be dismissed from litigation, but the officers, who were not exculpated, had to continue in the litigation to show their actions were not grossly negligent. Generally, this issue arises in the mergers and acquisitions context and often relates to claims that a particular disclosure document was deficient.

The Certificate amendment would exculpate covered officers from monetary liability for breach of the duty of care in a manner similar to that already permitted for directors. However, it would not exculpate such officers in connection with derivative actions. Failing to adopt the Certificate amendment could potentially expose the Company to higher litigation expenses associated with lawsuits, regardless of merit, and/or impact the Company's recruitment and retention of exceptional officer candidates who conclude that the potential exposure to liabilities, costs of defense, and other risks of proceedings exceed the benefits of serving as one of the Company's officers. The Exchange notes that amendments providing for officer exculpation are increasingly common for public companies, and that the number of shareholder proposals calling for such amendments—the majority of which have been approved by wide margins—have continued to increase since 2022 when the Delaware law was passed.[3]

Under NASDAQ'S Certificate and By-Laws, the Exchange must determine whether proposed amendments to the Certificate must be filed with the Commission prior to taking effect. On April 30, 2025, the Board of the Exchange determined that the proposed amendments to the Certificate must be filed with the Commission.

(2) Proposed Amendments

To effect the changes discussed above, the Exchange proposes to amend Article Sixth of NASDAQ's Amended and Restated Certificate of Incorporation as follows. Paragraph A of Article Sixth of the Certificate provides that ''[a] director of Nasdaq shall not be liable to Nasdaq or its stockholders for monetary damages for breach of fiduciary duty as a director, except to the extent that such exemption from liability or limitation thereof is not permitted under the General Corporation Law of the State of Delaware as the same exists or may hereafter be amended.'' Paragraph B of Article Sixth provides that ''[a]ny repeal or modification of paragraph A shall not adversely affect any right or protection of a director of Nasdaq existing hereunder with respect to any act or omission occurring prior to such repeal or modification.'' In each of these provisions, the Exchange proposes to add, after each instance of the word ''director,'' the words ''or officer.'' [4]

The Exchange believes the proposed changes to paragraphs A and B of Article Sixth of the Certificate would update the Certificate to reflect

[81] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See, e.g.,* Andrew J. Noreuil and Andrew J. Stanger, *Developments and Trends in Delaware Officer Exculpation Charter Amendments,* Harv. L. Sch. F. On Corp. Governance (June 14, 2024), *https://corpgov.law.harvard.edu/2024/06/14/developments-and-trends-in-delaware-officer-exculpation-charter-amendments/;* Megan W. Shaner, *Understanding Officer Exculpation Under the MBCA Amendments,* Bus. L. Today (Nov. 19, 2024) *https://businesslawtoday.org/2024/11/understanding-officer-exculpation-mbca-amendments/.*

[4] *See* proposed Article Sixth of the Certificate.

amendments to the Delaware General Corporation Law [5] that enable companies incorporated in Delaware, such as NASDAQ, to limit the liability of certain of their officers in narrow circumstances, as discussed above.

(b) Proposed Amendments to the By-Laws

(1) Background

On April 23, 2025, NASDAQ's Board of Directors approved proposed amendments to the By-Laws to reflect changes in law and best practices that have occurred since the most recent amendments to the By-Laws in 2016. As discussed above, under NASDAQ's Certificate and By-Laws, the Exchange must determine whether proposed amendments to the By-Laws must be filed with the Commission prior to taking effect. On April 30, 2025, the Exchange determined that the proposed amendments to the By-Laws must be filed with the Commission.

(2) Proposed Amendments

To effect the changes discussed above, the Exchange proposes to amend the By-Laws as follows.

(i) Article III Meetings of Stockholders

Section 3.1(b) of Article III of the By-Laws sets forth the requirements for a stockholder's notice to NASDAQ of nominations or other business to be considered at an annual meeting. Section 3.1(b)(i) of the By-Laws currently sets forth the information that a stockholder must provide to NASDAQ about each person whom the stockholder proposes to nominate for election as a director. Section 3.1(b)(i) of the By-Laws provides in part that the Corporation may require any proposed nominee to furnish such other information it may reasonably require to determine the eligibility of such proposed nominee to serve as director of the Corporation or that could be material to a reasonable stockholder's understanding of the independence, or lack of independence, of such proposed nominee.[6] The Exchange proposes to amend Section 3.1(b)(i) to narrow the scope of information that may be requested under this provision. Specifically, the Exchange proposes to provide that the Corporation may require any proposed nominee to furnish such other information as it may reasonably require to determine whether the-proposed nominee is qualified under the Restated Certificate of Incorporation, the By-Laws, the rules and regulations of any stock exchange applicable to the Corporation, or any law or regulation applicable to the Corporation to serve as a director and/or independent director of the Corporation.[7] The Exchange believes that the proposed changes address concerns that the current provision is unnecessarily open-ended by limiting the information that may be requested to information on the nominee's qualifications to serve as director and/or independent director of the Corporation. The Exchange also proposes certain clarifying changes to Section 3.1(b)(i) of the By-Laws. Specifically, the Exchange proposes to insert, in its first full sentence, the word ''Corporation's'' and the words ''of such Proposing Person and in the accompanying proxy card.'' [8] The Exchange believes these proposed non-substantive changes would facilitate the application of this provision by rendering it more specific and clearer to understand.

Section 3.1(b) of the By-Laws sets forth requirements for notices from a Proposing Person [9] to NASDAQ regarding nominations or other business to be considered at an annual meeting. Section 3.1(b)(iii) of the By-Laws sets out the information required to be provided with respect to each Proposing Person. Information required to be provided under current Section 3.1(b)(iii)(C) includes ''a description of any agreement, arrangement or understanding with respect to the nomination or proposal between or among such stockholder and/or such beneficial owner, any of their respective affiliates or associates, and any others acting in concert with any of the foregoing.'' [10] The Exchange proposes to amend Section 3.1(b)(iii)(C) to delete the reference to others ''acting in concert with any of the foregoing.'' [11] The Exchange believes this proposed change is appropriate to conform the By-Laws to current practices because the ''acting in concert'' language has been challenged by plaintiffs or otherwise used in search of potential litigation targets. The Exchange thus believes it is appropriate to delete such language from the advance notice requirements under this section of the By-Laws.[12]

Section 3.1(b)(iii)(I) requires that a Proposing Person describe any significant equity interest or any Synthetic Equity Interest or Short Interest in any principal competitor of the Corporation held by such Proposing Person. The Exchange proposes to add a parenthetical stating the term ''principal competitor'' as used in this subsection shall be ''as defined for purposes of Section 8 of the Clayton Antitrust Act of 1914.'' [13] The Exchange believes that the proposed change would address a textual ambiguity in this subsection by providing greater clarity with respect to the scope of the term ''principal competitor,'' which the current subsection does not define.

Section 3.1(b)(iii)(J) further requires a Proposing Person to describe any direct or indirect interest of such Proposing Person in any contract with the

[5] *See* 8 Del. C. Section 102(b)(7).

[6] *See* Section 3.1(b)(1) of the By-Laws. As discussed below, the Exchange is also proposing a non-substantive change to Section 3.1(a) of the By-Laws to delete the term ''shareholder'' and substitute therefor the word ''stockholder'' to more closely track established terminology of the By-Laws and thus make them clearer and easier to understand. *See* proposed Section 3.1(a) of the By-Laws.

[7] To effect these changes, the Exchange proposes to delete, from the final sentence of Section 3.1(b)(i) the following: (1) the romanette (i); (2) the words ''eligibility of such''; and (3) the phrase ''or (ii) that could be material to a reasonable stockholder's understanding of the independence, or lack of independence, of such proposed nominee.'' Further, the Exchange proposes to amend the final sentence of Section 3.1(b)(i) of the By-Laws as follows: (1) insert, immediately after the words ''to determine'' the word ''whether''; (2) insert, immediately after ''proposed nominee, the words ''is qualified under the Restated Certificate of Incorporation, these By-Laws, the rules and regulations of any stock exchange applicable to the Corporation, or any law or regulation applicable to the Corporation''; and (3) insert, immediately after the words ''to serve as a director'' the phrase ''and/or independent director.'' *See* proposed Section 3.1(b)(i) of the By-Laws. As discussed below, the Exchange is also proposing a non-substantive change to Section 3.1(a) of the By-Laws to delete therefrom the word ''shareholder'' and substitute therefor the word ''stockholder.'' *See* proposed Section 3.1(a) of the By-Laws.

[8] *See* proposed Section 3.1(b)(i) of the By-Laws. The Exchange also proposes a non-substantive change to Section 3.1(b)(i) to replace the term ''Requesting Person'' with ''Proposing Person'' as that term and not ''Requesting Person,'' is defined in the Section 3.1(c) of the By-Laws.

[9] The term '' Proposing Person'' means ''(i) the stockholder providing the notice of business or the notice of the nomination, as applicable, proposed to be brought before an annual meeting, (ii) any beneficial owner or beneficial owners, if different, on whose behalf such business is proposed to be brought before the meeting or the notice of the nomination proposed to be made at the meeting is made, as applicable, and (iii) any affiliate or associate (each within the meaning of Rule 12b–2 under the Act for purposes of these By-Laws) of such stockholder or beneficial owner.'' *See* Section 3.1(c) of the By-Laws.

[10] *See* Section 3.1(b)(iii)(C) of the By-Laws.

[11] *See* proposed Section 3.1(b)(iii)(C) of the By-Laws. The Exchange is also proposing conforming changes to express ''others'' in the singular ''other'' and to add, immediately thereafter, the word ''person.''

[12] As proposed, Section 3.1(b)(iii)(C) would require the Proposing Person to describe ''any agreement, arrangement or understanding with respect to the nomination or proposal between or among such stockholder and/or such beneficial owner, any of their respective affiliates or associates, and any other person.'' *See* proposed Section 3.1(b)(iii)(C) of the By-Laws.

[13] *See* proposed Section 3.1(b)(iii)(I) of the By-Laws.

Corporation, any affiliate of the Corporation, or any principal competitor of the Corporation (including, in any such case, any employment agreement, collective bargaining agreement or consulting agreement.[14] The Exchange proposes adding two parentheticals to this subsection. The first parenthetical would state that an ''affiliate,'' as that term is used in this subsection, would be ''as reflected on the most recent Form 10–K of the Corporation.'' [15] The second parenthetical would clarify that ''principal competitor,'' as provided in this subsection, would be ''as defined for purposes of Section 8 of the Clayton Antitrust Act of 1914.'' [16] The Exchange believes that the proposed changes would address textual ambiguities in this subsection by providing greater clarity with respect to the scope of the terms ''affiliate'' and ''principal competitor,'' which terms the current subsection does not define.

Section 3.1(b)(iii)(K) further requires Proposing Persons to describe any pending or threatened litigation in which such Proposing Person is a party or material participant involving the Corporation or any of its officers or Directors, or any affiliate of the Corporation.[17] The Exchange proposes to add a parenthetical to clarify, consistent with proposed changes to Section 3.1(b)(iii)(J), that an ''affiliate,'' as used in this subsection, shall be ''as reflected on the most recent Form 10–K of the Corporation.'' [18]

Section 3.1(b)(iii)(L) of the By-Laws requires Proposing Persons to describe any material transaction occurring, in whole or in part, during the then immediately preceding 12-month period between such Proposing Person, on the one hand, and the Corporation, any affiliate of the Corporation or any principal competitor of the Corporation. Consistent with proposed changes to Section 3.1(iii)(b)(I)–(K), the Exchange proposes adding two parentheticals: the first stating that an ''affiliate,'' as that term is used in this subsection, would be ''as reflected on the most recent Form 10–K of the Corporation;'' [19] the second would clarify that ''principal competitor,'' as provided in this subsection, would be ''as defined for purposes of Section 8 of the Clayton Antitrust Act of 1914.'' [20] The Exchange believes that these proposed changes to Section 3.1(b)(iii)(L) would—consistent with similarly proposed changes to Section 3.1(b)(iii)(I)–(K)—provide greater clarity with respect to the meaning of the terms ''affiliate'' and ''principal competitor,'' which terms the current Section 3.1(b)(iii)(L) does not define.

Section 3.1(b)(iii)(O) requires notice to the Corporation if a Proposing Person intends to act as part of a group to solicit or deliver proxies in support of a proposal or the election of a nominee under specified circumstances. Specifically, Section 3.1(b)(iii)(O) of the By-Laws requires a representation as to whether the Proposing Person intends or is part of a group which intends (1) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to approve or adopt the proposal or elect the nominee and/or (2) otherwise to solicit *proxies* from stockholders in support of such proposal or nomination.[21] The Exchange proposes to amend to Section 3.1(b)(iii)(O) to clarify, in Section 3.1(b)(iii)(O)(2), that the representation required to be provided under that subsection would extend to the solicitation of proxies *or votes* from stockholders in support of any proposal or proposed nominee.[22] As further proposed, new Section 3.1(b)(iii)(O)(3) would specify that the representation required under Section 3.1(b)(iii) extends to whether the Proposing Person intends or is part of a group which intends ''to solicit proxies or votes in support of any proposed nominee in accordance with Rule 14a–19 promulgated under the Act.'' [23] The Exchange believes that the proposed changes to Section 3.1(iii)(O) enhance the transparency of this provision by providing greater specificity with respect to the content of representations required to be provided under this subsection. Similarly, proposed Section 3.1(iii)(O)(3) would enhance the clarity of this provision by specifying that the representation required under this section extends to whether the stockholder intends to act as part of a group to solicit proxies under the SEC's universal proxy rule.

Section 3.1(d) of the By-Laws addresses stockholder notice requirements with respect to nominees for additional directorships if the number of directors to be elected to the Board at an annual meeting is increased effective at the annual meeting.[24] Section 3.1(d) provides no limitations on the number of nominees that may be nominated under such circumstances.[25] The Exchange proposes to amend Section 3.1(d) to set limits on the number of nominees that may be nominated in such cases to not exceed the number of directors to be elected at the subject annual meeting. Specifically, the Exchange proposes to provide, in a new final sentence to Section 3.1(d) of the By-Laws, that the number of nominees a Proposing Person may nominate for election at the annual meeting on its own behalf (or in the case of a Proposing Person giving the notice on behalf of a beneficial owner, the number of nominees a Proposing Person may nominate for election at the annual meeting on behalf of such beneficial owner) shall not exceed the number of directors to be elected at such annual meeting.[26]

The Exchange believes that the proposed changes to Section 3.1(d) of the By-Laws would align the By-Laws with current practices by safeguarding against the practice of proposing multiple nominees and then deciding—at the last minute—which nominees will actually stand for election. This in turn would spare the Corporation and its stockholders from needless expenditure of time and resources to vet the surplus nominees.

Section 3.2(a) of the By-Laws addresses requirements for requesting a special meeting of the stockholders, including procedures for determining the requisite percentage of stockholders necessary to support a special meeting request. The Exchange proposes to amend Section 3.2(a) of the By-Laws to remove the phrase ''acting in concert'' and substitute therefor the words ''knowingly coordinating.'' [27] The Exchange believes this proposed change would mitigate against the potential for plaintiff's firms to leverage the ''acting in concert'' requirement to find targets for potential litigation.

The Exchange further proposes to amend Section 3.2(a) to remove a reference to the binding nature of the Board's determination with respect to

[14] *See* Section 3.1(b)(iii)(J) of the By-Laws

[15] *See* proposed Section 3.1(b)(iii)(J) of the By-Laws.

[16] *See id.*

[17] *See* Section 3.1(b)(iii)(K) of the By-Laws.

[18] *See* proposed Section 3.1(b)(iii)(K) of the By-Laws.

[19] *See* proposed Section 3.1(b)(iii)(I)–(K) of the By-Laws.

[20] *See id.*

[21] *See* Section 3.1(b)(iii)(O) of the By-Laws.

[22] To effect this change, the Exchange proposes to insert, immediately after ''otherwise to solicit proxies'' in Section 3.1(b)(iii)(O)(2), the words ''or votes.'' *See* proposed Section 3.1(b)(iii)(O)(2).

[23] *See* proposed Section 3.1(b)(iii)(O)(3) of the By-Laws. The Exchange proposes a conforming change to insert, at the conclusion of Section 3.1(b)(iii)(O)(2) the following: ''and/or.'' *See* proposed Section 3.1(b)(iii)(O)(2) of the By-Laws.

[24] *See* Section 3.1(d) of the By-Laws.

[25] *See id.*

[26] *See* proposed Section 3.1(d) of the By-Laws.

[27] *See* proposed Section 3.2 of the By-Laws.

whether the special meeting request is in proper form.[28] Specifically, the Exchange proposes to delete from the final sentence in Section 3.2(a) the words ''and such determination shall be binding on the Corporation and the stockholders.'' [29] The Exchange believes that the proposed changes would align the By-Laws with current practices because it would remove all references to the binding or final nature of Board actions, which language has been the challenged on the basis that it purports to limit or foreclose judicial review by Delaware courts.

Section 3.3 of the By-Laws governs determinations regarding nominations or business eligible to be considered at annual or special meetings. Section 3.3(a) provides, in part, that the chairman of the meeting has the power and duty to determine whether a nomination or business proposed to be brought before the meeting was made or proposed in accordance with the By-Laws and, if not so made or proposed, to declare that such nomination or business shall be disregarded.[30] The Exchange proposes to amend that provision of Section 3.3(a) to add a parenthetical stating that, in advance of any meeting of stockholders, the Board of Directors or an authorized committee thereof shall have the same powers and duties, including the power to declare that a particular nomination or business shall be disregarded.[31] The Exchange believes the proposed changes align the By-Laws with current practices because plaintiffs have argued that a determination to disregard a matter from consideration at a meeting should be subject to fiduciary duties. The proposed changes clarify that the chair of a meeting must be a director or officer whose decisions, in turn, are subject to fiduciary duties.

The Exchange further proposes to amend Section 3.3(a) to clarify that the Corporation may disregard nominees proposed by a stockholder under the Commission's universal proxy rule if the shareholder has failed to comply with that rule. To effect that change, the Exchange proposes to insert, at the conclusion of current Section 3.3(a), new text providing as follows:

> Notwithstanding anything to the contrary in these By-Laws, unless otherwise required by law, if any Proposing Person (i) provides notice pursuant to Rule 14a–19(b) promulgated under the Act with respect to any proposed nominee and (ii) subsequently fails to comply with the requirements of Rule 14a–19(a)(2) or Rule 14a–19(a)(3) promulgated under the Act (or fails to timely provide reasonable evidence sufficient to satisfy the Corporation that such Proposing Person has met the requirements of Rule 14a–19(a)(3) promulgated under the Act in accordance with the following sentence), then the nomination of each such proposed nominee shall be disregarded, notwithstanding that proxies or votes in respect of the election of such proposed nominees may have been received by the Corporation (which proxies and votes shall be disregarded). Upon request by the Corporation, if any Proposing Person provides notice pursuant to Rule 14a–19(b) promulgated under the Act, such Proposing Person shall deliver to the Corporation, no later than five (5) business days prior to the applicable meeting, reasonable evidence that it has met the requirements of Rule 14a–19(a)(3) promulgated under the Act.

This proposed change to Section 3.3(a) would align the By-Laws with current practices by specifying that failure to comply with requirements of the Commission's universal proxy rule would constitute grounds for the Corporation to disregard a stockholder's proposed nomination, as well as setting out redress procedures for stockholders seeking to demonstrate that such requirements have been met.

Section 3.4 of the By-Laws governs the conduct of meetings. Section 3.4 provides in part that the date and time of the opening and closing of the polls for each matter to be voted upon at a meeting must be announced at the meeting by the person presiding over the meeting. The Exchange proposes to amend Section 3.4 to clarify, consistent with the advance notice provisions in Section 3.1 of the By-Laws, that the person presiding over a meeting must be a chairman of the meeting who shall be an officer or director of the Corporation.[32] The Exchange believes this proposed change enhances the clarity of Section 3.4 by specifying, consistent with the advance notice provisions under Section 3.1 of the By-Laws, that the chairman and presiding person of the meeting must be an officer or director of the Corporation. Section 3.4 also provides in part that the person presiding over a meeting shall have the right to, among other things, convene and adjourn the meeting.[33] The Exchange proposes to clarify that the presiding person also shall have the right to recess the meeting for any or no reason.[34] The Exchange believes this proposed change will make explicit that the presiding person's rights with respect to the conduct of the meeting includes the right to recess the meeting for any or no reason, thereby enhancing the clarity and transparency of this rule.

Section 3.6(d) of the By-Laws governs the amount of shares that a stockholder must own to invoke proxy access. Section 3.6(d) provides in part that ''[w]hether outstanding shares of the common stock of the Corporation are 'owned' for these purposes shall be determined by the Board or any committee thereof, in each case, in its sole discretion.'' [35] The Exchange proposes to amend Section 3.6(d) to delete therefrom the words ''in each case, in its sole discretion.'' [36] The Exchange further proposes to remove from Section 3.6(h)(ii), Section 3.6(h)(viii), Section 3.6(i)(i), and Section 3.6(k) of the By-Laws similar references to the finality or ''binding'' nature of decisions by the Board (or persons authorized by the Board), any committee thereof, or the chairman of a meeting of stockholders.[37] These proposed changes align the By-Laws with current practice because provisions that purport to assign a binding effect to or otherwise finality to the decisions of the Board—such as those proposed to be deleted—are likely targets by litigants who argue that such provisions unlawfully purport to foreclose judicial review.

Finally, Section 3.6(m) provides that Section 3.6 shall be the exclusive method for stockholders to include nominees for director in the Corporation's proxy materials. The Exchange proposes to amend Section

[28] *See* Section 3.2(a) of the By-Laws.

[29] *See* proposed Section 3.2(a) of the By-Laws. The Exchange further proposes to make a non-substantive change to Section 3.2(a) of the By-Laws to capitalize the word ''secretary'' to conform to other usages of such word in the By-Laws. The Exchange also proposes to correct a typographical error in Section 3.2(c) of the By-Laws to express the word ''Business'' therein in the singular as ''business'' is not a defined term. *See* proposed Section 3.2(c) of the By-Laws.

[30] *See* Section 3.3(a) of the By-Laws.

[31] *See* proposed Section 3.3 of the By-Laws. To effect this change, the Exchange proposes to insert, immediately after the words ''Except as otherwise provided by law, the chairman of the meeting'' a parenthetical to read as follows: ''(or, in advance of any meeting of stockholders, the Board of Directors or an authorized committee thereof).'' The Exchange also proposes to make a non-substantive conforming change to Section 3.3(a) to insert, immediately after the word ''proxies'' in the second full sentence of Section 3.3(a) the words ''or votes,'' consistent with changes proposed for Section 3.1(b)(iii)(O) of the By-Laws.

[32] *See* proposed Section 3.4 of the By-Laws. To effect this change, the Exchange proposes to insert, in the first full sentence of Section 3.4 and immediately after ''shall be announced at the meeting by the'' the words ''chairman of the meeting who shall be an officer or director of the Corporation and who shall be the.'' *See id.*

[33] *See* Section 3.4 of the By-Laws.

[34] *See* proposed Section 3.4 of the By-Laws.

[35] *See* Section 3.6(d) of the By-Laws.

[36] *See* proposed Section 3.6(d) of the By-Laws.

[37] *See* proposed Section 3.6(h)(ii), Section 3.6(h)(viii), Section 3.6(i)(i), and Section 3.6(k) of the By-Laws.

3.6(m) to provide an exception for nominees for director in the Corporation's proxy materials submitted pursuant to, and in compliance with, the Commission's universal proxy rule.[38] The proposed changes to Section 3.6(m) align the By-Laws with current practice by providing that, in addition to the exclusive method set out in Section 3.6 of the By-Laws, stockholders may also include nominees for such purposes pursuant to and consistent with requirements under the SEC's universal proxy rule.[39]

(ii) Article IV Board of Directors

Section 4.3 of Article IV of the By-Laws governs qualifications for Directors of the Corporation. This section currently provides in part the Board may include at least one, but not more than two, Issuer Directors. The Exchange proposes to amend Section 4.3 to remove limitations on the number Issuers Directors on the Board.[40] The proposed change would provide the Corporation with greater flexibility with respect to the number of Issuer Directors that may be members of the Board, as NASDAQ is frequently in search of officers of NASDAQ-listed companies to join the Board.

Section 4.9 of the By-Laws governs quorum and voting. Section 4.9 provides in part that, in general, a quorum for the transaction of all business at all meetings of the Board shall consist of a majority of the Board.[41] The Exchange proposes to make a clarifying change to specify that for purposes of this section, a majority of the Board, means a majority of the total numbers of directors constituting the Board.[42] The Exchange believes this proposed change would provide greater clarity to and facilitate the application of this provision. The Exchange further proposes to amend Section 4.9 to clarify the process through which notice of meetings adjourned to another time and place may be given to each member of the Board.[43] Specifically, the Exchange proposes to clarify in Section 4.9 that in the absence of a quorum, a majority of the Directors present may adjourn the meeting to another time and place, and that notice of the time, place and purposes of any such adjourned meeting will be given in accordance with the By-Laws. [44] The Exchange further proposes to clarify that, if the notice of such adjourned meeting is announced at the meeting at which the adjournment is taken, notice need only be given to the Directors not present at such meeting.[45] The Exchange believes this proposed change would provide greater clarity to the By-Laws by providing a clear and practical process for giving notices of adjournments to members of the Board.

Section 4.12 of the By-Laws governs the process for providing notice of any meeting to Directors of the Board as well as related waivers of such notice. The Exchange proposes to amend Section 4.12 to remove obsolete references to certain modes of communication (both for transmission and confirmation of receipt) other than facsimile, email, or other means of electronic transmission.[46] The Exchange believes this proposed change would provide greater clarity to and facilitate the application of this provision by eliminating modes of communications, such as telegram, telefax, cable, and radio, that are no longer in use. In addition, the proposed amendments reflect current practices, as a substantial amount of communications between NASDAQ and its directors outside of Board meetings occurs in electronic form.

Section 4.13 of the By-Laws governs matters relating to committees of the Board. The Exchange proposes to amend Section 4.13(a) of the By-Laws to specify that the Corporation has opted into Section141(c)(2) of Delaware law.[47] Section 141(c) of Delaware law describes the formation and powers of board committees. Opting into Section 141(c)(2) of Delaware law is a common and recommended practice for Delaware corporations such as NASDAQ, in part because it provides corporations with greater flexibility with respect to the formation and powers of board committees, such as by allowing greater delegations of authority, including as it relates to setting terms of stock. The Exchange believes that opting into Section 141(c)(2) is appropriate to provide the Corporation with greater flexibility with respect to the functions and powers of committees of the Board.

The Exchange further proposes to amend Section 4.13 of the By-Laws to remove from Section 4.13(c) limitations on the ability of committees to take certain actions, such as the authorization of preferred stock designations. As a substitute for that limiting language, the Exchange proposes to insert new text in Section 4.13(c) of the By-Laws that would conform this subsection with the Delaware General Corporation Law, which removes limitations on the ability of committees to take certain actions, such as the authorization of preferred stock designations, as it relates to the powers of committees of the Board.[48] Consistent with proposed changes for Section 4.13(a), the Exchange believes this proposed change to Section 4.13(c) of the By-Laws would align this provision with current Delaware General Corporation Law, thereby updating the By-Laws as well as providing the Corporation with greater flexibility with respect to committees of the Board.

The Exchange proposes to amend Section 4.13(d)–(g) of the By-Laws to remove all references to limitations on the terms of committee members.[49] To effect that change, the Exchange proposes to (1) remove from Section 4.13(d) of the By-Laws the words ''[a]n Executive Committee member shall hold office for a term of one year''; [50] (2) remove from Section 4.13(e) of the By-

[38] To effect this proposed change, the Exchange proposes to add immediately after the conclusion of current Section 3.6(m) the words ''other than nominees included pursuant to, and in compliance with, Section 14a–19 of the Act.'' *See* proposed Section 3.6(m) of the By-Laws.

[39] *See* proposed Section 3.6(m) of the By-Laws.

[40] To effect this change, the Exchange proposes to delete from Section 4.3 of the By-Laws the words ''at least one, but no more than two.'' *See* proposed Section 4.3 of the By-Laws.

[41] *See* Section 4.9 of the By-Laws.

[42] *See* proposed Section 4.9 of the By-Laws.

[43] *See* proposed Section 4.9 of the By-Laws.

[44] *See* proposed Section 4.9 of the By-Laws.

[45] *See* proposed Section 4.9 of the By-Laws. The Exchange proposes to make a conforming change to Section 4.9 to delete from the second full sentence thereof the words ''until a quorum be present.'' *See id.*

[46] *See* proposed Section 4.12(a)–(b) of the By-Laws. To effect this change, the Exchange proposes to (1) delete from Section 4.12(a)(ii) the words ''telegraph, telefax, cable, radio, wireless'' and substitute therefor the word ''facsimile''; (2) delete from Section 4.12(a)(ii) the word ''written''; and (3) delete from Section 4.12(b) the parenthetical ''(or by telegram, telefax, cable, radio, wireless, email or other means of written electronic transmission and subsequently confirmed in writing or by electronic transmission).'' *See id.*

[47] *See* proposed Section 4.13(a) of the By-Laws. To effect this change, the Exchange proposes to insert, as the first full sentence in Section 4.13(a) the words ''The Corporation has opted into Section 141(c)(2) of Delaware law.'' *See id.*

[48] *See* proposed Section 4.13(c) of the By-Laws. To effect this change, the Exchange proposes to delete from Section 4.13(c) the words ''amending the Restated Certificate of Incorporation or the By-Laws of the Corporation; adopting an agreement of merger or consolidation; recommending to the stockholders the sale, lease, or exchange of all or substantially all the Corporation's property and assets; or recommending to the stockholders a dissolution of the Corporation or a revocation of a dissolution. Unless the resolution of the Board expressly so provides, no committee shall have the power or authority to authorize the issuance of stock.'' The Exchange further proposes to amend Section 4.13(c) to insert, immediately after the words ''no committee shall have the power or authority of the Board with regard to:'' the following: ''(a) approving or adopting, or recommending to the stockholders, any action or matter (other than the election or removal of directors) expressly required by Delaware law to be submitted to stockholders for approval or (b) adopting, amending or repealing any By-Law of the Corporation.'' *See id.*

[49] *See* Section 4.13(d)–(g) of By-Laws.

[50] *See* proposed Section 4.13(d) of By-Laws.

Laws the words ''[a] Finance Committee member shall hold office for a term of one year''; [51] (3) remove from Section 4.13(f) of the By-Laws the words ''[a] Management Compensation Committee member shall hold office for a term of one year''; [52] and (4) remove from Section 4.13(g) of By-Laws the words ''an Audit Committee member shall hold office for a term of one year.'' [53] The Exchange believes that deleting all references to committee members having a limited term is appropriate because term limits are not customary in by-laws as they create unnecessary administrative burdens for and limit the flexibility of a board. The Exchange notes that the proposed changes also align the By-Laws with current practice as the typical practice of the Board is to provide, in the annual resolutions regarding committee appointments, that committee members are appointed for one year or until their successors are duly elected.

The Exchange further proposes to amend Section 4.13(g) of the By-Laws to delete language specifying the Chair of the Audit Committee must be a Public Director.[54] The Exchange believes that this proposed change would eliminate unnecessary restrictions regarding, as well as provide the Corporation with greater flexibility with respect to, those who may serve as Audit Committee Chair since the Chair of the Audit Committee must in any event satisfy the independence standards in SEC as well as NASDAQ rules.[55] The proposed change would, for example, allow an issuer representative to be appointed as Chair of the Audit Committee. Finally, the Exchange proposes a non-substantive, clarifying change to Section 4.13(g) to provide that the Audit and Risk Committee (or such committee as the same may be renamed from time to time or any successor of such committee delegated with similar duties) shall be known as the ''Audit Committee.'' [56] The Exchange believes these proposed changes to Section 4.13(g) would provide greater flexibility to the Corporation with respect to those that may serve as Chair of the Audit Committee as well as enhance the clarity of and thus facilitate the application of the By-Laws by making the term ''Audit Committee'' a more clearly defined term.

The Exchange proposes to amend Section 4.13(h)(ii) of the By-Laws to remove language providing that a ''majority vote of'' the Board is required to remove a member of the Nominating & Governance Committee.[57] This change removes duplicative language and reduces potential confusion since the voting standards for all decisions of the board are set forth separately in Section 4.9(b) of the By-Laws.

Section 4.13(j) of the By-Laws provides that, in general, a majority of a committee shall constitute a quorum for the transaction of business.[58] The Exchange proposes to amend Section 4.13(j) to specify that a majority of the members of a committee then serving in office (rather than a majority of total directors on the committee as Section 4.13(j) currently provides) shall constitute a quorum for the transactions of business.[59] The Exchange believes this proposed change would remove barriers to and facilitate the work of Board committees since a vacancy in a committee would not be a barrier to action, as the quorum would be based on the directors then serving rather than the total number of directors on the committee.

(iii) Article VII Officers, Agents, and Employees

Article VII of the By-Laws governs matters relating to the officers, agents, and employees of the Corporation. The Exchange proposes to amend certain provisions in Article VII to delete references to a corporate structure that no longer reflects the structure at NASDAQ. Specifically, Article VII generally envisions a corporate structure where a President is a director and/or has executive authority over the entire company. The Exchange proposes to amend certain sections of Article VII to delete references to such a structure and replace them with language suited for a corporate structure with multiple presidents, such as the current structure of NASDAQ. To effect these changes, the Exchange proposes to amend several provisions of Article VII as follows.

Section 7.1 of the By-Laws governs matters relating to the principal officers of the Corporation. Section 7.1 specifies the principal officers to be elected by the Board, including, among others, a Chair and a President. The Exchange proposes to amend Section 7.1 to provide that the principal officers to be elected by the Board may—rather than must—include the roles set out in Section 7.1. The Exchange further proposes to amend Section 7.1 to provide that one or more Presidents, rather than only a President, may elected by the Board, among other principal officers. Section 7.1 further provides that in part that one person may not hold the offices and perform the duties of both President and Vice President or of President and Secretary. The Exchange proposes to amend Section 7.1 of the By-Laws to delete references to ''President and Vice President or of President'' and substitute therefor the words ''Chief Executive Officer.'' [60] As thus proposed, one person could not hold the offices and perform the duties of both Chief Executive Officer and Secretary (rather than of President and Vice President or of President and Secretary).[61]

For the reasons discussed above in connection with Article VII of the By-Laws more broadly, the Exchange further proposes to amend Section 7.3 (Subordinate Officers, Agents, or Employees), Section 7.5 (Resignation and Removal of Officers), Section 7.9 (President), Section 7.10 (Vice President), Section 7.11 (Secretary), and Section 7.13 (Treasurer) of the By-Laws as follows.

First, the Exchange proposes to delete from Sections 7.3 and 7.5(a) of the By-Laws the following: '', the President.''

With respect to Section 7.9 of the By-Laws, the Exchange proposes to (1) delete the words ''[t]he President shall, in the absence of the Chair of the Board and the Chief Executive Officer, preside at all meetings of the Board and stockholders at which the President is present. The President shall have general supervision over the business and affairs of the Corporation,'' substituting therefor the words ''The Board or the Chief Executive Officer may appoint one or more Presidents and each.'' The Exchange would further amend Section 7.9 to (1) delete from its final sentence the word ''The'' replacing it with ''Each''; (2) delete also from that final sentence the word ''the'' and replacing it with ''such''; and (3) insert, also in that final sentence and immediately after ''the Board'' the words ''or the Chief Executive Officer.''

[51] *See* proposed Section 4.13(e) of the By-Laws.

[52] *See* proposed Section 4.13(f) of the By-Laws.

[53] *See* proposed Section 4.13(g) of the By-Laws.

[54] See proposed Section 4.13(g) of the By-Laws.

[55] *See* proposed Section 4.13(g) of the By-Laws. To effect this change, the Exchange proposes to insert in the first full sentence of Section 4.13(g) of the By-Laws and immediately after the words ''[t]he Audit'' the words and symbol ''& Risk'' and further insert, immediately following the word ''Committee'' a parenthetical reading as follows: ''(such committee as the same may be renamed from time to time or any successor of such committee delegated with similar duties, the ''Audit Committee'').''The Exchange also proposes to renumber Section 4.13(g)(i) to delete the ''(i)'' and subsume the text of Section 4.13(g)(i) with that of proposed Section 4.13(g). *See* proposed Section 4.13(g) of the By-Laws.

[56] *See* proposed Section 4.13(g) of the By-Laws.

[57] *See* Section 4.13(h) of the By-Laws.

[58] *See* Section 4.13(j) of the By-Laws.

[59] *See* proposed Section 4.13(j) of the By-Laws.

[60] *See* proposed Section 7.1 of the By-Laws.

[61] *See* proposed Section 7.1 of the By-Laws.

With respect to Section 7.11 and Section 7.13 of the By-Laws, the Exchange proposes to amend these two sections to delete, from their respective final sentences, the words ''or the President,'' substituting therefore the words ''or any other person delegated such power by the Board or Chief Executive Officer.'' Consistent with similarly proposed changes to Article VII of the By-Laws, the Exchange believes that the proposed changes to Sections 7.11 and Section 7.13 of the By-Laws would remove impediments to the proper administration of the By-Laws as they would more closely align such By-Laws with the current corporate structure at NASDAQ as well as provide the Corporation with greater flexibility in the application of these provisions.

The Exchange believes the proposed changes to these provisions of Article VII of the By-Laws would enhance the transparency of and facilitate the application of the By-Laws because they replace obsolete or inaccurate textual references to an outdated corporate structure with updated text designed to more closely reflect the current structure of NASDAQ.

Section 7.10 of the By-Laws governs the selection of Vice Presidents. The Exchange proposes to amend Section 7.10 of the By-Laws to provide greater clarity with respect to the duties of as well as the process for selecting Vice Presidents of the Corporation. Specifically, the Exchange proposes to amend Section 7.10 of the By-Laws to provide that the Board, the Chief Executive Officer or any other person delegated such power by the Board or Chief Executive Officer, may appoint one or more Vice Presidents. The Exchange further proposes to clarify that, any Vice President may have such additional designations in such Vice President's title as the Board, the Chief Executive Officer, or the authorized person appointing such Vice President may determine.[62] As proposed, each Vice President would have all powers and duties usually incident to the office of a Vice President, except as specifically limited by the Board, the Chief Executive Officer or the authorized person appointing such Vice President.[63] The Exchange also proposes to clarify in the next to final sentence of Section 7.10 that, in addition to the Board and the Chief Executive, as provided under this section, the authorized person appointing such Vice President may also assign such Vice President other duties and powers as the Vice Presidents shall be authorized to exercise and perform pursuant to the By-Laws.[64] The Exchange believes that the proposed changes to Section 7.10 of the By-Laws would provide greater clarity with respect to the duties of and the process for selecting the Vice Presidents, thereby facilitating the application of the By-Laws with respect to Vice Presidents of the Corporation.

(iv) Article VIII Indemnification

Section 8.1 of Article VIII of the By-Laws governs indemnification of Directors, officers, employees, and agents of the Corporation. Subsection (j) of Section 8.1 addresses circumstances in which a claim for indemnification or advancement of expenses is not paid in full within 60 days after a written claim under this provision has been received by the Corporation. The Exchange proposes to amend Section 8.1(j) to clarify that the Corporation will not be required to pay claims or expenses under this provision if prohibited by law. To effect this change, the Exchange proposes to insert within the first full sentence and immediately after ''[the indemnified person] shall be entitled to be paid the expense of prosecuting such claim'' the words ''to the fullest extent permitted by law.'' [65] The Exchange believes this proposed change is appropriate as it would enhance the clarity of this provision by specifying that the extent of the Corporation's obligation to pay claims or expenses under this provision is limited to those claims or expenses not prohibited by law.

(v) IX Capital Stock

Section 9.2(a) of Article IX of the By-Laws governs requirements for signatures on stock certificates of the Corporation. Section 9.2(a) provides in part that shares of capital stock of the Corporation represented by certificates shall be signed in the name of the Corporation by two officers, with one being the Chair of the Board, the Chief Executive Officer, the President, or a Vice President, and the other being the Secretary, the Treasurer, or such other officer that may be authorized by the Board.

The Exchange proposes to amend Section 9.2(a) to broaden the scope of officers authorized to sign stock certificates. Specifically, the Exchange proposes to provide that Shares of capital stock of the Corporation represented by certificates shall be signed in the name of the Corporation by two authorized officers which shall include, without limitation, the Chair of the Board, the Chief Executive Officer, the President, any Vice President, the Secretary, and the Treasurer.[66] The Exchange believes the proposed changes to Section 9.2(a) would remove unnecessary limitations on officers authorized to sign stock certificates thereby providing greater flexibility in the By-Laws with respect to officers authorized to perform this important function.

Section 9.3 of the By-Laws governs matters relating to holders of record as shown on the stock ledger of the Corporation. Section 9.3(b) of the By-Laws provides that the Corporation shall be entitled to treat the holder of record of shares of capital stock as shown on the stock ledger as the owner thereof and as the person entitled to vote such shares and to receive notice of meetings, and for all other purposes. That subsection further provides that the Corporation shall not be bound to recognize any equitable or other claim to or interest in any share of capital stock on the part of any other person, whether or not the Corporation shall have express or other notice thereof.[67]

[62] *See* proposed Section 7.10 of the By-Laws.

[63] *See* proposed Section 7.10 of the By-Laws.

[64] *See* proposed Section 7.10 of the By-Laws. To effect the proposed changes to Section 7.10, the Exchange proposes to (1) delete therefrom the words ''The Board shall elect'' and substitute therefor the words ''The Board, the Chief Executive Officer or any other person delegated such power by the Board or Chief Executive Officer, may appoint''; (2) delete, from the second sentence of Section 7.10 the words ''[i]n the absence or disability of the President or if the office of President becomes vacant, the Vice Presidents in the order determined by the Board, or if no such determination has been made, in the order of their seniority, shall perform the duties and exercise the powers of the President, subject to the right of the Board at any time to extend or restrict such powers and duties or to assign them to others''; (3) insert, in the third sentence of Section 7.10 of the By-Laws and immediately following the words ''as the Board'' the words ''the Chief Executive Officer, or the authorized person appointing such Vice President''; (4) delete, from the fourth sentence of Section 7.10 the words ''The Vice Presidents shall generally assist the President in such manner as the President shall direct'' substituting therefor the words ''Each Vice President shall have all powers and duties usually incident to the office of a Vice President, except as specifically limited by the Board, the Chief Executive Officer or the authorized person appointing such Vice President.''; and (5) insert in the final sentence of Section 7.10 of the By-Laws and immediately after the words ''the Chief Executive Officer or the'' the words ''authorized person appointing such Vice.'' *See id.*

[65] *See* proposed Section 8.1(j) of the By-Laws.

[66] *See* proposed Section 9.2 of the By-Laws. To effect this change as well as make conforming changes to Section 9.2 of the By-Laws, the Exchange proposes to (1) insert, immediately after ''certificates shall be signed in the name of the Corporation by two'' the word ''authorized''; (2) insert, immediately after ''officers'' the words ''which shall include, without limitation,''; and (3) delete the words ''with one being,'' as well as ''or a,'' ''and the other being,'' and '', or such other officer that may be authorized by the Board.'' *See id.*

[67] *See* Section 9.3(b) of the By-Laws.

The Exchange proposes to amend Section 9.3(b) to provide for the possibility that applicable law might require a different outcome. Specifically, the Exchange proposes to provide that the Corporation shall, to the fullest extent permitted by law, be entitled to treat the holder of record of shares of capital stock as shown on the stock ledger as the owner thereof and as the person entitled to vote such shares and to receive notice of meetings, and for all other purposes. As further proposed, Section 9.3 would provide that the Corporation shall not be bound to recognize any equitable or other claim to or interest in any share of capital stock on the part of any other person, whether or not the Corporation shall have express or other notice thereof, except as required by law.[68] The Exchange believes the proposed changes to Section 9.3 of the By-Laws would ensure the enforceability of this provision by recognizing that there may be circumstances where its application would be subject to and possibly limited or otherwise affected by applicable law.

Section 9.6 of the By-Laws governs matters relating to lost, stolen, destroyed, and mutilated certificates for shares of stock of the Corporation. Section 9.6 sets out procedures for addressing the issuance of a new certificate or uncertified shares in the event that any certificate for stock of the Corporation becomes mutilated, lost, stolen, or destroyed. The Exchange proposes to amend Section 9.6 to delete language providing that the Board or a committee thereof is authorized to take action to address each such instance of lost, stolen, destroyed, or mutilated certificates and in its place provide that the Corporation (rather than solely the Board) shall have the authority to do so.[69] The Exchange believes this proposed change would remove obstacles to and facilitate the reissuance of new certificates under the specified circumstances by providing that the Corporation is authorized to act under those circumstances and by removing unnecessary requirements for the Board to take action in each and every instance that that a new certificate to replace a mutilated, lost, stolen, or destroyed certificate is sought.

(vi) Article X Miscellaneous Provisions

Section 10.4 of Article X of the By-Laws governs procedures relating to the execution of instruments, contracts, and the like. The Exchange proposes to delete Section 10.4 in its entirety and provide new text to better align the provisions of this section with NASDAQ's policies and procedures on signature authority. Specifically, the Exchange proposes to provide that, except as otherwise provided by law, all contracts and other documents requiring signature entered into by or on behalf of the Corporation, including, without limitation, all (i) checks, drafts, bills of exchange, notes, or other obligations or orders for the payment of money, (ii) deeds, bonds, mortgages, contracts, and other obligations or instruments, and (iii) applications, instruments, and papers required by any department of the United States Government or by any state, county, municipal, or other governmental authority, shall, in each case, be executed by such officer(s), employee(s), agent(s), or other person(s) as the Board, a duly authorized committee thereof, or the Chief Executive Officer may designate from time to time. As further proposed, the authority to execute any contract or document in the name and on behalf of the Corporation granted in accordance with this Section may (1) be general or confined to specific instances, (2) be designated by name, title, or role, (3) include the power to delegate signature authority further to one or more other persons, whether by name, title, or role, to the extent authorized by the Board, a duly authorized committee thereof, or the Chief Executive Officer, and (4) be revoked at any time by the Board, any committee thereof, or the Chief Executive Officer.[70] The Exchange believes that the proposed changes to Section 10.4 of the By-Laws would enhance clarity and facilitate the application of the By-Laws by removing language that has become obsolete and replacing it with provisions that more closely reflect NASDAQ's current policies and procedures on signature authority.

Section 10.5 of the By-Laws governs the form of records of the Corporation. The Exchange proposes to delete Section 10.5 in its entirety and insert in its place new text that would conform this provision with the updated Delaware statute governing signature authority. Specifically, the Exchange proposes to provide that any records administered by or on behalf of the Corporation in the regular course of its business, including its stock ledger, books of account, and minute books, may be kept on, or by means of, or be in the form of, any information storage device, method, or one or more electronic networks or databases (including one or more distributed electronic networks or databases), provided that the records so kept can be converted into clearly legible paper form within a reasonable time and otherwise comply with applicable law.[71]

(vii) Article XI Amendments; Emergency By-Laws

Section 11.4 of Article XI of the By-Laws addresses the adoption of emergency by-laws. The Exchange proposes to update Section 11.4 to reflect amendments to the emergency by-law provision of the Delaware General Corporation Law. Specifically, the Exchange proposes to provide that as provided in Section 11.4, the Board may adopt emergency by-laws which shall be operative during any emergency resulting from ''any emergency resulting from an attack on the United States or on a locality in which the Corporation conducts its business or customarily holds meetings of its Board of Directors or its stockholders, or during any nuclear or atomic disaster or during the existence of any catastrophe, including, but not limited to, an epidemic or pandemic, and a declaration of a national emergency by the United States government, or other similar emergency condition, irrespective of whether a quorum of the Board of Directors or a standing committee thereof can be readily convened for action.'' [72] In addition, and consistent with Delaware General Corporation Law, the Exchange proposes to update Section 11.4 to provide, in a final sentence to Section 11.4 of the By-Laws, that ''[n]othing contained in this Section 11.4 shall be deemed exclusive of any other provisions for emergency powers consistent with other sections of Delaware law which have been or may be adopted by corporations created under Delaware law.'' [73]

[68] *See* proposed Section 9.3(b) of the By-Laws.

[69] *See* proposed Section 9.6 of the By-Laws. To effect his change, the Exchange proposes to (1) delete from the fourth sentence of Section 9.6 the words ''Board or such committee'' and substitute therefor the word ''Corporation'' and (2) delete from the fifth sentence the word ''Board,'' substituting therefor the word ''Corporation.'' *See id.*

[70] *See* proposed Section 10.4 of the By-Laws.

[71] *See* proposed Section 10.5 of the By-Laws.

[72] *See* proposed Section 11.4 of the By-Laws.

[73] *See* proposed Section 11.4 of the By-Laws. The Exchange further proposes to delete from Section 11.4 the following language as it has become obsolete: ''nuclear or atomic disaster, an attack on the United States or on a locality in which the Corporation conducts its business or customarily holds meetings of the Board or the stockholders, any catastrophe, or other emergency condition, as a result of which a quorum of the Board or a committee thereof cannot readily be convened for action.'' *See id.*

(viii) Article XIII Forum Selection

The Exchange proposes to adopt new language to provide the By-Laws with a customary forum selection provision. To effect this change, the Exchange proposes to add a new Article XIII titled ''Forum Selection'' providing as follows: [74]

Unless the Corporation consents in writing to the selection of an alternative forum, (A) (i) any derivative action or proceeding brought on behalf of the Corporation, (ii) any action asserting a claim of breach of a fiduciary duty owed by any current or former director, officer, other employee or stockholder of the Corporation to the Corporation or the Corporation's stockholders, (iii) any action asserting a claim arising pursuant to any provision of Delaware law, the Restated Certificate of Incorporation or these By-Laws (as either may be amended or restated) or as to which Delaware law confers jurisdiction on the Court of Chancery of the State of Delaware or (iv) any action asserting a claim governed by the internal affairs doctrine of the law of the State of Delaware shall, to the fullest extent permitted by law, be exclusively brought in the Court of Chancery of the State of Delaware or, if such court does not have subject matter jurisdiction thereof, the federal district court of the State of Delaware; and (B) the federal district courts of the United States shall be the exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act of 1933, as amended. Notwithstanding the foregoing, This Section 13.1 shall not apply to claims seeking to enforce any liability or duty created by the Act. To the fullest extent permitted by law, any person or entity purchasing or otherwise acquiring or holding any interest in shares of capital stock of the Corporation shall be deemed to have notice of and consented to the provisions of this Section 13.1.

The Exchange believes that this proposed addition of Article XIII to the By-Laws is appropriate as it would provide the Corporation as well as litigants with greater certainty with respect to the applicable judicial forum for addressing claims or actions involving the Corporation.[75]

(ix) Non-Substantive Changes

The remaining proposed amendments to the By-Laws are non-substantive changes designed to simplify and streamline the document. Specifically, the Exchange proposes to (1) amend Article I(k) and Article I(m) to correct typographical errors by deleting a period and substituting in its place a semicolon and by inserting a missing parenthesis respectively; (2) make non-substantive clarifying changes to subparagraph (p) of Article I; (3) amend Article I(s) to correct a typographical error by removing a period after ''and'' ''; and (4) delete from Section 3.1(a) the term ''shareholder'' and substitute therefor the word ''stockholder.'' the latter which more closely reflects established terminology of the By-Laws. The Exchange believes the proposed non-substantive changes are either administrative or clarifying in nature, and that, as such, they are in the public interest as they are designed to avoid confusion with respect to the operation of the By-Laws thus facilitating their use.

2. Statutory Basis

The Exchange believes that the proposed changes are consistent with Section 6(b) of the Act,[76] in general, and furthers the objectives of Section 6(b)(1) of the Act,[77] in particular, in that they enable the Exchange to be so organized so as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. The Exchange also believes that the proposed changes are consistent with Section 6(b) of the Act,[78] in general, and furthers the objectives of Section 6(b)(5) of the Act,[79] in particular, in that they are 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.

(a) Proposed Changes to the Certificate

The Exchange believes the proposed changes to paragraphs A and B of Article Sixth of the Certificate are in the public interest as they would update the Certificate, consistent with developments in Delaware General Corporation Law that enable companies incorporated in Delaware, such as NASDAQ, to limit the liability of certain of their officers in narrow circumstances, as discussed above. The Exchange notes that amendments providing for officer exculpation are increasingly common for public companies, and that the number of shareholder proposals calling for such amendments have continued to increase since 2022 when the Delaware law was passed.[80]

(b) Proposed Changes to the By-Laws

The Exchange believes that changes proposed for Article III of the By-Laws are in the public interest as they would update the By-Laws and conform them to current practices and developments in the law with respect to corporate matters such as procedures governing the annual and special meetings of stockholders, the conduct of such meetings, and the invocation of proxy access. The proposed changes to Article IV of the By-Laws are either clarifying in nature or otherwise purport to refine governance practices by providing the Corporation with greater flexibility with respect to such matters as the qualifications of Directors, quorum and voting, or otherwise update such provisions to make them more consistent with current governance practices as well as the policies and procedures of NASDAQ. The Exchange believes that proposed changes to Articles VII through XIII are in the public interest and consistent with the protection of investors as they are designed to accomplish several objectives, including updating the By-Laws to conform with current practices or recent developments in Delaware General Corporation Law, aligning the By-Laws with current NASDAQ policies and procedures, and enhancing the clarity of the By-Laws thus facilitating their proper application and use. Finally, the remaining changes can be characterized as non-substantive, because they are designed to either correct typographical errors, conform NASDAQ governance documents to terminology in the By-Laws, remove obsolete text, or otherwise make non-substantive revisions to the By-Laws to make them clearer and easier to use.

B. Self-Regulatory Organization's Statement on Burden on Competition

Because the proposed rule change relates to the governance of NASDAQ and not to the operations of the Exchange, 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.

[74] *See* proposed Article XIII of the By-Laws.

[75] The Exchange notes that the bylaws of Cboe Global Markets, Inc. as well as those of CME Group, Inc., contain forum selection provisions similar to those proposed by the Exchange. *See* Article 11 (''Forum for Adjudication of Disputes'') of the Eight Amended and Restated Bylaws of Cboe Global Markets, Inc. (2024) *https://s202.q4cdn.com/174824971/files/doc_governance/2024/Dec/04/Cboe-Global-Markets-Eighth-AR-Bylaws-2ffa4c.pdf;* Article IX, Section 9.1 (''Forum for Adjudication of Certain Disputes'') of the Seventeenth Amended and Restated Bylaws of CME Group, Inc. (2022) *https://www.sec.gov/Archives/edgar/data/1156375/000119312522301477/d412380dex31.htm.*

[76] 15 U.S.C. 78f(b).

[77] 15 U.S.C. 78f(b)(1).

[78] 15 U.S.C. 78f(b).

[79] 15 U.S.C. 78f(b)(5).

[80] *See supra* note 3 and accompanying text.

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

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 (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include file number SR–BX–2025–024 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–BX–2025–024. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–BX–2025–024 and should be submitted on or before October 22, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[81]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–19103 Filed 9–30–25; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235–0064]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension: Exchange Act Form 10

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') this request for extension of the previously approved collection of information discussed below.

Form 10 (17 CFR 249.210) is used by issuers to register a class of securities pursuant to Section 12(b) or Section 12(g) (15 U.S.C. 78*l*(b) and 78*l*(g)) of the Securities Exchange Act of 1934. Form 10 requires financial information and other disclosures about matters such as the issuer's business, properties, identity and remuneration of management, outstanding securities, securities to be registered, and financial condition. The information collected on Form 10 is intended to ensure that investors in a class of Section 12-registered securities have sufficient information regarding such securities and their issuer necessary to make informed investment and voting decisions. The information required by Form 10 is mandatory, and Form 10 is publicly available on the Commission's Electronic Data Gathering, Analysis, and Retrieval (''EDGAR'') system. We estimate that Form 10 takes approximately 198.84 hours per response to prepare and is filed by an average of 104 respondents annually, once per year, for an average of 104 responses annually. We estimate that 25% of the 198.84 hours per response (49.71 hours) is carried internally by the issuer for an annual reporting burden of 5,170 hours (49.71 hours per response × 104 responses). We further estimate that 75% of the 198.84 hours per response (149.13 hours) is carried by outside professionals at a rate of $600 per hour for a total annual cost burden of $9,305,712 (149.13 hours per response × $600 per hour × 104 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view and comment on this information collection request at: *https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202506-3235-009* or send an email comment to *MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov* within 30 days of the day after publication of this notice by November 3, 2025.

Dated: September 26, 2025.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–19089 Filed 9–30–25; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104116; File No. SR–FICC–2025–018]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change To Add Basis Risk Haircut Charge to Certain Models

September 29, 2025.

I. Introduction

On August 15, 2025, Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] proposed rule change SR–FICC–2025–018 (''Proposed Rule Change'')[3] to make changes to the GSD Methodology Document—GSD Initial Market Risk Margin Model (''QRM Methodology Document'')[4] in order to incorporate the mortgage-backed securities (''MBS'') pool/to-be-announced (''TBA'') basis risk haircut

[81] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Capitalized terms not defined herein are defined in FICC's Government Securities Division (''GSD'') Rulebook (''Rules''), *available at www.dtcc.com/legal/rules-and-procedures.*

[4] As part of the Proposed Rule Change, FICC filed, as Exhibit 5, changes proposed to the QRM Methodology Document. Pursuant to 17 CFR 240.24b–2, FICC requested confidential treatment of Exhibit 5.

charge into certain GSD margin models. The Proposed Rule Change was published for comment in the **Federal Register** on August 29, 2025.[5] The Commission has received no comments on the proposed rule change. For the reasons discussed below, the Commission is approving the Proposed Rule Change.

II. Background

FICC is a central counterparty (''CCP''), which means it interposes itself as the buyer to every seller and seller to every buyer for the financial transactions it clears. FICC's GSD provides trade comparison, netting, risk management, settlement, and central counterparty services for the U.S. Government securities market.[6] As such, FICC is exposed to the risk that one or more of its members may fail to make a payment or to deliver securities.

A key tool that FICC uses to manage its credit exposures to its members is the daily collection of the Required Fund Deposit (*i.e.,* margin) from each member. A member's margin is designed to mitigate potential losses associated with liquidation of the member's portfolio in the event of that member's default. The aggregated amount of all GSD members' margin constitutes the Clearing Fund, which FICC would be able to access should a defaulted member's own margin be insufficient to satisfy losses to FICC caused by the liquidation of that member's portfolio.

FICC's Rules refer to margin in two ways, depending on the types of members and accounts involved. First, the Required Fund Deposit is the sum of each member's proprietary accounts and its indirect participant accounts not designated as Segregated Indirect Participant Accounts.[7] Second, the Segregated Customer Margin Requirement is the sum of the member's Sponsoring Member Omnibus Accounts and Agent Clearing Member Omnibus Accounts designated as Segregated Indirect Participant Accounts.[8]

Both the Required Fund Deposit and Segregated Customer Margin Requirement consist of several components, each of which is calculated to address specific risks faced by FICC arising out of its members' trading activity.[9] For both, the components include, among others, a VaR charge (''VaR Charge'') designed to capture the potential market price risk associated with the securities in a member's portfolio.[10]

a. Sensitivity-Based VaR Methodology and Other Margin Methodologies

The VaR Charge uses a sensitivity-based VaR methodology and is based on the potential price volatility of unsettled positions in a member's portfolio. It is designed to project the potential losses that could occur in connection with the liquidation of a defaulting member's portfolio, assuming the portfolio would take three days to liquidate in normal market conditions and uses three inputs: (1) confidence level, (2) a time horizon and (3) historical market volatility.[11] The projected liquidation gains or losses are used to determine the amount of the VaR Charge for each portfolio, which is calculated to capture the market price risk associated with each portfolio at a 99 percent confidence level.

Occasionally, a member's portfolio might contain classes of securities that reflect market price changes that are not consistently related to historical price moves. The value of such securities is often uncertain because the securities' market volume varies widely. Because the volume and price information for such securities are not robust, a historical simulation approach would not generate VaR Charge amounts that adequately reflect the risk profile of such securities. For securities lacking sufficient data to employ the sensitivity-based VaR approach, a haircut method is applied.[12]

VaR Charges (*i.e.,* the sum of the sensitivity-based VaR and any haircuts applied in lieu thereof) are subject to FICC's Minimum Margin Amount (''MMA'') model,[13] which is designed to address the risk that the VaR model may calculate a VaR Charge that is too low when current market conditions significantly deviate from historical observations.[14] In addition, because the sensitivity-based VaR methodology relies on sensitivity data and historical risk factor time series data generated by an external vendor, FICC can utilize Margin Proxy as a back-up VaR Charge calculation in the event that FICC experiences a data disruption with its third-party vendor.[15]

b. MBS Pool/TBA Basis Risk Haircut Charge

The QRM Methodology Document provides the methodology by which FICC calculates the VaR Charge, MMA, and Margin Proxy.[16] The QRM Methodology Document includes specific model inputs, parameters, assumptions, and other information.

Under the sensitivity-based VaR methodology, each MBS pool position is mapped to a corresponding TBA position.[17] FICC then uses the risk analytics for the TBA as a proxy for estimating the MBS pool position's risk exposure analytics.[18] To account for the differences in returns between an MBS pool position and the corresponding TBA, FICC applies a basis risk adjustment (*i.e.,* the MBS pool/TBA basis risk haircut charge).

For any MBS pool position that cannot be mapped to a TBA,[19] FICC

[5] *See* Securities Exchange Act Release No. 103780 (Aug. 15, 2025), 90 FR 42284 (Aug. 29, 2025) (File No. SR–FICC–2025–018) (''Notice of Filing'').

[6] FICC's Mortgage-Backed Securities Division provides similar services for mortgage-backed securities. For purposes of this Order, ''FICC'' refers to GSD.

[7] *See* GSD Rule 4 (Clearing Fund and Loss Allocation), *supra* note 3.

[8] *Id.*

[9] *See* GSD Rule Book, Margin Component Schedule, Sections 2 and 5, *supra* note 3.

[10] *Id.*

[11] FICC uses historical simulations to estimate the impact of market volatilities on the Member's portfolio. *See* Notice of Filing, *supra* note 5, 90 FR at 42285.

[12] *See* GSD Rule 1 (Definitions—VaR Charge) *supra* note 3; *See also* Securities Exchange Act Release No. 83362 (June 1, 2018), 83 FR 26514 (June 7, 2018) (SR–FICC–2018–001). Specifically, FICC calculates the VaR Floor by multiplying the absolute value of the sum of the portfolio's net long positions and net short positions, grouped by product and remaining maturity, by a percentage designated by FICC for such group. For U.S. Treasury and agency securities, such percentage shall be a fraction, no less than 10 percent, of the historical minimum volatility of a benchmark fixed income index for such group by product and remaining maturity. For mortgage-backed securities, such percentage shall be a fixed percentage that is no less than 0.05 percent.

[13] The MMA model calculates MMA, which is designed to supplement the sensitivity-based VaR methodology model and improve its responsiveness and resilience to extreme market volatility. *See* GSD Margin Component Schedule (definition of MMA), *supra* note 3.

[14] *See* Notice of Filing, *supra* note 5, 90 FR at 42285.

[15] *See id.* The Margin Proxy model calculates Margin Proxy, which is designed as an alternative volatility calculation in the event that the requisite vendor data used for the VaR model is unavailable for an extended period of time. *See* GSD Margin Component Schedule (definition of ''Margin Proxy''), *supra* note 3; Securities Exchange Act Release Nos. 80341 (March 30, 2017), 82 FR 16644 (April 5, 2017) (SR–FICC–2017–801); Securities Exchange Act Release No. 83223 (May 11, 2018), 83 FR 23020 (May 17, 2018) (SR–FICC–2018–801).

[16] *See* QRM Methodology Document. *supra* note 3.

[17] The vast majority of agency MBS trading occurs in a forward market, on a ''to-be announced'' or ''TBA'' basis. In a TBA trade, the seller agrees on a sale price, but does not specify which particular securities will be delivered to the buyer on settlement day. Instead, only a few basic characteristics of the securities are agreed upon, such as the MBS program, maturity, coupon rate, and the face value of the bonds to be delivered.

[18] *See* Notice of Filing, *supra* note 5, 90 FR at 42285.

[19] The majority of fixed-rate mortgage (''FRM'') pools can be mapped to TBAs; however, all adjustable-rate mortgage (''ARM'') pools and a small portion of the FRM pools cannot be mapped to TBAs.

applies a haircut to the MBS pool position (*i.e.,* MBS haircut model). Unlike the sensitivity-based VaR methodology, the MBS haircut model does not incorporate differences in returns between an MBS pool position and the TBA (*i.e.,* it does not reflect the MBS pool/TBA basis spread risk). FICC is proposing changes to incorporate the MBS pool/TBA basis risk haircut charge into the MBS haircut model.

III. Description of the Proposed Rule Change

FICC is proposing to amend the QRM Methodology Document to incorporate the MBS pool/TBA basis risk haircut charge into the MBS haircut model, MMA model, and Margin Proxy model. FICC is also proposing certain technical and clarification changes to the QRM Methodology Document.

First, FICC is proposing to add new language in several subsections of the QRM Methodology Document to reflect the addition of the MBS pool/TBA basis risk haircut charge to the MBS haircut model, MMA model, and Margin Proxy model. Specifically, FICC would amend the subsection of the QRM Methodology Document that describes risk between MBS pools and TBA by adding two new paragraphs that reflect that the basis risk charge would be included in haircut charges calculated for (1) MBS haircut model with respect to MBS pools that cannot be mapped to a TBA and (2) Margin Proxy model with respect to all MBS pools. Additionally, FICC is proposing to amend the subsection of the QRM Methodology Document that describes the program of money-ness [20] of a pool by adding a new paragraph regarding the applicable basis haircut charge for ARM pools. FICC is also proposing to amend the subsection of the QRM Methodology Document that describes the basis risk calculation for Margin Proxy by adding a new paragraph to note certain similarities and potential differences between the basis risk charge calculation for Margin Proxy model as compared to the other models.

Second, FICC is proposing to make changes to a table in the MMA section of the QRM Methodology Document to reflect the addition of the MBS pool/TBA basis risk haircut charge in the MMA calculation for MBS pool positions.

Third, FICC is proposing to make changes to update a formula in the Margin Proxy section of the QRM Methodology Document to incorporate the MBS pool/TBA basis risk haircut charge.

Finally, FICC is proposing certain clarifying and technical changes to the QRM Methodology Document. Specifically, FICC would clarify that the application of the MBS pool/TBA basis risk haircut charge would not be limited to mapped MBS pool positions in the subsection of the QRM Methodology Document that describes market risks associated with products cleared by GSD. Additionally, FICC would clarify that that the applicability of the money-ness formula would not be limited to mapped MBS pool positions in the subsection of the QRM Methodology Document that describes the program and money-ness of a pool. FICC is also proposing a technical change to replace an outdated section reference in the list of key parameters section and correct a typographical error in the haircut formula for unmapped MBS pools in the haircut methodology section of the QRM Methodology Document.

As part of the Proposed Rule Change, FICC filed an impact study on the effects the Proposed Rule Change would have had on their members' VaR Charges and margin portfolios if it had been in place during the period beginning April 1, 2024 through March 31, 2025 (''Impact Study'').[21] Specifically, the Impact Study found that that the aggregated average daily start-of-day (''SOD'') VaR Charges would have increased by approximately $56.31 million or 0.12%.[22] The Impact Study indicated that the VaR model backtesting coverage would have remained unchanged at approximately 99.72% while the number of VaR model backtesting deficiencies would also have remained unchanged at 115. As for the impacts on members' margin portfolios, the Impact Study found that the Proposed Rule Change would have increased the SOD VaR Charge by approximately $0.27 million, or 0.31%, with the largest average percentage increase for any member's margin portfolio of approximately 35.15%, or $0.34 million. The largest average dollar increase in SOD VaR Charges for any member margin portfolio would have been $8.3 million, or 0.19%.

Additionally, the Impact Study also examined the effects the Proposed Rule Change would have had on their members' VaR Charges and margin portfolios if Margin Proxy were deployed during the covered time period.[23] Specifically, the Impact Study found that that the aggregated average daily SOD VaR Charges would have increased by approximately $2.13 billion or 4.94%.[24] The Impact Study indicated that the VaR model backtesting coverage would have increased from approximately 99.68% to 99.71% and backtesting deficiencies would have been reduced from 130 to 119, or approximately 8.5%. As for the impacts on members' margin portfolios if Margin Proxy had been deployed, the Impact Study found that the Proposed Rule Change would have increased the SOD VaR Charge by approximately $10.32 million, or 4.04%, with the largest average percentage increase for any member's margin portfolio of approximately 110.5%, or $175.30 million. The largest average dollar increase in SOD VaR Charge for any member margin portfolio would have been $187.17 million, or 14.97%.

IV. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act [25] directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to such organization. After carefully considering the Proposed Rule Change, the Commission finds that the Proposed Rule Change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to FICC. In particular, the Commission finds that the Proposed Rule Change is consistent with Section 17A(b)(3)(F) of the Act,[26] and Rules 17Ad–22(e)(4)(i) and (e)(6)(ii) [27] thereunder, as described in detail below.

A. Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act, requires the rules of a clearing agency to be designed to, among other things, assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for

[20] The changes of spread are parameterized according to the difference between the underlying weighted average coupon and the current prevailing mortgage rate. This difference is also referred to as the ''moneyness.'' *See* Securities Exchange Act Release No. 88266 (Feb. 24, 2020), 85 FR 11413, 11414 (Feb. 27, 2020) (SR–FICC–2020–801).

[21] FICC has requested confidential treatment of Exhibit 3, the Impact Study, pursuant to 17 CFR 240.24b–2.

[22] *See* Notice of Filing, *supra* note 5, 90 FR at 42286.

[23] Margin Proxy was not actually deployed during the time period of the Impact Study. *See id.*

[24] *See id.*

[25] 15 U.S.C. 78s(b)(2)(C).

[26] 15 U.S.C. 78q–1(b)(3)(F).

[27] 17 CFR 240.17ad–22(e)(4)(i); 17 CFR 240.17ad–22(e)(6)(i).

which it is responsible.[28] The Proposed Rule Change is consistent with Section 17A(b)(3)(F) of the Act for the reasons discussed below.

As described above in Section III, FICC proposes to amend the QRM Methodology Document to incorporate the MBS pool/TBA basis risk haircut charge into the MBS haircut model, MMA model, and Margin Proxy model, along with other clarifying and technical changes. As discussed above in more detail in Section III.B, by incorporating the MBS pool/TBA basis risk haircut charge into these models, the Proposed Rule Change should help ensure that FICC collects sufficient margin to manage member-level credit risk exposure and backtesting performance associated with MBS pool/TBA basis spread risk from MBS pool positions in member portfolios. By helping FICC to collect sufficient margin, the Proposed Rule Change should better ensure that, in the event of a member default, FICC's operation of its critical clearance and settlement services would not be disrupted because of insufficient financial resources. Accordingly, the Proposed Rule Change should help FICC to continue providing prompt and accurate clearance and settlement of securities transactions, consistent with Section 17A(b)(3)(F) of the Act.[29]

Moreover, as described above in Section II, FICC would access the mutualized Clearing Fund should a defaulted member's own margin be insufficient to satisfy losses to FICC caused by the liquidation of that member's portfolio. Because FICC's proposal to incorporate the MBS pool/TBA basis risk haircut charge into the MBS haircut model, MMA model, and Margin Proxy model should help ensure that FICC has collected sufficient margin from members, the Proposed Rule Change should also help minimize the likelihood that FICC would have to access the Clearing Fund, thereby limiting non-defaulting members' exposure to mutualized losses. By helping to limit the exposure of FICC's non-defaulting members to mutualized losses, the Proposed Rule Change should help FICC assure the safeguarding of securities and funds which are in its custody or control, consistent with Section 17A(b)(3)(F) of the Act.[30]

For these reasons, the Proposed Rule Change is designed to promote the prompt and accurate clearance and settlement of securities transactions and assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, consistent with Section 17A(b)(3)(F) of the Act.[31]

B. Rule 17Ad–22(e)(4)(i)

Rule 17ad–22(e)(4)(i) under the Act requires that a covered clearing agency, like FICC, establish, implement, maintain, and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes by maintaining sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence.[32] The Proposed Rule Change is consistent with Rule 17Ad–22(e)(4)(i) under the Act for the reasons stated below.

FICC's proposal to incorporate the MBS pool/TBA basis risk haircut charge into the MBS haircut model, MMA model, and Margin Proxy model should enable FICC to better manage its credit exposures to members by maintaining sufficient resources to cover their credit exposures more fully with a high degree of confidence. The Commission has reviewed and analyzed the materials filed by FICC, including FICC's Impact Study and backtesting results,[33] which show the effects of incorporating the MBS pool/TBA basis risk haircut charge into the MBS haircut model, MMA model, and Margin Proxy model during the time period of the Impact Study. Specifcially, the Impact Study shows that this charge would have increased the aggregated average SOD VaR Charges and increased member margin portfolio levels, on average, during the coverage period. Additionally, if Margin Proxy would have been deployed during this coverage period, the Impact Study shows this charge would have also increased aggregated average daily SOD VaR Charges and increased member margin portfolio levels, on average. The Impact Study also shows that VaR model backtesting coverage would have increased and VaR model backtesting deficiencies would have been reduced during the covered period if Margin Proxy had been deployed. By incorporating the MBS pool/TBA basis risk haircut charge into the MBS haircut model, MMA model, and Margin Proxy model, FICC should be able to more effectively identify, measure, monitor, and manage the risk posed to GSD members' VaR Charges and margin portfolios due to exposure to MBS pool positions. Accordingly, for the reasons discussed above, the Proposed Rule Change is reasonably designed to better enable FICC to effectively identify, measure, monitor, and manage its credit exposure to members, and those arising from its payment, clearing, and settlement processes, including by maintaining sufficient financial resources to cover its credit exposure to each member fully with a high degree of confidence consistent with Rule 17Ad–22(e)(4)(i).[34]

C. Rule 17ad–22(e)(6)(i)

Rule 17ad–22(e)(6)(i) under the Act requires that a covered clearing agency that provides central counterparty services, such as FICC, establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market.[35] The Proposed Rule Change is consistent with Rule 17Ad–22(e)(6)(i) under the Act for the reason stated below.

FICC's proposal to incorporate the MBS pool/TBA basis risk haircut charge into the MBS haircut model, MMA model, and Margin Proxy model should enable FICC to more effectively address the risks posed by the risk exposure to certain MBS pool positions in members' portfolios. As discussed above in Section II, FICC applies a haircut to any MBS pool position that cannot be mapped to a TBA. However, unlike the sensitivity-based VaR methodology, the MBS haircut model currently does not incorporate differences in returns between an MBS pool position and the TBA. The Impact Study reviewed and analyzed by the Commission shows the effects of incorporating the MBS pool/TBA basis risk haircut charge into the MBS haircut model, MMA model, and Margin Proxy model during the time period of the Impact Study.[36]

Specifcially, the Impact Study shows that this charge would have increased the aggregated average SOD VaR Charges and increased member margin portfolio levels, on average, during the coverage period. Additionally, if Margin Proxy would have been deployed during this coverage period, the Impact Study shows this charge would have also increased aggregated average daily SOD

[28] 15 U.S.C. 78q–1(b)(3)(F).
[29] 15 U.S.C. 78q–1(b)(3)(F).
[30] 15 U.S.C. 78q–1(b)(3)(F).
[31] 15 U.S.C. 78q–1(b)(3)(F).
[32] 17 CFR 240.17ad–22(e)(4)(i).
[33] *See supra* note 21.
[34] 17 CFR 240.17Ad–22(e)(4)(i).
[35] 17 CFR 240.17ad–22(e)(6)(i).
[36] *See supra* note 21.

VaR Charges and increased member margin portfolio levels, on average. The Impact Study also shows that VaR model backtesting coverage would have increased and VaR model backtesting deficiencies would have been reduced during the covered period if Margin Proxy had been deployed.

Incorporating the MBS pool/TBA basis risk haircut charge into the MBS haircut model, MMA model, and Margin Proxy model should help FICC better cover its credit exposures to its participants and produce margin levels commensurate with, the risks and particular attributes of each MBS pool position. As a result, implementing the Proposed Rule Change should better enable FICC to collect margin amounts at levels commensurate with FICC's credit exposures to its members.

Accordingly, the Proposed Rule Change is consistent with Rule 17Ad–22(e)(6)(i) under the Act because it is designed to assist FICC in maintaining a risk-based margin system that considers, and produces margin levels commensurate with, the risks of credit exposures to certain MBS pool positions in members' portfolios.[37]

V. Conclusion

On the basis of the foregoing, the Commission finds that the Proposed Rule Change is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act [38] and the rules and regulations promulgated thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act [39] that proposed rule change SR–FICC–2025–018, be, and hereby is, *Approved.*[40]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[41]

Sherry R. Haywood,

Assistant Secretary.

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[37] 17 CFR 240.17Ad–22(e)(6)(i).

[38] 15 U.S.C. 78q–1.

[39] 15 U.S.C. 78s(b)(2).

[40] In approving the Proposed Rule Changes, the Commission considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[41] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104128; File No. SR–Phlx–2025–55]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options 7, Section 4

September 29, 2025.

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 September 26, 2025, 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 Phlx's Pricing Schedule at Options 7, Section 4. Specifically, Phlx proposes to amend the Floor Transaction (Open Outcry) Floor Broker Incentive Program.

While the changes proposed herein are effective upon filing, the Exchange has designated the amendments become operative on October 1, 2025.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/phlx/rulefilings,* and at the principal office of the Exchange.

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

Phlx proposes to amend Phlx's Pricing Schedule at Options 7, Section 4, Multiply Listed Options Fees (Includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed) (Excludes SPY and broad-based index options symbols listed within Options 7, Section 5.A). Specifically, Phlx proposes to amend the Floor Transaction (Open Outcry) Floor Broker Incentive Program.

The Exchange proposes to amend its Floor Transaction (Open Outcry) Floor Broker Incentive Program at Options 7, Section 4. This incentive program for Floor Brokers [3] is designed to attract order flow to Phlx's trading floor for execution in open outcry. Currently, the Exchange pays Floor Broker certain rebates for transaction they execute on Phlx's trading floor in open outcry. Today, the following floor transactions are excluded from the rebates offered within the Floor Transaction (Open Outcry) Floor Broker Incentive Program: (1) dividend, merger, short stock interest, reversal and conversion, jelly roll, and box spread strategy executions as defined in this Options 7, Section 4; (2) Firm Floor Options Transactions for members executing facilitation orders pursuant to Options 8, Section 30 when such members are trading in their own proprietary account (including Cabinet Options Transaction Charges); and (3) Customer-to-Customer transactions.

Today, rebates are paid on qualifying volume at each threshold level based on a four-tier rebate schedule. Floor QCC Orders, as defined in Options 8, Section 30(e),[4] and electronic QCC Orders, as defined in Options 3, Section 12, are considered qualifying volume but are not paid rebates based on the rebate schedule, rather Floor QCC Orders and electronic QCC Orders are paid the QCC Rebates noted in Options 7, Section 4. The Exchange pays rebates based on the below schedule.

[3] The term ''Floor Broker'' means an individual who is registered with the Exchange for the purpose, while on the Options Floor, of accepting and handling options orders. *See* Phlx Options 7, Section 1(c).

[4] Today, Floor QCC Orders are not transacted in open outcry.

	Qualifying contracts	Per contract rebate (customer on one side)	Per contract rebate (non-customer on both sides)
Tier 1	0–500,000	$0.02	$0.08
Tier 2	500,001–5,000,000	0.05	0.16
Tier 3	5,000,001–10,000,000	0.07	0.16
Tier 4	Greater than 10,000,000	0.08	0.20

Finally, today, rebates for the Floor Transaction (Open Outcry) Floor Broker Incentive Program are capped at $2,000,000 per member or member organization in a given month.

Proposal

At this time, the Exchange proposes to increase the rebates in all tiers by $0.02 per contract. The Exchange proposes to offer a per contract rebate if a Customer is on one side of $0.04 per contract for Tier 1 (0–500,000 qualifying contracts), a $0.07 per contract rebate for Tier 2 (500,001–5,000,000 qualifying contracts), a $0.09 per contract rebate for Tier 3 (5,000,001–10,000,000 qualifying contracts) and a $0.10 per contract rebate for Tier 4 (Greater than 10,000,000 qualifying contracts). The Exchange proposes to offer a per contract rebate if a Non-Customer is on both sides of $0.10 per contract for Tier 1 (0–500,000 qualifying contracts), a $0.18 per contract rebate for Tier 2 (500,001–5,000,000 qualifying contracts), a $0.18 per contract rebate for Tier 3 (5,000,001–10,000,000 qualifying contracts) and a $0.22 per contract rebate for Tier 4 (Greater than 10,000,000 qualifying contracts).

The Exchange believes that the increased rebates will attract greater order flow to Phlx's trading floor.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[6] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [7]

Likewise, in *NetCoalition* v. *Securities and Exchange Commission* [8] (''NetCoalition'') the D.C. Circuit upheld the Commission's use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.[9] As the court emphasized, the Commission ''intended in Regulation NMS that 'market forces, rather than regulatory requirements' play a role in determining the market data . . . to be made available to investors and at what cost.'' [10]

Further, ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .'' [11] Although the court and the SEC were discussing the cash equities markets, the Exchange believes that these views apply with equal force to the options markets.

The Exchange's proposal to increase rebates in the Floor Transaction (Open Outcry) Floor Broker Incentive Program is reasonable because offering greater rebates should attract additional order flow to Phlx's trading floor for execution in open outcry. Other Phlx floor members [12] may interact with the orders exposed in open outcry on the Exchange's trading floor. Rebates will continue to be paid on all qualifying volume but the rebate will continue to vary depending on whether a Customer is on one side of the trade or both sides of the trade are Non-Customers. The rebate is meant to assist Floor Brokers to recruit business on an agency basis. The Floor Broker may use all or part of the rebate to offset its fees. The Exchange expects that the rebate offered to executing Floor Brokers will allow them to price their services at a level that will enable them to attract order flow from market participants who would otherwise enter these orders electronically from off the floor. To the extent that Floor Brokers are able to attract these qualifying volume, other floor participants may interact with this order flow in open outcry. The Exchange believes that it is equitable and not unfairly discriminatory to pay rebates on qualifying volume for transactions executed on the trading floor, because Floor Brokers would be uniformly paid the rebates based on qualifying volume and the parties to the transaction.

The Exchange's proposal to increase rebates in the Floor Transaction (Open Outcry) Floor Broker Incentive Program is equitable and not unfairly discriminatory because all Floor Brokers are eligible for rebates and would be uniformly paid a rebate based on their Qualifying Contracts and whether a Customer is on one side of the trade or both sides of the trade are Non-Customers. The Exchange's proposal to pay the rebate provided one side of the transaction is Customer or both sides are Non-Customer is equitable and not unfairly discriminatory because the Exchange would uniformly calculate all qualifying volume and uniformly pay rebates associated with the Floor Transaction (Open Outcry) Floor Broker Incentive Program. Further, the Exchange believes its proposed floor transaction rebates for Customer on one side and Non-Customer on both sides are equitable and not unfairly

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4) and (5).

[7] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[8] *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010).

[9] *See NetCoalition,* at 534–535.

[10] *Id.* at 537.

[11] *Id.* at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[12] Floor members include all members who have acquired a permit to trade on Phlx's trading floor.

discriminatory because, today, Customers are not assessed a Floor Options Transaction Charge for Penny and Non-Penny Symbols. In contrast, the Exchange notes that Non-Customers, except Professionals,[13] are assessed Floor Options Transaction Charges in Penny and Non-Penny Symbols.[14] The Exchange proposes to pay higher rebates where there is a Non-Customer on both sides of a trade because a Floor Broker attracting Customer order flow can more easily attract Customer orders which are not assessed a floor transaction fee as compared to attracting a Non-Customer order which would pay a transaction fee to execute on Phlx's trading floor.

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.

Inter-Market Competition

The proposal does not impose an undue burden on inter-market competition. The Exchange believes its proposal remains competitive with other options markets and will offer market participants with another choice of where to transact options. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

Intra-Market Competition

The Exchange's proposal to increase rebates in the Floor Transaction (Open Outcry) Floor Broker Incentive Program does not impose an undue burden on competition because all Floor Brokers are eligible for rebates and would be uniformly paid a rebate based on their Qualifying Contracts and whether a Customer is on one side of the trade or both sides of the trade are Non-Customers. The Exchange's proposal to pay the rebate provided one side of the transaction is Customer or both sides are Non-Customer does not impose an undue burden on competition because the Exchange would uniformly calculate all qualifying volume and uniformly pay rebates associated with the Floor Transaction (Open Outcry) Floor Broker Incentive Program. Further, the Exchange believes its proposed floor transaction rebates for Customer on one side and Non-Customer on both sides do not impose an undue burden on competition because, today, Customers are not assessed a Floor Options Transaction Charge for Penny and Non-Penny Symbols. In contrast, the Exchange notes that Non-Customers, except Professionals, are assessed Floor Options Transaction Charges in Penny and Non-Penny Symbols.[15] The Exchange proposes to pay higher rebates where there is a Non-Customer on both sides of a trade because a Floor Broker attracting Customer order flow can more easily attract Customer orders which are not assessed a floor transaction fee as compared to attracting a Non-Customer order which would pay a transaction fee to execute on Phlx's trading floor.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[16]

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 (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include file number SR–Phlx–2025–55 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–Phlx–2025–55. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–Phlx–2025–55 and should be submitted on or before October 22, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Sherry R. Haywood,

Assistant Secretary.

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BILLING CODE 8011–01–P

[13] The term ''Professional'' applies to transactions for the accounts of Professionals, as defined in Options 1, Section 1(b)(45) means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). *See* Options 1, Section 1(c).

[14] *See* Options 7, Section 4. Lead Market Makers and Market Makers are assessed a $0.50 per contract Floor Options Transaction Charge for Penny and Non-Penny Symbols. Broker-Dealers and Firms are assessed a $0.25 per contract Floor Options Transaction Charge for Penny and Non-Penny Symbols.

[15] *See* Options 7, Section 4. Lead Market Makers and Market Makers are assessed a $0.50 per contract Floor Options Transaction Charge for Penny and Non-Penny Symbols. Broker-Dealers and Firms are assessed a $0.25 per contract Floor Options Transaction Charge for Penny and Non-Penny Symbols.

[16] 15 U.S.C. 78s(b)(3)(A)(ii).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104118; File No. SR–GEMX–2025–27]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing of a Proposed Rule Change To Amend the Amended and Restated Certificate of Incorporation and By-Laws of Its Parent Corporation, Nasdaq, Inc.

September 29, 2025.

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 September 26, 2025, Nasdaq GEMX, LLC (''GEMX'' 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 publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Amended and Restated Certificate of Incorporation (''Certificate'') and By-Laws (''By-Laws'') of its parent corporation, Nasdaq, Inc. (''NASDAQ'' or ''Corporation''). The proposed changes would align the Certificate with certain amendments to the Delaware General Corporation Law as well as update the By-Laws to reflect recent changes in law and best practices, as discussed below.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/gemx/rulefilings* and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to update the Certificate to reflect certain amendments to the Delaware General Corporation Law. The Exchange is also proposing to update the By-Laws to reflect recent changes in law and best practices as discussed below.

(a) Proposed Amendments to the Certificate

(1) Background

On April 23, 2025, NASDAQ's Board of Directors approved proposed amendments to the Certificate to provide for limited officer exculpation. On June 11, 2025, NASDAQ held its Annual Meeting of Stockholders, during which its stockholders considered and approved the Certificate amendments. In 2022, Delaware amended the Delaware General Corporation Law to enable companies incorporated in Delaware, such as NASDAQ, to limit the liability of certain of their officers in narrow circumstances. This change was made to address situations where directors would be dismissed from litigation, but the officers, who were not exculpated, had to continue in the litigation to show their actions were not grossly negligent. Generally, this issue arises in the mergers and acquisitions context and often relates to claims that a particular disclosure document was deficient.

The Certificate amendment would exculpate covered officers from monetary liability for breach of the duty of care in a manner similar to that already permitted for directors. However, it would not exculpate such officers in connection with derivative actions. Failing to adopt the Certificate amendment could potentially expose the Company to higher litigation expenses associated with lawsuits, regardless of merit, and/or impact the Company's recruitment and retention of exceptional officer candidates who conclude that the potential exposure to liabilities, costs of defense, and other risks of proceedings exceed the benefits of serving as one of the Company's officers. The Exchange notes that amendments providing for officer exculpation are increasingly common for public companies, and that the number of shareholder proposals calling for such amendments—the majority of which have been approved by wide margins—have continued to increase since 2022 when the Delaware law was passed.[3]

Under NASDAQ'S Certificate and By-Laws, the Exchange must determine whether proposed amendments to the Certificate must be filed with the Commission prior to taking effect. On April 30, 2025, the Board of the Exchange determined that the proposed amendments to the Certificate must be filed with the Commission.

(2) Proposed Amendments

To effect the changes discussed above, the Exchange proposes to amend Article Sixth of NASDAQ's Amended and Restated Certificate of Incorporation as follows. Paragraph A of Article Sixth of the Certificate provides that ''[a] director of Nasdaq shall not be liable to Nasdaq or its stockholders for monetary damages for breach of fiduciary duty as a director, except to the extent that such exemption from liability or limitation thereof is not permitted under the General Corporation Law of the State of Delaware as the same exists or may hereafter be amended.'' Paragraph B of Article Sixth provides that ''[a]ny repeal or modification of paragraph A shall not adversely affect any right or protection of a director of Nasdaq existing hereunder with respect to any act or omission occurring prior to such repeal or modification.'' In each of these provisions, the Exchange proposes to add, after each instance of the word ''director,'' the words ''or officer.'' [4]

The Exchange believes the proposed changes to paragraphs A and B of Article Sixth of the Certificate would update the Certificate to reflect amendments to the Delaware General Corporation Law [5] that enable companies incorporated in Delaware, such as NASDAQ, to limit the liability of certain of their officers in narrow circumstances, as discussed above.

(b) Proposed Amendments to the By-Laws

(1) Background

On April 23, 2025, NASDAQ's Board of Directors approved proposed amendments to the By-Laws to reflect

[3] *See, e.g.,* Andrew J. Noreuil and Andrew J. Stanger, *Developments and Trends in Delaware Officer Exculpation Charter Amendments,* Harv. L. Sch. F. On Corp. Governance (June 14, 2024), *https://corpgov.law.harvard.edu/2024/06/14/developments-and-trends-in-delaware-officer-exculpation-charter-amendments/;* Megan W. Shaner, *Understanding Officer Exculpation Under the MBCA Amendments,* Bus. L. Today (Nov. 19, 2024) *https://businesslawtoday.org/2024/11/understanding-officer-exculpation-mbca-amendments/.*

[4] *See* proposed Article Sixth of the Certificate.

[5] *See* 8 Del. C. Section 102(b)(7).

changes in law and best practices that have occurred since the most recent amendments to the By-Laws in 2016. As discussed above, under NASDAQ's Certificate and By-Laws, the Exchange must determine whether proposed amendments to the By-Laws must be filed with the Commission prior to taking effect. On April 30, 2025, the Exchange determined that the proposed amendments to the By-Laws must be filed with the Commission.

(2) Proposed Amendments

To effect the changes discussed above, the Exchange proposes to amend the By-Laws as follows.

(i) Article III Meetings of Stockholders

Section 3.1(b) of Article III of the By-Laws sets forth the requirements for a stockholder's notice to NASDAQ of nominations or other business to be considered at an annual meeting. Section 3.1(b)(i) of the By-Laws currently sets forth the information that a stockholder must provide to NASDAQ about each person whom the stockholder proposes to nominate for election as a director. Section 3.1(b)(i) of the By-Laws provides in part that the Corporation may require any proposed nominee to furnish such other information it may reasonably require to determine the eligibility of such proposed nominee to serve as director of the Corporation or that could be material to a reasonable stockholder's understanding of the independence, or lack of independence, of such proposed nominee.[6] The Exchange proposes to amend Section 3.1(b)(i) to narrow the scope of information that may be requested under this provision. Specifically, the Exchange proposes to provide that the Corporation may require any proposed nominee to furnish such other information as it may reasonably require to determine whether the-proposed nominee is qualified under the Restated Certificate of Incorporation, the By-Laws, the rules and regulations of any stock exchange applicable to the Corporation, or any law or regulation applicable to the Corporation to serve as a director and/or independent director of the Corporation.[7] The Exchange believes that the proposed changes address concerns that the current provision is unnecessarily open-ended by limiting the information that may be requested to information on the nominee's qualifications to serve as director and/or independent director of the Corporation. The Exchange also proposes certain clarifying changes to Section 3.1(b)(i) of the By-Laws. Specifically, the Exchange proposes to insert, in its first full sentence, the word ''Corporation's'' and the words ''of such Proposing Person and in the accompanying proxy card.''[8] The Exchange believes these proposed non-substantive changes would facilitate the application of this provision by rendering it more specific and clearer to understand.

Section 3.1(b) of the By-Laws sets forth requirements for notices from a Proposing Person[9] to NASDAQ regarding nominations or other business to be considered at an annual meeting. Section 3.1(b)(iii) of the By-Laws sets out the information required to be provided with respect to each Proposing Person. Information required to be provided under current Section 3.1(b)(iii)(C) includes ''a description of any agreement, arrangement or understanding with respect to the nomination or proposal between or among such stockholder and/or such beneficial owner, any of their respective affiliates or associates, and any others acting in concert with any of the foregoing.''[10] The Exchange proposes to amend Section 3.1(b)(iii)(C) to delete the reference to others ''acting in concert with any of the foregoing.''[11] The Exchange believes this proposed change is appropriate to conform the By-Laws to current practices because the ''acting in concert'' language has been challenged by plaintiffs or otherwise used in search of potential litigation targets. The Exchange thus believes it is appropriate to delete such language from the advance notice requirements under this section of the By-Laws.[12]

Section 3.1(b)(iii)(I) requires that a Proposing Person describe any significant equity interest or any Synthetic Equity Interest or Short Interest in any principal competitor of the Corporation held by such Proposing Person. The Exchange proposes to add a parenthetical stating the term ''principal competitor'' as used in this subsection shall be ''as defined for purposes of Section 8 of the Clayton Antitrust Act of 1914.''[13] The Exchange believes that the proposed change would address a textual ambiguity in this subsection by providing greater clarity with respect to the scope of the term ''principal competitor,'' which the current subsection does not define.

Section 3.1(b)(iii)(J) further requires a Proposing Person to describe any direct or indirect interest of such Proposing Person in any contract with the Corporation, any affiliate of the Corporation, or any principal competitor of the Corporation (including, in any such case, any employment agreement, collective bargaining agreement or consulting agreement.[14] The Exchange proposes adding two parentheticals to this subsection. The first parenthetical would state that an ''affiliate,'' as that term is used in this subsection, would be ''as reflected on the most recent Form

[6] *See* Section 3.1(b)(1) of the By-Laws. As discussed below, the Exchange is also proposing a non-substantive change to Section 3.1(a) of the By-Laws to delete the term ''shareholder'' and substitute therefor the word ''stockholder'' to more closely track established terminology of the By-Laws and thus make them clearer and easier to understand. *See* proposed Section 3.1(a) of the By-Laws.

[7] To effect these changes, the Exchange proposes to delete, from the final sentence of Section 3.1(b)(i) the following: (1) the romanette (i); (2) the words ''eligibility of such''; and (3) the phrase ''or (ii) that could be material to a reasonable stockholder's understanding of the independence, or lack of independence, of such proposed nominee.'' Further, the Exchange proposes to amend the final sentence of Section 3.1(b)(i) of the By-Laws as follows: (1) insert, immediately after the words ''to determine'' the word ''whether''; (2) insert, immediately after ''proposed nominee, the words ''is qualified under the Restated Certificate of Incorporation, these By-Laws, the rules and regulations of any stock exchange applicable to the Corporation, or any law or regulation applicable to the Corporation''; and (3) insert, immediately after the words ''to serve as a director'' the phrase ''and/or independent director.'' *See* proposed Section 3.1(b)(i) of the By-Laws. As discussed below, the Exchange is also proposing a non-substantive change to Section 3.1(a) of the By-Laws to delete therefrom the word ''shareholder'' and substitute therefor the word ''stockholder.'' *See* proposed Section 3.1(a) of the By-Laws.

[8] *See* proposed Section 3.1(b)(i) of the By-Laws. The Exchange also proposes a non-substantive change to Section 3.1(b)(i) to replace the term ''Requesting Person'' with ''Proposing Person'' as that term and not ''Requesting Person,'' is defined in the Section 3.1(c) of the By-Laws.

[9] The term ''Proposing Person'' means ''(i) the stockholder providing the notice of business or the notice of the nomination, as applicable, proposed to be brought before an annual meeting, (ii) any beneficial owner or beneficial owners, if different, on whose behalf such business is proposed to be brought before the meeting or the notice of the nomination proposed to be made at the meeting is made, as applicable, and (iii) any affiliate or associate (each within the meaning of Rule 12b–2 under the Act for purposes of these By-Laws) of such stockholder or beneficial owner.'' *See* Section 3.1(c) of the By-Laws.

[10] *See* Section 3.1(b)(iii)(C) of the By-Laws.

[11] *See* proposed Section 3.1(b)(iii)(C) of the By-Laws. The Exchange is also proposing conforming changes to express ''others'' in the singular ''other'' and to add, immediately thereafter, the word ''person.''

[12] As proposed, Section 3.1(b)(iii)(C) would require the Proposing Person to describe ''any agreement, arrangement or understanding with respect to the nomination or proposal between or among such stockholder and/or such beneficial owner, any of their respective affiliates or associates, and any other person.'' *See* proposed Section 3.1(b)(iii)(C) of the By-Laws.

[13] *See* proposed Section 3.1(b)(iii)(I) of the By-Laws.

[14] *See* Section 3.1(b)(iii)(J) of the By-Laws.

10–K of the Corporation.'' [15] The second parenthetical would clarify that ''principal competitor,'' as provided in this subsection, would be ''as defined for purposes of Section 8 of the Clayton Antitrust Act of 1914.'' [16] The Exchange believes that the proposed changes would address textual ambiguities in this subsection by providing greater clarity with respect to the scope of the terms ''affiliate'' and ''principal competitor,'' which terms the current subsection does not define.

Section 3.1(b)(iii)(K) further requires Proposing Persons to describe any pending or threatened litigation in which such Proposing Person is a party or material participant involving the Corporation or any of its officers or Directors, or any affiliate of the Corporation.[17] The Exchange proposes to add a parenthetical to clarify, consistent with proposed changes to Section 3.1(b)(iii)(J), that an ''affiliate,'' as used in this subsection, shall be ''as reflected on the most recent Form 10–K of the Corporation.'' [18]

Section 3.1(b)(iii)(L) of the By-Laws requires Proposing Persons to describe any material transaction occurring, in whole or in part, during the then immediately preceding 12-month period between such Proposing Person, on the one hand, and the Corporation, any affiliate of the Corporation or any principal competitor of the Corporation. Consistent with proposed changes to Section 3.1(iii)(b)(I)–(K), the Exchange proposes adding two parentheticals: the first stating that an ''affiliate,'' as that term is used in this subsection, would be ''as reflected on the most recent Form 10–K of the Corporation;'' [19] the second would clarify that ''principal competitor,'' as provided in this subsection, would be ''as defined for purposes of Section 8 of the Clayton Antitrust Act of 1914.'' [20] The Exchange believes that these proposed changes to Section 3.1(b)(iii)(L) would—consistent with similarly proposed changes to Section 3.1(b)(iii)(I)–(K)— provide greater clarity with respect to the meaning of the terms ''affiliate'' and ''principal competitor,'' which terms the current Section 3.1(b)(iii)(L) does not define.

Section 3.1(b)(iii)(O) requires notice to the Corporation if a Proposing Person intends to act as part of a group to solicit or deliver proxies in support of a proposal or the election of a nominee under specified circumstances. Specifically, Section 3.1(b)(iii)(O) of the By-Laws requires a representation as to whether the Proposing Person intends or is part of a group which intends (1) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to approve or adopt the proposal or elect the nominee and/or (2) otherwise to solicit *proxies* from stockholders in support of such proposal or nomination.[21] The Exchange proposes to amend to Section 3.1(b)(iii)(O) to clarify, in Section 3.1(b)(iii)(O)(2), that the representation required to be provided under that subsection would extend to the solicitation of proxies *or votes* from stockholders in support of any proposal or proposed nominee.[22] As further proposed, new Section 3.1(b)(iii)(O)(3) would specify that the representation required under Section 3.1(b)(iii) extends to whether the Proposing Person intends or is part of a group which intends ''to solicit proxies or votes in support of any proposed nominee in accordance with Rule 14a–19 promulgated under the Act.'' [23] The Exchange believes that the proposed changes to Section 3.1(iii)(O) enhance the transparency of this provision by providing greater specificity with respect to the content of representations required to be provided under this subsection. Similarly, proposed Section 3.1(iii)(O)(3) would enhance the clarity of this provision by specifying that the representation required under this section extends to whether the stockholder intends to act as part of a group to solicit proxies under the SEC's universal proxy rule.

Section 3.1(d) of the By-Laws addresses stockholder notice requirements with respect to nominees for additional directorships if the number of directors to be elected to the Board at an annual meeting is increased effective at the annual meeting.[24] Section 3.1(d) provides no limitations on the number of nominees that may be nominated under such circumstances.[25] The Exchange proposes to amend Section 3.1(d) to set limits on the number of nominees that may be nominated in such cases to not exceed the number of directors to be elected at the subject annual meeting. Specifically, the Exchange proposes to provide, in a new final sentence to Section 3.1(d) of the By-Laws, that the number of nominees a Proposing Person may nominate for election at the annual meeting on its own behalf (or in the case of a Proposing Person giving the notice on behalf of a beneficial owner, the number of nominees a Proposing Person may nominate for election at the annual meeting on behalf of such beneficial owner) shall not exceed the number of directors to be elected at such annual meeting.[26]

The Exchange believes that the proposed changes to Section 3.1(d) of the By-Laws would align the By-Laws with current practices by safeguarding against the practice of proposing multiple nominees and then deciding—at the last minute—which nominees will actually stand for election. This in turn would spare the Corporation and its stockholders from needless expenditure of time and resources to vet the surplus nominees.

Section 3.2(a) of the By-Laws addresses requirements for requesting a special meeting of the stockholders, including procedures for determining the requisite percentage of stockholders necessary to support a special meeting request. The Exchange proposes to amend Section 3.2(a) of the By-Laws to remove the phrase ''acting in concert'' and substitute therefor the words ''knowingly coordinating.'' [27] The Exchange believes this proposed change would mitigate against the potential for plaintiff's firms to leverage the ''acting in concert'' requirement to find targets for potential litigation.

The Exchange further proposes to amend Section 3.2(a) to remove a reference to the binding nature of the Board's determination with respect to whether the special meeting request is in proper form.[28] Specifically, the Exchange proposes to delete from the final sentence in Section 3.2(a) the words ''and such determination shall be binding on the Corporation and the stockholders.'' [29] The Exchange believes

[15] *See* proposed Section 3.1(b)(iii)(J) of the By-Laws.

[16] *See id.*

[17] *See* Section 3.1(b)(iii)(K) of the By-Laws.

[18] *See* proposed Section 3.1(b)(iii)(K) of the By-Laws.

[19] *See* proposed Section 3.1(b)(iii)(I)–(K) of the By-Laws.

[20] *See id.*

[21] *See* Section 3.1(b)(iii)(O) of the By-Laws.

[22] To effect this change, the Exchange proposes to insert, immediately after ''otherwise to solicit proxies'' in Section 3.1(b)(iii)(O)(2), the words ''or votes.'' *See* proposed Section 3.1(b)(iii)(O)(2).

[23] *See* proposed Section 3.1(b)(iii)(O)(3) of the By-Laws. The Exchange proposes a conforming change to insert, at the conclusion of Section 3.1(b)(iii)(O)(2) the following: ''and/or.'' *See* proposed Section 3.1(b)(iii)(O)(2) of the By-Laws.

[24] *See* Section 3.1(d) of the By-Laws.

[25] *See id.*

[26] *See* proposed Section 3.1(d) of the By-Laws.

[27] *See* proposed Section 3.2 of the By-Laws.

[28] *See* Section 3.2(a) of the By-Laws.

[29] *See* proposed Section 3.2(a) of the By-Laws. The Exchange further proposes to make a non-substantive change to Section 3.2(a) of the By-Laws to capitalize the word ''secretary'' to conform to other usages of such word in the By-Laws. The Exchange also proposes to correct a typographical error in Section 3.2(c) of the By-Laws to express the word ''Business'' therein in the singular as ''business'' is not a defined term. *See* proposed Section 3.2(c) of the By-Laws.

that the proposed changes would align the By-Laws with current practices because it would remove all references to the binding or final nature of Board actions, which language has been the challenged on the basis that it purports to limit or foreclose judicial review by Delaware courts.

Section 3.3 of the By-Laws governs determinations regarding nominations or business eligible to be considered at annual or special meetings. Section 3.3(a) provides, in part, that the chairman of the meeting has the power and duty to determine whether a nomination or business proposed to be brought before the meeting was made or proposed in accordance with the By-Laws and, if not so made or proposed, to declare that such nomination or business shall be disregarded.[30] The Exchange proposes to amend that provision of Section 3.3(a) to add a parenthetical stating that, in advance of any meeting of stockholders, the Board of Directors or an authorized committee thereof shall have the same powers and duties, including the power to declare that a particular nomination or business shall be disregarded.[31] The Exchange believes the proposed changes align the By-Laws with current practices because plaintiffs have argued that a determination to disregard a matter from consideration at a meeting should be subject to fiduciary duties. The proposed changes clarify that the chair of a meeting must be a director or officer whose decisions, in turn, are subject to fiduciary duties.

The Exchange further proposes to amend Section 3.3(a) to clarify that the Corporation may disregard nominees proposed by a stockholder under the Commission's universal proxy rule if the shareholder has failed to comply with that rule. To effect that change, the Exchange proposes to insert, at the conclusion of current Section 3.3(a), new text providing as follows:

Notwithstanding anything to the contrary in these By-Laws, unless otherwise required by law, if any Proposing Person (i) provides notice pursuant to Rule 14a–19(b) promulgated under the Act with respect to any proposed nominee and (ii) subsequently fails to comply with the requirements of Rule 14a–19(a)(2) or Rule 14a–19(a)(3) promulgated under the Act (or fails to timely provide reasonable evidence sufficient to satisfy the Corporation that such Proposing Person has met the requirements of Rule 14a–19(a)(3) promulgated under the Act in accordance with the following sentence), then the nomination of each such proposed nominee shall be disregarded, notwithstanding that proxies or votes in respect of the election of such proposed nominees may have been received by the Corporation (which proxies and votes shall be disregarded). Upon request by the Corporation, if any Proposing Person provides notice pursuant to Rule 14a–19(b) promulgated under the Act, such Proposing Person shall deliver to the Corporation, no later than five (5) business days prior to the applicable meeting, reasonable evidence that it has met the requirements of Rule 14a–19(a)(3) promulgated under the Act.

This proposed change to Section 3.3(a) would align the By-Laws with current practices by specifying that failure to comply with requirements of the Commission's universal proxy rule would constitute grounds for the Corporation to disregard a stockholder's proposed nomination, as well as setting out redress procedures for stockholders seeking to demonstrate that such requirements have been met.

Section 3.4 of the By-Laws governs the conduct of meetings. Section 3.4 provides in part that the date and time of the opening and closing of the polls for each matter to be voted upon at a meeting must be announced at the meeting by the person presiding over the meeting. The Exchange proposes to amend Section 3.4 to clarify, consistent with the advance notice provisions in Section 3.1 of the By-Laws, that the person presiding over a meeting must be a chairman of the meeting who shall be an officer or director of the Corporation.[32] The Exchange believes this proposed change enhances the clarity of Section 3.4 by specifying, consistent with the advance notice provisions under Section 3.1 of the By-Laws, that the chairman and presiding person of the meeting must be an officer or director of the Corporation. Section 3.4 also provides in part that the person presiding over a meeting shall have the right to, among other things, convene and adjourn the meeting.[33] The Exchange proposes to clarify that the presiding person also shall have the right to recess the meeting for any or no reason.[34] The Exchange believes this proposed change will make explicit that the presiding person's rights with respect to the conduct of the meeting includes the right to recess the meeting for any or no reason, thereby enhancing the clarity and transparency of this rule.

Section 3.6(d) of the By-Laws governs the amount of shares that a stockholder must own to invoke proxy access. Section 3.6(d) provides in part that ''[w]hether outstanding shares of the common stock of the Corporation are 'owned' for these purposes shall be determined by the Board or any committee thereof, in each case, in its sole discretion.'' [35] The Exchange proposes to amend Section 3.6(d) to delete therefrom the words ''in each case, in its sole discretion.'' [36] The Exchange further proposes to remove from Section 3.6(h)(ii), Section 3.6(h)(viii), Section 3.6(i)(i), and Section 3.6(k) of the By-Laws similar references to the finality or ''binding'' nature of decisions by the Board (or persons authorized by the Board), any committee thereof, or the chairman of a meeting of stockholders.[37] These proposed changes align the By-Laws with current practice because provisions that purport to assign a binding effect to or otherwise finality to the decisions of the Board—such as those proposed to be deleted— are likely targets by litigants who argue that such provisions unlawfully purport to foreclose judicial review.

Finally, Section 3.6(m) provides that Section 3.6 shall be the exclusive method for stockholders to include nominees for director in the Corporation's proxy materials. The Exchange proposes to amend Section 3.6(m) to provide an exception for nominees for director in the Corporation's proxy materials submitted pursuant to, and in compliance with, the Commission's universal proxy rule.[38] The proposed changes to Section 3.6(m) align the By-Laws with current practice by providing that, in addition to the exclusive method set out in Section 3.6 of the By-Laws, stockholders may also include nominees for such purposes pursuant to and consistent

[30] *See* Section 3.3(a) of the By-Laws.

[31] *See* proposed Section 3.3 of the By-Laws. To effect this change, the Exchange proposes to insert, immediately after the words ''Except as otherwise provided by law, the chairman of the meeting'' a parenthetical to read as follows: ''(or, in advance of any meeting of stockholders, the Board of Directors or an authorized committee thereof).'' The Exchange also proposes to make a non-substantive conforming change to Section 3.3(a) to insert, immediately after the word ''proxies'' in the second full sentence of Section 3.3(a) the words ''or votes,'' consistent with changes proposed for Section 3.1(b)(iii)(O) of the By-Laws.

[32] *See* proposed Section 3.4 of the By-Laws. To effect this change, the Exchange proposes to insert, in the first full sentence of Section 3.4 and immediately after ''shall be announced at the meeting by the'' the words ''chairman of the meeting who shall be an officer or director of the Corporation and who shall be the.'' *See id.*

[33] *See* Section 3.4 of the By-Laws.

[34] *See* proposed Section 3.4 of the By-Laws.

[35] *See* Section 3.6(d) of the By-Laws.

[36] *See* proposed Section 3.6(d) of the By-Laws.

[37] *See* proposed Section 3.6(h)(ii), Section 3.6(h)(viii), Section 3.6(i)(i), and Section 3.6(k) of the By-Laws.

[38] To effect this proposed change, the Exchange proposes to add immediately after the conclusion of current Section 3.6(m) the words ''other than nominees included pursuant to, and in compliance with, Section 14a–19 of the Act.'' *See* proposed Section 3.6(m) of the By-Laws.

with requirements under the SEC's universal proxy rule.[39]

(ii) *Article IV Board of Directors*

Section 4.3 of Article IV of the By-Laws governs qualifications for Directors of the Corporation. This section currently provides in part the Board may include at least one, but not more than two, Issuer Directors. The Exchange proposes to amend Section 4.3 to remove limitations on the number Issuers Directors on the Board.[40] The proposed change would provide the Corporation with greater flexibility with respect to the number of Issuer Directors that may be members of the Board, as NASDAQ is frequently in search of officers of NASDAQ-listed companies to join the Board.

Section 4.9 of the By-Laws governs quorum and voting. Section 4.9 provides in part that, in general, a quorum for the transaction of all business at all meetings of the Board shall consist of a majority of the Board.[41] The Exchange proposes to make a clarifying change to specify that for purposes of this section, a majority of the Board, means a majority of the total numbers of directors constituting the Board.[42] The Exchange believes this proposed change would provide greater clarity to and facilitate the application of this provision. The Exchange further proposes to amend Section 4.9 to clarify the process through which notice of meetings adjourned to another time and place may be given to each member of the Board.[43] Specifically, the Exchange proposes to clarify in Section 4.9 that in the absence of a quorum, a majority of the Directors present may adjourn the meeting to another time and place, and that notice of the time, place and purposes of any such adjourned meeting will be given in accordance with the By-Laws. [44] The Exchange further proposes to clarify that, if the notice of such adjourned meeting is announced at the meeting at which the adjournment is taken, notice need only be given to the Directors not present at such meeting.[45] The Exchange believes this proposed change would provide greater clarity to the By-Laws by providing a clear and practical process for giving notices of adjournments to members of the Board.

Section 4.12 of the By-Laws governs the process for providing notice of any meeting to Directors of the Board as well as related waivers of such notice. The Exchange proposes to amend Section 4.12 to remove obsolete references to certain modes of communication (both for transmission and confirmation of receipt) other than facsimile, email, or other means of electronic transmission.[46] The Exchange believes this proposed change would provide greater clarity to and facilitate the application of this provision by eliminating modes of communications, such as telegram, telefax, cable, and radio, that are no longer in use. In addition, the proposed amendments reflect current practices, as a substantial amount of communications between NASDAQ and its directors outside of Board meetings occurs in electronic form.

Section 4.13 of the By-Laws governs matters relating to committees of the Board. The Exchange proposes to amend Section 4.13(a) of the By-Laws to specify that the Corporation has opted into Section141(c)(2) of Delaware law.[47] Section 141(c) of Delaware law describes the formation and powers of board committees. Opting into Section 141(c)(2) of Delaware law is a common and recommended practice for Delaware corporations such as NASDAQ, in part because it provides corporations with greater flexibility with respect to the formation and powers of board committees, such as by allowing greater delegations of authority, including as it relates to setting terms of stock. The Exchange believes that opting into Section 141(c)(2) is appropriate to provide the Corporation with greater flexibility with respect to the functions and powers of committees of the Board.

The Exchange further proposes to amend Section 4.13 of the By-Laws to remove from Section 4.13(c) limitations on the ability of committees to take certain actions, such as the authorization of preferred stock designations. As a substitute for that limiting language, the Exchange proposes to insert new text in Section 4.13(c) of the By-Laws that would conform this subsection with the Delaware General Corporation Law, which removes limitations on the ability of committees to take certain actions, such as the authorization of preferred stock designations, as it relates to the powers of committees of the Board.[48] Consistent with proposed changes for Section 4.13(a), the Exchange believes this proposed change to Section 4.13(c) of the By-Laws would align this provision with current Delaware General Corporation Law, thereby updating the By-Laws as well as providing the Corporation with greater flexibility with respect to committees of the Board.

The Exchange proposes to amend Section 4.13(d)–(g) of the By-Laws to remove all references to limitations on the terms of committee members.[49] To effect that change, the Exchange proposes to (1) remove from Section 4.13(d) of the By-Laws the words ''[a]n Executive Committee member shall hold office for a term of one year'';[50] (2) remove from Section 4.13(e) of the By-Laws the words ''[a] Finance Committee member shall hold office for a term of one year'';[51] (3) remove from Section 4.13(f) of the By-Laws the words ''[a] Management Compensation Committee member shall hold office for a term of one year'';[52] and (4) remove from Section 4.13(g) of By-Laws the words ''an Audit Committee member shall hold office for a term of one year.''[53] The Exchange believes that deleting all references to committee members having a limited term is appropriate because term limits are not customary in

[39] *See* proposed Section 3.6(m) of the By-Laws.

[40] To effect this change, the Exchange proposes to delete from Section 4.3 of the By-Laws the words ''at least one, but no more than two.'' *See* proposed Section 4.3 of the By-Laws.

[41] *See* Section 4.9 of the By-Laws.

[42] *See* proposed Section 4.9 of the By-Laws.

[43] *See* proposed Section 4.9 of the By-Laws.

[44] *See* proposed Section 4.9 of the By-Laws.

[45] *See* proposed Section 4.9 of the By-Laws. The Exchange proposes to make a conforming change to Section 4.9 to delete from the second full sentence thereof the words ''until a quorum be present.'' *See id.*

[46] *See* proposed Section 4.12(a)–(b) of the By-Laws. To effect this change, the Exchange proposes to (1) delete from Section 4.12(a)(ii) the words ''telegraph, telefax, cable, radio, wireless'' and substitute therefor the word ''facsimile''; (2) delete from Section 4.12(a)(ii) the word ''written''; and (3) delete from Section 4.12(b) the parenthetical ''(or by telegram, telefax, cable, radio, wireless, email or other means of written electronic transmission and subsequently confirmed in writing or by electronic transmission).'' *See id.*

[47] *See* proposed Section 4.13(a) of the By-Laws. To effect this change, the Exchange proposes to insert, as the first full sentence in Section 4.13(a) the words ''The Corporation has opted into Section 141(c)(2) of Delaware law.'' *See id.*

[48] *See* proposed Section 4.13(c) of the By-Laws. To effect this change, the Exchange proposes to delete from Section 4.13(c) the words ''amending the Restated Certificate of Incorporation or the By-Laws of the Corporation; adopting an agreement of merger or consolidation; recommending to the stockholders the sale, lease, or exchange of all or substantially all the Corporation's property and assets; or recommending to the stockholders a dissolution of the Corporation or a revocation of a dissolution. Unless the resolution of the Board expressly so provides, no committee shall have the power or authority to authorize the issuance of stock.'' The Exchange further proposes to amend Section 4.13(c) to insert, immediately after the words ''no committee shall have the power or authority of the Board with regard to:'' the following: ''(a) approving or adopting, or recommending to the stockholders, any action or matter (other than the election or removal of directors) expressly required by Delaware law to be submitted to stockholders for approval or (b) adopting, amending or repealing any By-Law of the Corporation.'' *See id.*

[49] *See* Section 4.13(d)–(g) of By-Laws.

[50] *See* proposed Section 4.13(d) of By-Laws.

[51] *See* proposed Section 4.13(e) of the By-Laws.

[52] *See* proposed Section 4.13(f) of the By-Laws.

[53] *See* proposed Section 4.13(g) of the By-Laws.

by-laws as they create unnecessary administrative burdens for and limit the flexibility of a board. The Exchange notes that the proposed changes also align the By-Laws with current practice as the typical practice of the Board is to provide, in the annual resolutions regarding committee appointments, that committee members are appointed for one year or until their successors are duly elected.

The Exchange further proposes to amend Section 4.13(g) of the By-Laws to delete language specifying the Chair of the Audit Committee must be a Public Director.[54] The Exchange believes that this proposed change would eliminate unnecessary restrictions regarding, as well as provide the Corporation with greater flexibility with respect to, those who may serve as Audit Committee Chair since the Chair of the Audit Committee must in any event satisfy the independence standards in SEC as well as NASDAQ rules.[55] The proposed change would, for example, allow an issuer representative to be appointed as Chair of the Audit Committee. Finally, the Exchange proposes a non-substantive, clarifying change to Section 4.13(g) to provide that the Audit and Risk Committee (or such committee as the same may be renamed from time to time or any successor of such committee delegated with similar duties) shall be known as the ''Audit Committee.'' [56] The Exchange believes these proposed changes to Section 4.13(g) would provide greater flexibility to the Corporation with respect to those that may serve as Chair of the Audit Committee as well as enhance the clarity of and thus facilitate the application of the By-Laws by making the term ''Audit Committee'' a more clearly defined term.

The Exchange proposes to amend Section 4.13(h)(ii) of the By-Laws to remove language providing that a ''majority vote of'' the Board is required to remove a member of the Nominating & Governance Committee.[57] This change removes duplicative language and reduces potential confusion since the voting standards for all decisions of the board are set forth separately in Section 4.9(b) of the By-Laws.

Section 4.13(j) of the By-Laws provides that, in general, a majority of a committee shall constitute a quorum for the transaction of business.[58] The Exchange proposes to amend Section 4.13(j) to specify that a majority of the members of a committee then serving in office (rather than a majority of total directors on the committee as Section 4.13(j) currently provides) shall constitute a quorum for the transactions of business.[59] The Exchange believes this proposed change would remove barriers to and facilitate the work of Board committees since a vacancy in a committee would not be a barrier to action, as the quorum would be based on the directors then serving rather than the total number of directors on the committee.

(iii) Article VII Officers, Agents, and Employees

Article VII of the By-Laws governs matters relating to the officers, agents, and employees of the Corporation. The Exchange proposes to amend certain provisions in Article VII to delete references to a corporate structure that no longer reflects the structure at NASDAQ. Specifically, Article VII generally envisions a corporate structure where a President is a director and/or has executive authority over the entire company. The Exchange proposes to amend certain sections of Article VII to delete references to such a structure and replace them with language suited for a corporate structure with multiple presidents, such as the current structure of NASDAQ. To effect these changes, the Exchange proposes to amend several provisions of Article VII as follows.

Section 7.1 of the By-Laws governs matters relating to the principal officers of the Corporation. Section 7.1 specifies the principal officers to be elected by the Board, including, among others, a Chair and a President. The Exchange proposes to amend Section 7.1 to provide that the principal officers to be elected by the Board may—rather than must—include the roles set out in Section 7.1. The Exchange further proposes to amend Section 7.1 to provide that one or more Presidents, rather than only a President, may elected by the Board, among other principal officers. Section 7.1 further provides that in part that one person may not hold the offices and perform the duties of both President and Vice President or of President and Secretary. The Exchange proposes to amend Section 7.1 of the By-Laws to delete references to ''President and Vice President or of President'' and substitute therefor the words ''Chief Executive Officer.'' [60] As thus proposed, one person could not hold the offices and perform the duties of both Chief Executive Officer and Secretary (rather than of President and Vice President or of President and Secretary).[61]

For the reasons discussed above in connection with Article VII of the By-Laws more broadly, the Exchange further proposes to amend Section 7.3 (Subordinate Officers, Agents, or Employees), Section 7.5 (Resignation and Removal of Officers), Section 7.9 (President), Section 7.10 (Vice President), Section 7.11 (Secretary), and Section 7.13 (Treasurer) of the By-Laws as follows.

First, the Exchange proposes to delete from Sections 7.3 and 7.5(a) of the By-Laws the following: '', the President.''

With respect to Section 7.9 of the By-Laws, the Exchange proposes to (1) delete the words ''[t]he President shall, in the absence of the Chair of the Board and the Chief Executive Officer, preside at all meetings of the Board and stockholders at which the President is present. The President shall have general supervision over the business and affairs of the Corporation,'' substituting therefor the words ''The Board or the Chief Executive Officer may appoint one or more Presidents and each.'' The Exchange would further amend Section 7.9 to (1) delete from its final sentence the word ''The'' replacing it with ''Each''; (2) delete also from that final sentence the word ''the'' and replacing it with ''such''; and (3) insert, also in that final sentence and immediately after ''the Board'' the words ''or the Chief Executive Officer.''

With respect to Section 7.11 and Section 7.13 of the By-Laws, the Exchange proposes to amend these two sections to delete, from their respective final sentences, the words ''or the President,'' substituting therefore the words ''or any other person delegated such power by the Board or Chief Executive Officer.'' Consistent with similarly proposed changes to Article VII of the By-Laws, the Exchange believes that the proposed changes to Sections 7.11 and Section 7.13 of the By-Laws would remove impediments to the proper administration of the By-Laws as they would more closely align such By-Laws with the current corporate structure at NASDAQ as well

[54] See proposed Section 4.13(g) of the By-Laws.

[55] *See* proposed Section 4.13(g) of the By-Laws. To effect this change, the Exchange proposes to insert in the first full sentence of Section 4.13(g) of the By-Laws and immediately after the words ''[t]he Audit'' the words and symbol ''& Risk'' and further insert, immediately following the word ''Committee'' a parenthetical reading as follows: ''(such committee as the same may be renamed from time to time or any successor of such committee delegated with similar duties, the ''Audit Committee'').''The Exchange also proposes to renumber Section 4.13(g)(i) to delete the ''(i)'' and subsume the text of Section 4.13(g)(i) with that of proposed Section 4.13(g). *See* proposed Section 4.13(g) of the By-Laws.

[56] *See* proposed Section 4.13(g) of the By-Laws.

[57] *See* Section 4.13(h) of the By-Laws.

[58] *See* Section 4.13(j) of the By-Laws.

[59] *See* proposed Section 4.13(j) of the By-Laws.

[60] *See* proposed Section 7.1 of the By-Laws.

[61] *See* proposed Section 7.1 of the By-Laws.

as provide the Corporation with greater flexibility in the application of these provisions.

The Exchange believes the proposed changes to these provisions of Article VII of the By-Laws would enhance the transparency of and facilitate the application of the By-Laws because they replace obsolete or inaccurate textual references to an outdated corporate structure with updated text designed to more closely reflect the current structure of NASDAQ.

Section 7.10 of the By-Laws governs the selection of Vice Presidents. The Exchange proposes to amend Section 7.10 of the By-Laws to provide greater clarity with respect to the duties of as well as the process for selecting Vice Presidents of the Corporation. Specifically, the Exchange proposes to amend Section 7.10 of the By-Laws to provide that the Board, the Chief Executive Officer or any other person delegated such power by the Board or Chief Executive Officer, may appoint one or more Vice Presidents. The Exchange further proposes to clarify that, any Vice President may have such additional designations in such Vice President's title as the Board, the Chief Executive Officer, or the authorized person appointing such Vice President may determine.[62] As proposed, each Vice President would have all powers and duties usually incident to the office of a Vice President, except as specifically limited by the Board, the Chief Executive Officer or the authorized person appointing such Vice President.[63] The Exchange also proposes to clarify in the next to final sentence of Section 7.10 that, in addition to the Board and the Chief Executive, as provided under this section, the authorized person appointing such Vice President may also assign such Vice President other duties and powers as the Vice Presidents shall be authorized to exercise and perform pursuant to the By-Laws.[64] The Exchange believes that the proposed changes to Section 7.10 of the By-Laws would provide greater clarity with respect to the duties of and the process for selecting the Vice Presidents, thereby facilitating the application of the By-Laws with respect to Vice Presidents of the Corporation.

(iv) Article VIII Indemnification

Section 8.1 of Article VIII of the By-Laws governs indemnification of Directors, officers, employees, and agents of the Corporation. Subsection (j) of Section 8.1 addresses circumstances in which a claim for indemnification or advancement of expenses is not paid in full within 60 days after a written claim under this provision has been received by the Corporation. The Exchange proposes to amend Section 8.1(j) to clarify that the Corporation will not be required to pay claims or expenses under this provision if prohibited by law. To effect this change, the Exchange proposes to insert within the first full sentence and immediately after ''[the indemnified person] shall be entitled to be paid the expense of prosecuting such claim'' the words ''to the fullest extent permitted by law.'' [65] The Exchange believes this proposed change is appropriate as it would enhance the clarity of this provision by specifying that the extent of the Corporation's obligation to pay claims or expenses under this provision is limited to those claims or expenses not prohibited by law.

(v) IX Capital Stock

Section 9.2(a) of Article IX of the By-Laws governs requirements for signatures on stock certificates of the Corporation. Section 9.2(a) provides in part that shares of capital stock of the Corporation represented by certificates shall be signed in the name of the Corporation by two officers, with one being the Chair of the Board, the Chief Executive Officer, the President, or a Vice President, and the other being the Secretary, the Treasurer, or such other officer that may be authorized by the Board.

The Exchange proposes to amend Section 9.2(a) to broaden the scope of officers authorized to sign stock certificates. Specifically, the Exchange proposes to provide that Shares of capital stock of the Corporation represented by certificates shall be signed in the name of the Corporation by two authorized officers which shall include, without limitation, the Chair of the Board, the Chief Executive Officer, the President, any Vice President, the Secretary, and the Treasurer.[66] The Exchange believes the proposed changes to Section 9.2(a) would remove unnecessary limitations on officers authorized to sign stock certificates thereby providing greater flexibility in the By-Laws with respect to officers authorized to perform this important function.

Section 9.3 of the By-Laws governs matters relating to holders of record as shown on the stock ledger of the Corporation. Section 9.3(b) of the By-Laws provides that the Corporation shall be entitled to treat the holder of record of shares of capital stock as shown on the stock ledger as the owner thereof and as the person entitled to vote such shares and to receive notice of meetings, and for all other purposes. That subsection further provides that the Corporation shall not be bound to recognize any equitable or other claim to or interest in any share of capital stock on the part of any other person, whether or not the Corporation shall have express or other notice thereof.[67] The Exchange proposes to amend Section 9.3(b) to provide for the possibility that applicable law might require a different outcome. Specifically, the Exchange proposes to provide that the Corporation shall, to the fullest extent permitted by law, be entitled to treat the holder of record of shares of capital stock as shown on the stock ledger as the owner thereof and as the person entitled to vote such shares and to receive notice of meetings, and for all other purposes. As further proposed, Section 9.3 would provide that the Corporation shall not be bound to recognize any equitable or other

[62] *See* proposed Section 7.10 of the By-Laws.

[63] *See* proposed Section 7.10 of the By-Laws.

[64] *See* proposed Section 7.10 of the By-Laws. To effect the proposed changes to Section 7.10, the Exchange proposes to (1) delete therefrom the words ''The Board shall elect'' and substitute therefor the words ''The Board, the Chief Executive Officer or any other person delegated such power by the Board or Chief Executive Officer, may appoint''; (2) delete, from the second sentence of Section 7.10 the words ''[i]n the absence or disability of the President or if the office of President becomes vacant, the Vice Presidents in the order determined by the Board, or if no such determination has been made, in the order of their seniority, shall perform the duties and exercise the powers of the President, subject to the right of the Board at any time to extend or restrict such powers and duties or to assign them to others''; (3) insert, in the third sentence of Section 7.10 of the By-Laws and immediately following the words ''as the Board'' the words ''the Chief Executive Officer, or the authorized person appointing such Vice President''; (4) delete, from the fourth sentence of Section 7.10 the words ''The Vice Presidents shall generally assist the President in such manner as the President shall direct'' substituting therefor the words ''Each Vice President shall have all powers and duties usually incident to the office of a Vice President, except as specifically limited by the Board, the Chief Executive Officer or the authorized person appointing such Vice President.''; and (5) insert in the final sentence of Section 7.10 of the By-Laws and immediately after the words ''the Chief Executive Officer or the'' the words ''authorized person appointing such Vice.'' *See id.*

[65] *See* proposed Section 8.1(j) of the By-Laws.

[66] *See* proposed Section 9.2 of the By-Laws. To effect this change as well as make conforming changes to Section 9.2 of the By-Laws, the Exchange proposes to (1) insert, immediately after ''certificates shall be signed in the name of the Corporation by two'' the word ''authorized''; (2) insert, immediately after ''officers'' the words ''which shall include, without limitation,''; and (3) delete the words ''with one being,'' as well as ''or a,'' ''and the other being,'' and '', or such other officer that may be authorized by the Board.'' *See id.*

[67] *See* Section 9.3(b) of the By-Laws.

claim to or interest in any share of capital stock on the part of any other person, whether or not the Corporation shall have express or other notice thereof, except as required by law.[68] The Exchange believes the proposed changes to Section 9.3 of the By-Laws would ensure the enforceability of this provision by recognizing that there may be circumstances where its application would be subject to and possibly limited or otherwise affected by applicable law.

Section 9.6 of the By-Laws governs matters relating to lost, stolen, destroyed, and mutilated certificates for shares of stock of the Corporation. Section 9.6 sets out procedures for addressing the issuance of a new certificate or uncertified shares in the event that any certificate for stock of the Corporation becomes mutilated, lost, stolen, or destroyed. The Exchange proposes to amend Section 9.6 to delete language providing that the Board or a committee thereof is authorized to take action to address each such instance of lost, stolen, destroyed, or mutilated certificates and in its place provide that the Corporation (rather than solely the Board) shall have the authority to do so.[69] The Exchange believes this proposed change would remove obstacles to and facilitate the reissuance of new certificates under the specified circumstances by providing that the Corporation is authorized to act under those circumstances and by removing unnecessary requirements for the Board to take action in each and every instance that that a new certificate to replace a mutilated, lost, stolen, or destroyed certificate is sought.

(vi) Article X Miscellaneous Provisions

Section 10.4 of Article X of the By-Laws governs procedures relating to the execution of instruments, contracts, and the like. The Exchange proposes to delete Section 10.4 in its entirety and provide new text to better align the provisions of this section with NASDAQ's policies and procedures on signature authority. Specifically, the Exchange proposes to provide that, except as otherwise provided by law, all contracts and other documents requiring signature entered into by or on behalf of the Corporation, including, without limitation, all (i) checks, drafts, bills of exchange, notes, or other obligations or orders for the payment of money, (ii) deeds, bonds, mortgages, contracts, and other obligations or instruments, and (iii) applications, instruments, and papers required by any department of the United States Government or by any state, county, municipal, or other governmental authority, shall, in each case, be executed by such officer(s), employee(s), agent(s), or other person(s) as the Board, a duly authorized committee thereof, or the Chief Executive Officer may designate from time to time. As further proposed, the authority to execute any contract or document in the name and on behalf of the Corporation granted in accordance with this Section may (1) be general or confined to specific instances, (2) be designated by name, title, or role, (3) include the power to delegate signature authority further to one or more other persons, whether by name, title, or role, to the extent authorized by the Board, a duly authorized committee thereof, or the Chief Executive Officer, and (4) be revoked at any time by the Board, any committee thereof, or the Chief Executive Officer.[70] The Exchange believes that the proposed changes to Section 10.4 of the By-Laws would enhance clarity and facilitate the application of the By-Laws by removing language that has become obsolete and replacing it with provisions that more closely reflect NASDAQ's current policies and procedures on signature authority.

Section 10.5 of the By-Laws governs the form of records of the Corporation. The Exchange proposes to delete Section 10.5 in its entirety and insert in its place new text that would conform this provision with the updated Delaware statute governing signature authority. Specifically, the Exchange proposes to provide that any records administered by or on behalf of the Corporation in the regular course of its business, including its stock ledger, books of account, and minute books, may be kept on, or by means of, or be in the form of, any information storage device, method, or one or more electronic networks or databases (including one or more distributed electronic networks or databases), provided that the records so kept can be converted into clearly legible paper form within a reasonable time and otherwise comply with applicable law.[71]

(vii) Article XI Amendments; Emergency By-Laws

Section 11.4 of Article XI of the By-Laws addresses the adoption of emergency by-laws. The Exchange proposes to update Section 11.4 to reflect amendments to the emergency by-law provision of the Delaware General Corporation Law. Specifically, the Exchange proposes to provide that as provided in Section 11.4, the Board may adopt emergency by-laws which shall be operative during any emergency resulting from ''any emergency resulting from an attack on the United States or on a locality in which the Corporation conducts its business or customarily holds meetings of its Board of Directors or its stockholders, or during any nuclear or atomic disaster or during the existence of any catastrophe, including, but not limited to, an epidemic or pandemic, and a declaration of a national emergency by the United States government, or other similar emergency condition, irrespective of whether a quorum of the Board of Directors or a standing committee thereof can be readily convened for action.'' [72] In addition, and consistent with Delaware General Corporation Law, the Exchange proposes to update Section 11.4 to provide, in a final sentence to Section 11.4 of the By-Laws, that ''[n]othing contained in this Section 11.4 shall be deemed exclusive of any other provisions for emergency powers consistent with other sections of Delaware law which have been or may be adopted by corporations created under Delaware law.'' [73]

(viii) Article XIII Forum Selection

The Exchange proposes to adopt new language to provide the By-Laws with a customary forum selection provision. To effect this change, the Exchange proposes to add a new Article XIII titled ''Forum Selection'' providing as follows: [74]

Unless the Corporation consents in writing to the selection of an alternative forum, (A) (i) any derivative action or proceeding brought on behalf of the Corporation, (ii) any action asserting a claim of breach of a fiduciary duty owed by any current or former director, officer, other employee or stockholder of the Corporation to the Corporation or the Corporation's stockholders, (iii) any action asserting a claim arising pursuant to any provision of Delaware law, the Restated Certificate of

[68] *See* proposed Section 9.3(b) of the By-Laws.

[69] *See* proposed Section 9.6 of the By-Laws. To effect his change, the Exchange proposes to (1) delete from the fourth sentence of Section 9.6 the words ''Board or such committee'' and substitute therefor the word ''Corporation'' and (2) delete from the fifth sentence the word ''Board,'' substituting therefor the word ''Corporation.'' *See id.*

[70] *See* proposed Section 10.4 of the By-Laws.

[71] *See* proposed Section 10.5 of the By-Laws.

[72] *See* proposed Section 11.4 of the By-Laws.

[73] *See* proposed Section 11.4 of the By-Laws. The Exchange further proposes to delete from Section 11.4 the following language as it has become obsolete: ''nuclear or atomic disaster, an attack on the United States or on a locality in which the Corporation conducts its business or customarily holds meetings of the Board or the stockholders, any catastrophe, or other emergency condition, as a result of which a quorum of the Board or a committee thereof cannot readily be convened for action.'' *See id.*

[74] *See* proposed Article XIII of the By-Laws.

Incorporation or these By-Laws (as either may be amended or restated) or as to which Delaware law confers jurisdiction on the Court of Chancery of the State of Delaware or (iv) any action asserting a claim governed by the internal affairs doctrine of the law of the State of Delaware shall, to the fullest extent permitted by law, be exclusively brought in the Court of Chancery of the State of Delaware or, if such court does not have subject matter jurisdiction thereof, the federal district court of the State of Delaware; and (B) the federal district courts of the United States shall be the exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act of 1933, as amended. Notwithstanding the foregoing, This Section 13.1 shall not apply to claims seeking to enforce any liability or duty created by the Act. To the fullest extent permitted by law, any person or entity purchasing or otherwise acquiring or holding any interest in shares of capital stock of the Corporation shall be deemed to have notice of and consented to the provisions of this Section 13.1.

The Exchange believes that this proposed addition of Article XIII to the By-Laws is appropriate as it would provide the Corporation as well as litigants with greater certainty with respect to the applicable judicial forum for addressing claims or actions involving the Corporation.[75]

(ix) Non-Substantive Changes

The remaining proposed amendments to the By-Laws are non-substantive changes designed to simplify and streamline the document. Specifically, the Exchange proposes to (1) amend Article I(k) and Article I(m) to correct typographical errors by deleting a period and substituting in its place a semicolon and by inserting a missing parenthesis respectively; (2) make non-substantive clarifying changes to subparagraph (p) of Article I; (3) amend Article I(s) to correct a typographical error by removing a period after ''and'''; and (4) delete from Section 3.1(a) the term ''shareholder'' and substitute therefor the word ''stockholder.'' the latter which more closely reflects established terminology of the By-Laws. The Exchange believes the proposed non-substantive changes are either administrative or clarifying in nature, and that, as such, they are in the public interest as they are designed to avoid confusion with respect to the operation of the By-Laws thus facilitating their use.

2. Statutory Basis

The Exchange believes that the proposed changes are consistent with Section 6(b) of the Act,[76] in general, and furthers the objectives of Section 6(b)(1) of the Act,[77] in particular, in that they enable the Exchange to be so organized so as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. The Exchange also believes that the proposed changes are consistent with Section 6(b) of the Act,[78] in general, and furthers the objectives of Section 6(b)(5) of the Act,[79] in particular, in that they are 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.

(a) Proposed Changes to the Certificate

The Exchange believes the proposed changes to paragraphs A and B of Article Sixth of the Certificate are in the public interest as they would update the Certificate, consistent with developments in Delaware General Corporation Law that enable companies incorporated in Delaware, such as NASDAQ, to limit the liability of certain of their officers in narrow circumstances, as discussed above. The Exchange notes that amendments providing for officer exculpation are increasingly common for public companies, and that the number of shareholder proposals calling for such amendments have continued to increase since 2022 when the Delaware law was passed.[80]

(b) Proposed Changes to the By-Laws

The Exchange believes that changes proposed for Article III of the By-Laws are in the public interest as they would update the By-Laws and conform them to current practices and developments in the law with respect to corporate matters such as procedures governing the annual and special meetings of stockholders, the conduct of such meetings, and the invocation of proxy access. The proposed changes to Article IV of the By-Laws are either clarifying in nature or otherwise purport to refine governance practices by providing the Corporation with greater flexibility with respect to such matters as the qualifications of Directors, quorum and voting, or otherwise update such provisions to make them more consistent with current governance practices as well as the policies and procedures of NASDAQ. The Exchange believes that proposed changes to Articles VII through XIII are in the public interest and consistent with the protection of investors as they are designed to accomplish several objectives, including updating the By-Laws to conform with current practices or recent developments in Delaware General Corporation Law, aligning the By-Laws with current NASDAQ policies and procedures, and enhancing the clarity of the By-Laws thus facilitating their proper application and use. Finally, the remaining changes can be characterized as non-substantive, because they are designed to either correct typographical errors, conform NASDAQ governance documents to terminology in the By-Laws, remove obsolete text, or otherwise make non-substantive revisions to the By-Laws to make them clearer and easier to use.

B. Self-Regulatory Organization's Statement on Burden on Competition

Because the proposed rule change relates to the governance of NASDAQ and not to the operations of the Exchange, 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.

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

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

[75] The Exchange notes that the bylaws of Cboe Global Markets, Inc. as well as those of CME Group, Inc., contain forum selection provisions similar to those proposed by the Exchange. *See* Article 11 (''Forum for Adjudication of Disputes'') of the Eight Amended and Restated Bylaws of Cboe Global Markets, Inc. (2024) *https://s202.q4cdn.com/174824971/files/doc_governance/2024/Dec/04/Cboe-Global-Markets-Eighth-AR-Bylaws-2ffa4c.pdf;* Article IX, Section 9.1 (''Forum for Adjudication of Certain Disputes'') of the Seventeenth Amended and Restated Bylaws of CME Group, Inc. (2022) *https://www.sec.gov/Archives/edgar/data/1156375/000119312522301477/d412380dex31.htm.*

[76] 15 U.S.C. 78f(b).

[77] 15 U.S.C. 78f(b)(1).

[78] 15 U.S.C. 78f(b).

[79] 15 U.S.C. 78f(b)(5).

[80] *See supra* note 3 and accompanying text.

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 (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–GEMX–2025–27 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–GEMX–2025–27. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–GEMX–2025–27 and should be submitted on or before October 22, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[81]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–19177 Filed 9–30–25; 8:45 am]

BILLING CODE 8011–01–P

[81] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104127; File No. SR–NYSENAT–2025–22]

Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Ordering Window Deposit Requirement in Colocation Note 8

September 29, 2025.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on September 25, 2025, NYSE National, Inc. (''NYSE National'' or the ''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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Ordering Window deposit requirement in Colocation Note 8 of the Connectivity Fee Schedule. The proposed change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Ordering Window deposit requirement in Colocation Note 8 of the Connectivity Fee Schedule.

Background

In November 2023, the Commission approved the Exchange's proposal to amend the Connectivity Fee Schedule to provide, in Colocation Note 8, an alternative procedure by which the Exchange can allocate power in the colocation hall at the Mahwah Data Center (''MDC'') [4] via deposit-guaranteed orders from Users made within a 90-day ''Ordering Window.'' [5] Under that procedure, during an Ordering Window, each User may submit a single order for its anticipated power needs, without regard to the provision of Colocation Note 7 that prohibits the Exchange from accepting orders for more than four dedicated cabinets and/or 32 kW of power. Orders submitted during the Ordering Window are currently subject to deposits equal to two months' worth of the monthly recurring costs of the amount of power ordered, and such orders are not finalized until the User's signed order form and deposit are received by the Exchange. After the Ordering Window closes, space and power are allocated by the Exchange according to a formula described in Colocation Note 8.

As the Exchange explained in its original proposal, the purpose of the Ordering Window procedure is to permit the Exchange to obtain a real indication of Users' true demands for power both now and in the future. At the time of the original proposal, ICE was in the process of developing a new colocation hall—Hall 5—at the MDC, yet lacked any way to gauge Users' true demand for space and power given Users' inability to place orders for more than four dedicated cabinets and/or 32

[4] Through its Fixed Income and Data Services (''FIDS'') business, Intercontinental Exchange, Inc. (''ICE'') operates the MDC. The Exchange and its affiliates New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., and NYSE Texas, Inc. (the ''Affiliate SROs'') are indirect subsidiaries of ICE. Each of the Exchange's Affiliate SROs has submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSE–2025–36, SR–NYSEAMER–2025–59, SR–NYSEARCA–2025–70, and SR–NYSETEX–2025–33.

[5] *See* Securities Exchange Act Release No. 98937 (November 14, 2023), 88 FR 80793 (November 20, 2023) (SR–NYSE–2023–29, SR–NYSEAMER–2023–39, SR–NYSEARCA–2023–53, SR–NYSECHX–2023–16, SR–NYSENAT–2023–18).

kW of power. In addition, ICE sought firm, guaranteed commitments from Users that they would actually purchase the additional space and power if it was offered to them, thereby justifying ICE's investment in building out additional colocation halls. The Exchange developed the Ordering Window procedure to address these issues.

To date, the Exchange has used the Ordering Window procedure once, in early 2024, before the opening of the MDC's Hall 5. While the procedure worked as intended, the Exchange did observe behavior on the part of some Users that impacted the allocation of space and power. Seven Users submitted orders for 32 kW or less, and were all allocated the full amount of their orders under ''Step 2'' of the allocation procedure in Colocation Note 8. An additional nine Users ordered more than 32 kW. The Exchange has learned from discussions with those nine firms that five of them placed orders for the amount of power they actually wished to receive, while the other four firms placed orders for three to six times their desired amount of power—and, in some cases, more than all the power that was actually available in all of Hall 5.[6] When power was allocated to these nine firms pursuant to ''Step 3'' of the allocation procedure in Colocation Note 8, the result was that the five firms that ordered their actual desired amount of power received approximately 60% of their requested amounts, while the four firms that ordered several times more power than they actually wanted received an amount of power closer to their actual desired amount.

Proposed Change

ICE is currently developing an additional colocation hall at the MDC—Hall 6—and seeks to evaluate customer demand for the space and power in that Hall, as well as whether customer demand would support additional expansion projects beyond Hall 6. The Exchange plans to use the Ordering Window procedure to assist in evaluating these issues, but proposes one change to the procedure before doing so.

Specifically, the Exchange proposes to increase the deposit that Users must provide when submitting orders for more than 32 kW during the Ordering Window to six months' worth of the monthly recurring costs of the amount of power ordered, up from two months' worth. There would be no change to the deposit requirement for Users ordering 32 kW or less, who would continue to provide a deposit equal to two months' worth of the monthly recurring costs of the amount of power ordered. Similarly, there would be no change to the use of the deposit: it would continue to be applied to the User's first and subsequent months' invoices after the power is delivered until it is completely depleted. If the User withdraws its order during the Ordering Window, the deposit will be returned.

The Exchange believes that increasing the deposit requirement for orders of more than 32 kW during the Ordering Window would discourage Users seeking more than 32 kW of power from acting opportunistically and placing orders for amounts of power several times their actual desired amount. The Exchange believes that increasing the deposit amount for orders exceeding 32 kW by a multiple of three will have a material effect on the ordering behavior of these Users, since ordering several times more power than their actual desired amount would tie up sizeable amounts of capital as deposits. By way of example, during the Ordering Window in early 2024, the four firms that placed orders for significantly more power than they needed paid deposits totaling $17 million; under the proposed rule change, similar orders would require deposits of $51 million. The Exchange believes from discussions with several Users that such a deposit requirement would dissuade Users from submitting such inflated orders for power.

The Exchange believes that increasing the deposit requirement to six months from two months for orders more than 32 kW is the best way to meet the goals of the Ordering Window procedure while dissuading certain Users' opportunistic ordering behavior. In addition, the proposal would have no impact on Users ordering less than 32 kW of power, whose deposit requirement would not change and who would continue to be allocated power in ''Step 2'' of the allocation procedure, before any orders larger than 32 kW are considered.

Application and Impact of the Proposed Changes

The proposed change is not targeted at, or expected to be limited in applicability to, market participants of any specific type or size. Rather, the proposed change would apply equally to any User ordering more than 32 kW of power during an Ordering Window.

Users with more modest power needs would not be disadvantaged by the proposed change. This proposal would not change the deposit requirement for Users finalizing orders during the Ordering Window of 32 kW or less. Nor would this proposal change the fact that in ''Step 2,'' each User that finalized an order during the Ordering Window would be allocated up to 32 kW of power (subject to sufficient power being available) before any User's order for more than 32 kW would be filled.

The proposed changes are not otherwise intended to address any other issues relating to colocation services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[8] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities, is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, and does not unfairly discriminate between customers, issuers, brokers or dealers.

The proposed rule change is designed to mitigate the opportunistic behavior of Users who submitted Ordering Window orders for significantly more power than their actual desired amounts. The Exchange believes that increasing the deposit requirement for orders of more than 32 kW during the Ordering Window to six months' worth of the monthly recurring costs of the amount of power ordered, up from two months' worth, would discourage Users seeking more than 32 kW of power from acting opportunistically and placing orders for amounts of power several times their actual desired amount. The Exchange believes that increasing the deposit amount for orders exceeding 32 kW by a multiple of three will have a material effect on the ordering behavior of these Users, since ordering several times more power than their actual desired amount would tie up sizeable amounts of capital as deposits. By way of example, during the Ordering Window in early 2024, the four firms that placed orders for significantly more power than they needed paid deposits totaling $17 million; under the proposed rule change, similar orders would require deposits of $51 million. The Exchange

[6] One User submitted an order for 2,700 kW, which was more than the total amount of power available in all of Hall 5 during the Ordering Window, while another User submitted an order for 5,500 kW, nearly double that amount.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4) and (5).

believes from discussions with several Users that such a deposit requirement would dissuade Users from submitting such inflated orders for power.

The Exchange believes that increasing the deposit requirement to six months from two months for orders more than 32 kW is the best way to meet the goals of the Ordering Window procedure while dissuading certain Users' opportunistic ordering behavior. In addition, the proposal would have no impact on Users ordering less than 32 kW of power, whose deposit requirement would not change and who would continue to be allocated power in ''Step 2'' of the allocation procedure, before any orders larger than 32 kW are considered. The Exchange's proposal is thus specifically tailored to dissuade Users from submitting orders for significantly more power than their actual desired amounts.

The proposed rule change would protect investors and the public interest in that it would provide the Exchange with more accurate insight into Users' true power requirements. It is in the public interest for the Exchange to take User demand into account and to make reasoned, informed decisions about whether and how to expand the MDC.

At the same time, there would be no change to the use of the deposit: it would continue to be applied to the User's first and subsequent months' invoices after the power is delivered until it is completely depleted. If the User withdraws its order during the Ordering Window, the deposit will be returned. Accordingly, a User would continue to benefit from the deposit.

The proposed rule change provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The proposed change is not targeted at, or expected to be limited in applicability to, market participants of any specific type or size. Rather, the proposed change would apply equally to any User ordering more than 32 kW of power during an Ordering Window. Users with more modest power needs would not be disadvantaged by the proposed change. This proposal would not change the deposit requirement for Users finalizing orders during the Ordering Window of 32 kW or less. Nor would this proposal change the fact that in ''Step 2,'' each User that finalized an order during the Ordering Window would be allocated up to 32 kW of power (subject to sufficient power being available) before any User's order for more than 32 kW would be filled.

For all these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act, the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change would increase the deposit requirement for orders for more than 32 kW submitted during an Ordering Window in order to mitigate the opportunistic behavior of Users ordering significantly more power than their actual desired amounts. The Exchange does not expect the proposed rule change to impact intra-market or intermarket competition between exchanges, Users, or any other market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to Section 19(b)(3)(A)(ii) of the Act,[9] and Rule 19b–4(f)(2) thereunder[10] the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing. 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 (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NYSENAT–2025–22 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–NYSENAT–2025–22. 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 website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NYSENAT–2025–22 and should be submitted on or before October 22, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–19183 Filed 9–30–25; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235–0767]

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension: Rule 204–5

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 17 CFR 240.19b–4.

[11] 17 CFR 200.30–3(a)(12).

plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

The title for the collection of information is: ''Rule 204–5 under the Investment Advisers Act of 1940.'' Rule 204–5 requires an investment adviser to deliver an electronic or paper version of the relationship summary to each retail investor before or at the time the adviser enters into an investment advisory contract with the retail investor. The purpose of the relationship summary is to assist retail investors in making an informed choice when choosing an investment firm and professional, and type of account. Retail investors can use the information required in the relationship summary to determine whether to hire or retain an investment adviser, as well as what types of accounts and services are appropriate for their needs.

We estimate the total collection of information burden for rule 204–5 to be 1,241,670 annual aggregate hours per year, or 124 hours per respondent, for a total annual aggregate monetized cost of $95,678,622, or $9,520 per adviser.

The likely respondents to this information collection are approximately 10,050 investment advisers registered with the Commission that are required to deliver a relationship summary to retail investors pursuant to rule 204–5. We also note that these figures include the 291 registered broker-dealers that are dually registered as investment advisers.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

Written comments are invited on: (a) whether this proposed collection of information is necessary for the proper performance of the functions of the SEC, including whether the information will have practical utility; (b) the accuracy of the SEC's estimate of the burden imposed by the proposed collection of information, including the validity of the methodology and the assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated, electronic collection techniques or other forms of information technology.

Please direct your written comments on this 60-Day Collection Notice to Austin Gerig, Director/Chief Data Officer, Securities and Exchange Commission, c/o Tanya Ruttenberg via email to *PaperworkReductionAct@sec.gov* by December 1, 2025. There will be a second opportunity to comment on this SEC request following the **Federal Register** publishing a 30-Day Submission Notice.

Dated: September 29, 2025.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–19196 Filed 9–30–25; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104107; File No. SR–ISE–2025–30]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing of Proposed Rule Change To Adopt Listing Criteria for Options on a Commodity-Based Trust That Holds Multiple Crypto Assets

September 26, 2025.

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 September 26, 2025, 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 Options 4, Section 3, Criteria for Underlying Securities, to adopt a listing criteria for options on a Commodity-Based Trust that holds multiple crypto assets.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/ise/rulefilings,* and at the principal office of the Exchange.

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 its listing rules at ISE Options 4, Section 3, Criteria for Underlying Securities. Specifically, the Exchange proposes to amend the criteria for listing options on Exchange-Traded Fund Shares (''ETFs'') at Options 4, Section 3(h).

The Exchange proposes to amend Options 4, Section 3 to adopt new listing criteria in subparagraph (h)(vii) to permit the listing and trading of options on a Commodity-Based Trust that meet the generic criteria of The Nasdaq Stock Market LLC (''Nasdaq'') Rule 5711(d),[3] except that the Commodity-Based Trust holds multiple crypto assets.[4] The Exchange proposes to amend Options 4, Section 3(h) to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Nasdaq Rule 5711(d) permits the listing and trading of certain qualifying exchange-traded products that physically hold commodities like precious metals and digital asset commodities on the Exchange. Pursuant to Nasdaq Rule 5711(d), the term ''Commodity-Based Trust Shares'' means a security that: (1) is issued by a trust, limited liability company, partnership, or other similar entity (''Trust'') that, if applicable, is operated by a registered commodity pool operator pursuant to the Commodity Exchange Act, and is not registered as an investment company pursuant to the Investment Company Act of 1940, or series or class thereof; (2) is designed to reflect the performance of one or more reference assets or an index of reference assets, less expenses and other liabilities; (3) in order to reflect the performance as provided in (d)(iii)(A)(2) above, is issued by a Trust that holds (a) one or more commodities or commodity-based assets as defined in (d)(iii)(C) below, and (b) in addition to such commodities or commodity-based assets, may hold securities, cash, and cash equivalents; (4) is issued by such Trust in a specified aggregate minimum number in return for a deposit of (a) a specified quantity of the underlying commodities, commodity-based assets, securities, cash, and/or cash equivalents, or (b) a cash amount with a value based on the next determined net asset value per Trust share; and (5) when aggregated in the same specified minimum number, may be redeemed at a holder's request by such Trust which will deliver to the redeeming holder (a) the specified quantity of the underlying commodities, commodity-based assets, securities, cash, and/or cash equivalents, or (b) a cash amount with a value based on the next determined net asset value per Trust share.

[4] For purposes of this rule the term ''crypto asset'' means an asset that is generated, issued and/or transferred using a blockchain or similar distributive ledger technology network, including but not limited to, assets known as ''tokens,'' ''digital assets,'' ''virtual currencies,'' and ''coins'' and that relies on cryptographic protocols. *See* definition at proposed Options 4, Section 3(h)(4).

create a new subparagraph (4) that states,

Additionally, with respect to a Commodity-Based Trust that meets the requirements of Options 4, Section 3(h)(vii), the following requirements are satisfied: (A) the total global supply of each underlying crypto asset held by the Commodity-Based Trust has an average daily market value of at least $700 million over the last 12 months; and (B) each crypto asset held by the Commodity-Based Trust underlies a derivatives contract that trades on a market with which the Exchange has a comprehensive surveillance sharing agreement, whether directly or through common membership in the Intermarket Surveillance Group. For purposes of this rule the term ''crypto asset'' means an asset that is generated, issued and/or transferred using a blockchain or similar distributive ledger technology network, including but not limited to, assets known as ''tokens,'' ''digital assets,'' ''virtual currencies,'' and ''coins'' and that relies on cryptographic protocols.

The proposed additional criteria would require a Commodity-Based Trust to: (1) meet the generic criteria of Nasdaq Rule 5711(d) and hold multiple crypto assets; (2) meet the criteria and guidelines set forth in Options 4, Section 3(a)[5] and (b),[6] or Options 4, Section 3(h)(1)(ii);[7] and (3) meet the requirements in Options 4, Section 3(h)(4) prior to listing options on the Commodity-Based Trust.

As proposed, Options 4, Section 3(h)(4) requires a Commodity-Based Trust that meets the requirements of Options 4, Section 3(h)(vii) to also satisfy the following requirements: (A) the total global supply of each underlying crypto asset held by the Commodity-Based Trust has an average daily market value of at least $700 million over the last 12 months; and (B) each crypto asset held by the Commodity-Based Trust underlies a derivatives contract that trades on a market with which the Exchange has a comprehensive surveillance sharing agreement, whether directly or through common membership in the Intermarket Surveillance Group (''ISG'').

The Exchange defines a ''crypto asset'' at Options 4, Section 3(h)(4) to mean, for purposes of this rule, an asset that is generated, issued and/or transferred using a blockchain or similar distributive ledger technology network, including but not limited to, assets known as ''tokens,'' ''digital assets,'' ''virtual currencies,'' and ''coins'' and that relies on cryptographic protocols.

The market value for each underlying crypto asset will be calculated by taking the total global supply of the particular crypto asset multiplied by the token price.[8] Total supply of crypto assets includes all crypto assets currently issued and does not include unissued crypto assets.[9]

Further, the Exchange has specified in proposed Options 4, Section 3(h)(4) that each crypto asset held by the Commodity-Based Trust must underlie a derivatives contract that trades on a market with which the Exchange has a comprehensive surveillance sharing agreement, whether directly or through common membership in ISG.[10] The Exchange will be required to ensure that this requirement is met prior to listing options on a Commodity-Based Trust pursuant to proposed Options 4, Section 3(h)(vii).

As a result of this amendment, the proposed listing criteria would permit a Commodity-Based Trust that is generically listed on Nasdaq pursuant to Rule 5711(d) and holds multiple crypto assets to qualify for the listing of options on that ETF, provided Options 4, Section 3(h)(4) has also been met, as well as the listing criteria in Options 4, Section 3(a) and (b) or Options 4, Section 3(h)(1)(ii).

Similar to options on any ETF, an option on a Commodity-Based Trust that meets the requirements of Options 4, Section 3(h)(vii) would also be subject to the Exchange's continued listing standards for options on ETFs set forth in Options 4, Section 4(g). Pursuant to Options 4, Section 4(g), ETFs approved for options trading pursuant to Options 4, Section 3(h) will not be deemed to meet the requirements for continued approval, and the Exchange shall not open for trading any additional series of option contracts of the class covering such ETFs if the ETFs are delisted from trading as provided in subparagraph (b)(5) of Options 4, Section 4[11] or the ETFs are halted or suspended from trading on their primary market.[12] Additionally, options on Commodity-Based Trusts that are approved subject to Options 4, Section 3(h)(vii) may be subject to the suspension of opening transactions in any series of options of the class covering ETFs in any of the following circumstances:[13]

(1) in the case of options covering Exchange-Traded Fund Shares approved pursuant to Options 4, Section 3(h)(i), in accordance with the terms of subparagraphs (b)(1), (2), (3) and (4) of Options 4, Section 4;[14]

(2) in the case of options covering Fund Shares approved pursuant to Options 4, Section 3(h)(ii),[15] following the initial twelve-month period beginning upon the commencement of trading in the Exchange-Traded Fund Shares on a national securities exchange and are defined as an ''NMS stock'' under Rule 600 of Regulation NMS, there were fewer than 50 record and/or beneficial holders of such Exchange-Traded Fund Shares for 30 or more consecutive trading days;

(3) the value of the index or portfolio of securities or non-U.S. currency, portfolio of commodities including commodity futures

[5] Options 4, Section 3(a) provides that a security (which includes an ETF) on which options may be listed and traded on the Exchange must be a security registered (with the Commission) and be an NMS stock (as defined in Rule 600 of Regulation NMS under the Act), and the security shall be characterized by a substantial number of outstanding shares that are widely held and actively traded.

[6] Options 4, Section 3(b) provides criteria and guidelines when evaluating potential underlying securities for the listing of options.

[7] Options 4, Section 3(h)(1)(ii) provides that the Exchange-Traded Fund Shares are available for creation or redemption each business day from or through the issuing trust, investment company, commodity pool or other entity in cash or in kind at a price related to net asset value, and the issuer is obligated to issue Exchange-Traded Fund Shares in a specified aggregate number even if some or all of the investment assets and/or cash required to be deposited have not been received by the issuer, subject to the condition that the person obligated to deposit the investment assets has undertaken to deliver them as soon as possible and such undertaking is secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the issuer of the Exchange-Traded Fund Shares, all as described in the Exchange-Traded Fund Shares' prospectus.

[8] The market supply information can be obtained from publicly available sources such as coingecko.com or coinmarketcap.com.

[9] For example, if Bitcoin were the underlying crypto asset, the Exchange would consider the total supply of all Bitcoin currently issued instead of the maximum supply, which would be currently issued as well as unminted Bitcoin. As of September 12, 2025, Bitcoin's total supply was 19,919,915 (the maximum supply was 21,000,000). *See https://www.coingecko.com/en/coins/bitcoin.* The Exchange would calculate market value by utilizing the total supply number multiplied by the Bitcoin price on that day.

[10] For a list of the current members and affiliate members of ISG, see *https://isgportal.org/public-members.*

[11] Options 4, Section 4(b)(5) provides, if an underlying security is approved for options listing and trading under the provisions of Options 4, Section 3(c), the trading volume of the Original Security (as therein defined) prior to but not after the commencement of trading in the Restructure Security (as therein defined), including 'when-issued' trading, may be taken into account in determining whether the trading volume requirement of (3) of this paragraph (b) is satisfied.

[12] *See* Options 4, Section 4(g).

[13] *See id.*

[14] Options 4, Section 4(b)(1) through (4) provides, if: (1) there are fewer than 6,300,000 shares of the underlying security held by persons other than those who are required to report their security holdings under Section 16(a) of the Act, (2) there are fewer than 1,600 holders of the underlying security, (3) the trading volume (in all markets in which the underlying security is traded) has been less than 1,800,000 shares in the preceding twelve (12) months, or (4) the underlying security ceases to be an 'NMS stock' as defined in Rule 600 of Regulation NMS under the Act. Options 4, Section 3(h)(i) refers to Financial Instruments and Money Market Instruments.

[15] Options 4, Section 3(h)(ii) refers to Currency Trust Shares.

contracts, options on commodity futures contracts, swaps, forward contracts, options on physical commodities and/or Financial Instruments and Money Market Instruments, on which the Exchange-Traded Fund Shares are based is no longer calculated or available; or

(4) such other event occurs or condition exists that in the opinion of the Exchange makes further dealing in such options on the Exchange inadvisable.

Consistent with current Options 4, Section 5, which governs the opening of options series on a specific underlying security (including ETFs), the Exchange would open at least one expiration month [16] for options on Commodity-Based Trusts that are approved subject to Options 4, Section 3(h)(vii) and may also list series of options for trading on a weekly [17] or quarterly [18] basis. The Exchange may also list long-term equity option series (''LEAPS'') that expire from twelve to thirty-nine months from the time they are listed.[19]

Pursuant to Options 4, Section 5(d), which governs strike prices of series of options on ETFs, the interval between strike prices of series of options on an ETF, including ETFs listed pursuant to proposed Options 4, Section 3(h)(vii), would be $1 or greater when the strike price is $200 or less and $5 or greater when the strike price is greater than $200.[20] Additionally, the Exchange may list series of options pursuant to the $1 Strike Price Interval Program,[21] the $0.50 Strike Program,[22] the $2.50 Strike Price Program,[23] and the $5 Strike Program.[24] Pursuant to Options 3, Section 3, where the price of a series of options on an ETF is less than $3.00, the minimum increment will be $0.05, and where the price is $3.00 or higher, the minimum increment will be $0.10.[25] Any and all new series of options on Commodity-Based Trusts that are approved subject to Options 4, Section 3(h)(vii) would be subject to the expirations, strike prices, and minimum increments set forth in Options 4, Section 5 and Options 3, Section 3, as applicable.

Further, options on Commodity-Based Trusts that are approved subject to Options 4, Section 3(h)(vii) would trade in the same manner as options on other ETFs on the Exchange. The Exchange Rules that currently apply to the listing and trading of all options on ETFs on the Exchange, including, for example, Rules that govern listing criteria, expirations, exercise prices, minimum increments, position and exercise limits, margin requirements, customer accounts and trading halt procedures would apply to the listing and trading of options on Commodity-Based Trusts that are approved subject to Options 4, Section 3(h)(vii) in the same manner.

Position and exercise limits for options on Commodity-Based Trusts that are approved subject to Options 4, Section 3(h)(vii) would be determined pursuant to Options 9, Sections 13 and 15, respectively, as is the case for other options on other ETFs. Position and exercise limits for options on ETFs vary according to the number of outstanding shares and the trading volumes of the underlying ETF over the past six months, where the largest in capitalization and the most frequently traded ETFs have an option position and exercise limit of 250,000 contracts (with adjustments for splits, re-capitalizations, etc.) on the same side of the market; and smaller capitalization ETFs have position and exercise limits of 200,000, 75,000, 50,000 or 25,000 contracts (with adjustments for splits, re-capitalizations, etc.) on the same side of the market. Further, Options 6C, Section 3, which governs margin requirements and is applicable to the trading of all options on the Exchange including options on ETFs, will also apply to the trading of options on Commodity-Based Trusts listed pursuant to proposed Options 4, Section 3(h)(vii).

The Exchange represents that the same surveillance procedures applicable to all other options on other ETFs currently listed and traded on the Exchange will apply to the trading of options on Commodity-Based Trusts that are approved subject to Options 4, Section 3(h)(vii). The Exchange represents that it has the necessary systems capacity to support the new option series. The Exchange believes that its existing surveillance and reporting safeguards are designed to deter and detect possible manipulative behavior which might potentially arise from listing and trading options on ETFs, including the listing of options on Commodity-Based Trusts that are approved subject to Options 4, Section 3(h)(vii). Also, the Exchange may obtain information from designated contract markets that are members of the ISG related to a financial instrument that is based, in whole or in part, upon an interest in or performance of a crypto asset, as applicable. The Exchange has specified in proposed Options 4, Section 3(h)(4) that each crypto asset held by the Commodity-Based Trust must underlie a derivatives contract that trades on a market with which the Exchange has a comprehensive surveillance sharing agreement, whether directly or through common membership in ISG.[26] The Exchange will be required to ensure that this requirement is met prior to listing options on a Commodity-Based Trust listed pursuant to proposed Options 4, Section 3(h)(vii).

Additionally, the Exchange has also analyzed its capacity and represents that it believes the Exchange and the

[16] *See* Options 4, Section 5(b). At the commencement of trading on the Exchange of a particular class of options, the Exchange will open a minimum of one (1) series of options in that class. The exercise price of that series will be fixed at a price per share, relative to the underlying stock price in the primary market at about the time that class of options is first opened for trading on the Exchange. The monthly expirations are subject to certain listing criteria for underlying securities described within Options 4, Section 5. Monthly listings expire the third Friday of the month. The term ''expiration date'' (unless separately defined elsewhere in the OCC By-Laws), when used in respect of an option contract (subject to certain exceptions), means the third Friday of the expiration month of such option contract, or if such Friday is a day on which the exchange on which such option is listed is not open for business, the preceding day on which such exchange is open for business. *See* OCC By-Laws Article I, Section 1. Pursuant to Options 4, Section 5(c), additional series of options of the same class may be opened for trading on the Exchange when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the market price of the underlying stock moves more than five strike prices from the initial exercise price or prices. The opening of a new series of options shall not affect the series of options of the same class previously opened. New series of options on an individual stock may be added until the beginning of the month in which the options contract will expire. Due to unusual market conditions, the Exchange, in its discretion, may add a new series of options on an individual stock until the close of trading on the business day prior to the business day of expiration, or, in the case of an option contract expiring on a day that is not a business day, on the second business day prior to expiration.

[17] *See* Supplementary .03 to Options 4, Section 5.

[18] *See* Supplementary .04 to Options 4, Section 5.

[19] *See* Options 4, Section 8.

[20] The Exchange notes that for options listed pursuant to the Short Term Option Series Program, the Quarterly Options Series Program, and the Monthly Options Series Program, Supplementary Material .03, .04 and .09 to Options 4, Section 5 set forth the intervals between strike prices on Short Term Option Series, Quarterly Options Series, and Monthly Options Series, respectively.

[21] *See* Supplementary Material .01 to Options 4, Section 5.

[22] *See* Supplementary Material .05 to Options 4, Section 5.

[23] *See* Supplementary Material .02 to Options 4, Section 5.

[24] *See* Supplementary Material .06 to Options 4, Section 5.

[25] If options on a Commodity-Based Trust are eligible to participate in the Penny Interval Program, the minimum increment would be $0.01 for series with a price below $3.00 and $0.05 for series with a price at or above $3.00. *See* Supplementary Material .01 to Options 3, Section 3 (which describes the requirements for the Penny Interval Program).

[26] There are a number of futures contracts on digital asset commodities that are listed and trading on the CME and Coinbase Derivatives, both of which are ISG members. *See https://www.cmegroup.com/markets/cryptocurrencies.html#products. See also https://www.coinbase.com/derivatives.*

Options Price Reporting Authority or ''OPRA'' have the necessary systems capacity to handle the additional traffic associated with the listing of new series of ETFs, including the trading of options on Commodity-Based Trusts that are approved subject to Options 4, Section 3(h)(vii), up to the number of expirations currently permissible under the Exchange Rules.

Finally, today, the Exchange lists and trades options on ETFs that would qualify for listing as an option on a Commodity-Based Trust under proposed Options 4, Section 3(h)(vii),[27] and it has not identified any issues with the listing and trading of options on those ETFs.

2. *Statutory Basis*

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[28] in general, and furthers the objectives of Section 6(b)(5) of the Act,[29] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section (6)(b)(5)[30] 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 its proposal to establish new listing criteria at Options 4, Section 3(h)(vii) with respect to options on Commodity-Based Trusts, without the need for additional approvals, will remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protect investors because it would allow the Exchange to immediately list and trade qualifying options on Commodity-Based Trusts, provided the initial listing criteria has been met, without any additional approvals from the Commission.

Specifically, the Exchange's proposal to adopt Options 4, Section 3(h)(vii) to allow the listing and trading of options on units that represent interests in Commodity-Based Trusts that meet the generic criteria of Nasdaq Rule 5711(d),[31] and hold multiple crypto assets, is consistent with the Act because it will permit the Exchange to offer options on certain Commodity-Based Trusts soon after the listing of the ETF on Nasdaq, provided all listing criteria have been met. Listing these options will avail market participants of the opportunity to hedge their positions in the Commodity-Based Trusts in a timely manner, thereby providing investors with the ability to hedge their exposure to the underlying Commodity-Based Trust. Options on Commodity-Based Trusts benefits investors, similar to the listing of any other option on an ETF, by providing investors with a relatively lower-cost risk management tool to manage their positions and associated risk in their portfolios more easily in connection with exposure to the price of a crypto asset. Additionally, listing options on Commodity-Based Trusts provides investors with the ability to transact in such options on a listed market as opposed to the OTC options market, which increases market transparency and enhances the process of price discovery to the benefit of all investors.

Also, this proposal would permit options on certain Commodity-Based Trusts to be listed on the Exchange in the same manner as options on ETFs that are subject to the current listing criteria in Options 4, Section 3(h). The Exchange notes that the majority of ETFs are able to list and trade options once the initial listing criteria have been met without the need for additional approvals. The proposed rule change would allow options on certain Commodity-Based Trusts to likewise list and trade once the proposed listing criteria have been met without the need for additional approvals.

As proposed, the Exchange would list options in a Commodity-Based Trust that met the generic criteria of Nasdaq Rule 5711(d), provided the Commodity-Based Trust held multiple crypto assets. Further, these options on Commodity-Based Trusts would also be required to satisfy the conditions in proposed Options 4, Section 3(h)(4). Specifically, a Commodity-Based Trust that met the requirements of proposed Options 4, Section 3(h)(vii) would also have to satisfy the following requirements in proposed Options 4, Section 3(h)(4): (A) the total global supply of each underlying crypto asset held by the Commodity-Based Trust has an average daily market value of at least $700 million over the last 12 months; and (B) each crypto asset held by the Commodity-Based Trust underlies a derivatives contract that trades on a market with which the Exchange has a comprehensive surveillance sharing agreement, whether directly or through common membership in the ISG.

These requirements are consistent with the Act and the protection of investors as they should ensure that the underlying ETF has sufficient liquidity prior to listing options, which will serve to prevent disruption to the underlying market. The Exchange believes that market supply serves as a good measure of liquidity to prevent the addition of options trading on the Commodity-Based Trust from disrupting the market for the underlying security. Requiring each underlying crypto asset to have a requisite amount of deliverable supply, in addition to all the other criteria the ETF is required to have under Nasdaq Rule 5711, should ensure adequate liquidity prior to listing. Further, ensuring each crypto asset held by the Commodity-Based Trust underlies a derivatives contract that trades on a market with which the Exchange has a comprehensive surveillance sharing agreement, whether directly or through common membership in the ISG, will provide the Exchange with information to adequately surveillance options on qualifying Commodity-Based Trusts. Today, the Exchange has a comprehensive surveillance sharing agreement in place with both the CME and Coinbase Derivatives through its common membership in ISG. This facilitates the sharing of information that is available to the CME and Coinbase Derivatives through their surveillance of their respective markets, including their surveillance of their respective digital asset futures markets.

The Exchange also believes the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system, because it is consistent with current Exchange Rules, previously filed with the Commission. Options on qualifying Commodity-Based Trusts must satisfy the initial listing standards and continued listing standards currently in the Exchange Rules, applicable to options on all ETFs, including ETFs that hold other crypto assets already deemed appropriate for options trading on the Exchange in addition to the proposed criteria. Options on qualifying

[27] The following ETFs currently have options listed on them on the Exchange: iShares Bitcoin Trust, the Fidelity Wise Origin Bitcoin Fund, the ARK21Shares Bitcoin ETF, the Grayscale Bitcoin Trust (BTC), the Grayscale Bitcoin Mini Trust BTC, and the Bitwise Bitcoin ETF. *See* Options 4, Section 3(h)(iv). The Exchange filed rule proposals and received the appropriate regulatory notice or approval to list the aforementioned options on the ETFs.

[28] 15 U.S.C. 78f(b).

[29] 15 U.S.C. 78f(b)(5).

[30] 15 U.S.C. 78(f)(b)(5).

[31] *See supra* note 3.

Commodity-Based Trusts would trade in the same manner as any other ETF options—the same Exchange Rules that currently govern the listing and trading of all ETF options, including permissible expirations, strike prices and minimum increments, and applicable position and exercise limits and margin requirements, will govern the listing and trading of options on qualifying Commodity-Based Trusts.

The Exchange represents that it has the necessary systems capacity to support the listing and trading of options on qualifying Commodity-Based Trusts. The Exchange believes that its existing surveillance and reporting safeguards are designed to deter and detect possible manipulative behavior which might arise from listing and trading of these options on Commodity-Based Trust, particularly in light of the additional requirement that each crypto asset held by the Commodity-Based Trust underlies a derivatives contract that trades on a market with which the Exchange has a comprehensive surveillance sharing agreement, whether directly or through common membership in ISG.

Finally, today, the Exchange lists and trades options on ETFs that would qualify for listing as an option on a Commodity-Based Trust under proposed Options 4, Section 3(h)(vii),[32] and it has not identified any issues with the listing and trading of options on those ETFs.

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 Exchange does not believe that the proposal to amend the listing criteria at Options 4, Section 3(h)(vii), with respect to ETFs, to adopt new criteria to permit the listing and trading of options on certain Commodity-Based Trusts that hold multiple crypto assets and that were listed pursuant to Nasdaq Rule 5711(d), without the need for additional approvals, will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Options on qualifying Commodity-Based Trusts would need to satisfy the initial listing standards set forth in the Exchange Rules in the same manner as any other ETF before the Exchange could list options on them. Additionally, options on qualifying Commodity-Based Trusts will be equally available to all market participants who wish to trade such options. The Exchange Rules currently applicable to the listing and trading of options on ETFs on the Exchange will apply in the same manner to the listing and trading of all options on qualifying Commodity-Based Trusts.

Additionally, the Exchange notes that listing and trading options on qualifying Commodity-Based Trusts on the Exchange will subject such options to transparent exchange-based rules as well as price discovery and liquidity, as opposed to alternatively trading such options in the OTC market. The Exchange believes that the proposed rule change may relieve any burden on, or otherwise promote, competition as it is designed to increase competition for order flow on the Exchange in a manner that is beneficial to investors by providing them with a lower-cost option to hedge their investment portfolios in a timely manner.

The Exchange does not believe that the proposal to adopt new listing criteria at Options 4, Section 3(h)(vii) to permit the listing and trading of certain options on a Commodity-Based Trust, without the need for additional approvals, will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Other options exchanges are free to amend their listing rules, as applicable, to permit them to list and trade options on Commodity-Based Trusts.

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

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 (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include file number SR–ISE–2025–30 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–2025–30. 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 website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–ISE–2025–30 and should be submitted on or before October 22, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–19102 Filed 9–30–25; 8:45 am]

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[32] The following ETFs currently have options listed on them on the Exchange: iShares Bitcoin Trust, the Fidelity Wise Origin Bitcoin Fund, the ARK21Shares Bitcoin ETF, the Grayscale Bitcoin Trust (BTC), the Grayscale Bitcoin Mini Trust BTC, and the Bitwise Bitcoin ETF. *See* Options 4, Section 3(h)(iv). The Exchange filed rule proposals and received the appropriate regulatory notice or approval to list the aforementioned options on the ETFs.

[33] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104115; File No. SR–ISE–2025–31]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing of a Proposed Rule Change To Amend the Amended and Restated Certificate of Incorporation and By-Laws of its Parent Corporation, Nasdaq, Inc.

September 29, 2025.

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 September 26, 2025, Nasdaq ISE, LLC (''ISE'' 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 publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Amended and Restated Certificate of Incorporation (''Certificate'') and By-Laws (''By-Laws'') of its parent corporation, Nasdaq, Inc. (''NASDAQ'' or ''Corporation''). The proposed changes would align the Certificate with certain amendments to the Delaware General Corporation Law as well as update the By-Laws to reflect recent changes in law and best practices, as discussed below.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/ise/rulefilings* and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to update the Certificate to reflect certain amendments to the Delaware General Corporation Law. The Exchange is also proposing to update the By-Laws to reflect recent changes in law and best practices as discussed below.

(a) Proposed Amendments to the Certificate

(1) Background

On April 23, 2025, NASDAQ's Board of Directors approved proposed amendments to the Certificate to provide for limited officer exculpation. On June 11, 2025, NASDAQ held its Annual Meeting of Stockholders, during which its stockholders considered and approved the Certificate amendments. In 2022, Delaware amended the Delaware General Corporation Law to enable companies incorporated in Delaware, such as NASDAQ, to limit the liability of certain of their officers in narrow circumstances. This change was made to address situations where directors would be dismissed from litigation, but the officers, who were not exculpated, had to continue in the litigation to show their actions were not grossly negligent. Generally, this issue arises in the mergers and acquisitions context and often relates to claims that a particular disclosure document was deficient.

The Certificate amendment would exculpate covered officers from monetary liability for breach of the duty of care in a manner similar to that already permitted for directors. However, it would not exculpate such officers in connection with derivative actions. Failing to adopt the Certificate amendment could potentially expose the Company to higher litigation expenses associated with lawsuits, regardless of merit, and/or impact the Company's recruitment and retention of exceptional officer candidates who conclude that the potential exposure to liabilities, costs of defense, and other risks of proceedings exceed the benefits of serving as one of the Company's officers. The Exchange notes that amendments providing for officer exculpation are increasingly common for public companies, and that the number of shareholder proposals calling for such amendments—the majority of which have been approved by wide margins—have continued to increase since 2022 when the Delaware law was passed.[3]

Under NASDAQ'S Certificate and By-Laws, the Exchange must determine whether proposed amendments to the Certificate must be filed with the Commission prior to taking effect. On April 30, 2025, the Board of the Exchange determined that the proposed amendments to the Certificate must be filed with the Commission.

(2) Proposed Amendments

To effect the changes discussed above, the Exchange proposes to amend Article Sixth of NASDAQ's Amended and Restated Certificate of Incorporation as follows. Paragraph A of Article Sixth of the Certificate provides that ''[a] director of Nasdaq shall not be liable to Nasdaq or its stockholders for monetary damages for breach of fiduciary duty as a director, except to the extent that such exemption from liability or limitation thereof is not permitted under the General Corporation Law of the State of Delaware as the same exists or may hereafter be amended.'' Paragraph B of Article Sixth provides that ''[a]ny repeal or modification of paragraph A shall not adversely affect any right or protection of a director of Nasdaq existing hereunder with respect to any act or omission occurring prior to such repeal or modification.'' In each of these provisions, the Exchange proposes to add, after each instance of the word ''director,'' the words ''or officer.'' [4]

The Exchange believes the proposed changes to paragraphs A and B of Article Sixth of the Certificate would update the Certificate to reflect amendments to the Delaware General Corporation Law [5] that enable companies incorporated in Delaware, such as NASDAQ, to limit the liability of certain of their officers in narrow circumstances, as discussed above.

(b) Proposed Amendments to the By-Laws

(1) Background

On April 23, 2025, NASDAQ's Board of Directors approved proposed amendments to the By-Laws to reflect changes in law and best practices that

[3] *See, e.g.,* Andrew J. Noreuil and Andrew J. Stanger, *Developments and Trends in Delaware Officer Exculpation Charter Amendments,* Harv. L. Sch. F. On Corp. Governance (June 14, 2024), *https://corpgov.law.harvard.edu/2024/06/14/developments-and-trends-in-delaware-officer-exculpation-charter-amendments/;* Megan W. Shaner, *Understanding Officer Exculpation Under the MBCA Amendments,* Bus. L. Today (Nov. 19, 2024) *https://businesslawtoday.org/2024/11/understanding-officer-exculpation-mbca-amendments/.*

[4] *See* proposed Article Sixth of the Certificate.

[5] *See* 8 Del. C. Section 102(b)(7).

have occurred since the most recent amendments to the By-Laws in 2016. As discussed above, under NASDAQ's Certificate and By-Laws, the Exchange must determine whether proposed amendments to the By-Laws must be filed with the Commission prior to taking effect. On April 30, 2025, the Exchange determined that the proposed amendments to the By-Laws must be filed with the Commission.

(2) Proposed Amendments

To effect the changes discussed above, the Exchange proposes to amend the By-Laws as follows.

(i) Article III Meetings of Stockholders

Section 3.1(b) of Article III of the By-Laws sets forth the requirements for a stockholder's notice to NASDAQ of nominations or other business to be considered at an annual meeting. Section 3.1(b)(i) of the By-Laws currently sets forth the information that a stockholder must provide to NASDAQ about each person whom the stockholder proposes to nominate for election as a director. Section 3.1(b)(i) of the By-Laws provides in part that the Corporation may require any proposed nominee to furnish such other information it may reasonably require to determine the eligibility of such proposed nominee to serve as director of the Corporation or that could be material to a reasonable stockholder's understanding of the independence, or lack of independence, of such proposed nominee.[6] The Exchange proposes to amend Section 3.1(b)(i) to narrow the scope of information that may be requested under this provision. Specifically, the Exchange proposes to provide that the Corporation may require any proposed nominee to furnish such other information as it may reasonably require to determine whether the-proposed nominee is qualified under the Restated Certificate of Incorporation, the By-Laws, the rules and regulations of any stock exchange applicable to the Corporation, or any law or regulation applicable to the Corporation to serve as a director and/or independent director of the Corporation.[7] The Exchange believes that the proposed changes address concerns that the current provision is unnecessarily open-ended by limiting the information that may be requested to information on the nominee's qualifications to serve as director and/or independent director of the Corporation. The Exchange also proposes certain clarifying changes to Section 3.1(b)(i) of the By-Laws. Specifically, the Exchange proposes to insert, in its first full sentence, the word ''Corporation's'' and the words ''of such Proposing Person and in the accompanying proxy card.''[8] The Exchange believes these proposed non-substantive changes would facilitate the application of this provision by rendering it more specific and clearer to understand.

Section 3.1(b) of the By-Laws sets forth requirements for notices from a Proposing Person[9] to NASDAQ regarding nominations or other business to be considered at an annual meeting. Section 3.1(b)(iii) of the By-Laws sets out the information required to be provided with respect to each Proposing Person. Information required to be provided under current Section 3.1(b)(iii)(C) includes ''a description of any agreement, arrangement or understanding with respect to the nomination or proposal between or among such stockholder and/or such beneficial owner, any of their respective affiliates or associates, and any others acting in concert with any of the foregoing.''[10] The Exchange proposes to amend Section 3.1(b)(iii)(C) to delete the reference to others ''acting in concert with any of the foregoing.''[11] The Exchange believes this proposed change is appropriate to conform the By-Laws to current practices because the ''acting in concert'' language has been challenged by plaintiffs or otherwise used in search of potential litigation targets. The Exchange thus believes it is appropriate to delete such language from the advance notice requirements under this section of the By-Laws.[12]

Section 3.1(b)(iii)(I) requires that a Proposing Person describe any significant equity interest or any Synthetic Equity Interest or Short Interest in any principal competitor of the Corporation held by such Proposing Person. The Exchange proposes to add a parenthetical stating the term ''principal competitor'' as used in this subsection shall be ''as defined for purposes of Section 8 of the Clayton Antitrust Act of 1914.''[13] The Exchange believes that the proposed change would address a textual ambiguity in this subsection by providing greater clarity with respect to the scope of the term ''principal competitor,'' which the current subsection does not define.

Section 3.1(b)(iii)(J) further requires a Proposing Person to describe any direct or indirect interest of such Proposing Person in any contract with the Corporation, any affiliate of the Corporation, or any principal competitor of the Corporation (including, in any such case, any employment agreement, collective bargaining agreement or consulting agreement.[14] The Exchange proposes adding two parentheticals to this subsection. The first parenthetical would state that an ''affiliate,'' as that term is used in this subsection, would be ''as reflected on the most recent Form 10–K of the Corporation.''[15] The second

[6] *See* Section 3.1(b)(1) of the By-Laws. As discussed below, the Exchange is also proposing a non-substantive change to Section 3.1(a) of the By-Laws to delete the term ''shareholder'' and substitute therefor the word ''stockholder'' to more closely track established terminology of the By-Laws and thus make them clearer and easier to understand. *See* proposed Section 3.1(a) of the By-Laws.

[7] To effect these changes, the Exchange proposes to delete, from the final sentence of Section 3.1(b)(i) the following: (1) the romanette (i); (2) the words ''eligibility of such''; and (3) the phrase ''or (ii) that could be material to a reasonable stockholder's understanding of the independence, or lack of independence, of such proposed nominee.'' Further, the Exchange proposes to amend the final sentence of Section 3.1(b)(i) of the By-Laws as follows: (1) insert, immediately after the words ''to determine'' the word ''whether''; (2) insert, immediately after ''proposed nominee, the words ''is qualified under the Restated Certificate of Incorporation, these By-Laws, the rules and regulations of any stock exchange applicable to the Corporation, or any law or regulation applicable to the Corporation''; and (3) insert, immediately after the words ''to serve as a director'' the phrase ''and/or independent director.'' *See* proposed Section 3.1(b)(i) of the By-Laws. As discussed below, the Exchange is also proposing a non-substantive change to Section 3.1(a) of the By-Laws to delete therefrom the word ''shareholder'' and substitute therefor the word ''stockholder.'' *See* proposed Section 3.1(a) of the By-Laws.

[8] *See* proposed Section 3.1(b)(i) of the By-Laws. The Exchange also proposes a non-substantive change to Section 3.1(b)(i) to replace the term ''Requesting Person'' with ''Proposing Person'' as that term and not ''Requesting Person,'' is defined in the Section 3.1(c) of the By-Laws.

[9] The term '' Proposing Person'' means ''(i) the stockholder providing the notice of business or the notice of the nomination, as applicable, proposed to be brought before an annual meeting, (ii) any beneficial owner or beneficial owners, if different, on whose behalf such business is proposed to be brought before the meeting or the notice of the nomination proposed to be made at the meeting is made, as applicable, and (iii) any affiliate or associate (each within the meaning of Rule 12b–2 under the Act for purposes of these By-Laws) of such stockholder or beneficial owner.'' *See* Section 3.1(c) of the By-Laws.

[10] *See* Section 3.1(b)(iii)(C) of the By-Laws.

[11] *See* proposed Section 3.1(b)(iii)(C) of the By-Laws. The Exchange is also proposing conforming changes to express ''others'' in the singular ''other'' and to add, immediately thereafter, the word ''person.''

[12] As proposed, Section 3.1(b)(iii)(C) would require the Proposing Person to describe ''any agreement, arrangement or understanding with respect to the nomination or proposal between or among such stockholder and/or such beneficial owner, any of their respective affiliates or associates, and any other person.'' *See* proposed Section 3.1(b)(iii)(C) of the By-Laws.

[13] *See* proposed Section 3.1(b)(iii)(I) of the By-Laws.

[14] *See* Section 3.1(b)(iii)(J) of the By-Laws.

[15] *See* proposed Section 3.1(b)(iii)(J) of the By-Laws.

parenthetical would clarify that ''principal competitor,'' as provided in this subsection, would be ''as defined for purposes of Section 8 of the Clayton Antitrust Act of 1914.'' [16] The Exchange believes that the proposed changes would address textual ambiguities in this subsection by providing greater clarity with respect to the scope of the terms ''affiliate'' and ''principal competitor,'' which terms the current subsection does not define.

Section 3.1(b)(iii)(K) further requires Proposing Persons to describe any pending or threatened litigation in which such Proposing Person is a party or material participant involving the Corporation or any of its officers or Directors, or any affiliate of the Corporation.[17] The Exchange proposes to add a parenthetical to clarify, consistent with proposed changes to Section 3.1(b)(iii)(J), that an ''affiliate,'' as used in this subsection, shall be ''as reflected on the most recent Form 10–K of the Corporation.'' [18]

Section 3.1(b)(iii)(L) of the By-Laws requires Proposing Persons to describe any material transaction occurring, in whole or in part, during the then immediately preceding 12-month period between such Proposing Person, on the one hand, and the Corporation, any affiliate of the Corporation or any principal competitor of the Corporation. Consistent with proposed changes to Section 3.1(iii)(b)(I)–(K), the Exchange proposes adding two parentheticals: the first stating that an ''affiliate,'' as that term is used in this subsection, would be ''as reflected on the most recent Form 10–K of the Corporation;'' [19] the second would clarify that ''principal competitor,'' as provided in this subsection, would be ''as defined for purposes of Section 8 of the Clayton Antitrust Act of 1914.'' [20] The Exchange believes that these proposed changes to Section 3.1(b)(iii)(L) would—consistent with similarly proposed changes to Section 3.1(b)(iii)(I)–(K)—provide greater clarity with respect to the meaning of the terms ''affiliate'' and ''principal competitor,'' which terms the current Section 3.1(b)(iii)(L) does not define.

Section 3.1(b)(iii)(O) requires notice to the Corporation if a Proposing Person intends to act as part of a group to solicit or deliver proxies in support of a proposal or the election of a nominee under specified circumstances. Specifically, Section 3.1(b)(iii)(O) of the By-Laws requires a representation as to whether the Proposing Person intends or is part of a group which intends (1) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to approve or adopt the proposal or elect the nominee and/or (2) otherwise to solicit *proxies* from stockholders in support of such proposal or nomination.[21] The Exchange proposes to amend to Section 3.1(b)(iii)(O) to clarify, in Section 3.1(b)(iii)(O)(2), that the representation required to be provided under that subsection would extend to the solicitation of proxies *or votes* from stockholders in support of any proposal or proposed nominee.[22] As further proposed, new Section 3.1(b)(iii)(O)(3) would specify that the representation required under Section 3.1(b)(iii) extends to whether the Proposing Person intends or is part of a group which intends ''to solicit proxies or votes in support of any proposed nominee in accordance with Rule 14a–19 promulgated under the Act.'' [23] The Exchange believes that the proposed changes to Section 3.1(iii)(O) enhance the transparency of this provision by providing greater specificity with respect to the content of representations required to be provided under this subsection. Similarly, proposed Section 3.1(iii)(O)(3) would enhance the clarity of this provision by specifying that the representation required under this section extends to whether the stockholder intends to act as part of a group to solicit proxies under the SEC's universal proxy rule.

Section 3.1(d) of the By-Laws addresses stockholder notice requirements with respect to nominees for additional directorships if the number of directors to be elected to the Board at an annual meeting is increased effective at the annual meeting.[24] Section 3.1(d) provides no limitations on the number of nominees that may be nominated under such circumstances.[25] The Exchange proposes to amend Section 3.1(d) to set limits on the number of nominees that may be nominated in such cases to not exceed the number of directors to be elected at the subject annual meeting. Specifically, the Exchange proposes to provide, in a new final sentence to Section 3.1(d) of the By-Laws, that the number of nominees a Proposing Person may nominate for election at the annual meeting on its own behalf (or in the case of a Proposing Person giving the notice on behalf of a beneficial owner, the number of nominees a Proposing Person may nominate for election at the annual meeting on behalf of such beneficial owner) shall not exceed the number of directors to be elected at such annual meeting.[26]

The Exchange believes that the proposed changes to Section 3.1(d) of the By-Laws would align the By-Laws with current practices by safeguarding against the practice of proposing multiple nominees and then deciding—at the last minute—which nominees will actually stand for election. This in turn would spare the Corporation and its stockholders from needless expenditure of time and resources to vet the surplus nominees.

Section 3.2(a) of the By-Laws addresses requirements for requesting a special meeting of the stockholders, including procedures for determining the requisite percentage of stockholders necessary to support a special meeting request. The Exchange proposes to amend Section 3.2(a) of the By-Laws to remove the phrase ''acting in concert'' and substitute therefor the words ''knowingly coordinating.'' [27] The Exchange believes this proposed change would mitigate against the potential for plaintiff's firms to leverage the ''acting in concert'' requirement to find targets for potential litigation.

The Exchange further proposes to amend Section 3.2(a) to remove a reference to the binding nature of the Board's determination with respect to whether the special meeting request is in proper form.[28] Specifically, the Exchange proposes to delete from the final sentence in Section 3.2(a) the words ''and such determination shall be binding on the Corporation and the stockholders.'' [29] The Exchange believes that the proposed changes would align the By-Laws with current practices because it would remove all references

[16] *See id.*

[17] *See* Section 3.1(b)(iii)(K) of the By-Laws.

[18] *See* proposed Section 3.1(b)(iii)(K) of the By-Laws.

[19] *See* proposed Section 3.1(b)(iii)(I)–(K) of the By-Laws.

[20] *See id.*

[21] *See* Section 3.1(b)(iii)(O) of the By-Laws.

[22] To effect this change, the Exchange proposes to insert, immediately after ''otherwise to solicit proxies'' in Section 3.1(b)(iii)(O)(2), the words ''or votes.'' *See* proposed Section 3.1(b)(iii)(O)(2).

[23] *See* proposed Section 3.1(b)(iii)(O)(3) of the By-Laws. The Exchange proposes a conforming change to insert, at the conclusion of Section 3.1(b)(iii)(O)(2) the following: ''and/or.'' *See* proposed Section 3.1(b)(iii)(O)(2) of the By-Laws.

[24] *See* Section 3.1(d) of the By-Laws.

[25] *See id.*

[26] *See* proposed Section 3.1(d) of the By-Laws.

[27] *See* proposed Section 3.2 of the By-Laws.

[28] *See* Section 3.2(a) of the By-Laws.

[29] *See* proposed Section 3.2(a) of the By-Laws. The Exchange further proposes to make a non-substantive change to Section 3.2(a) of the By-Laws to capitalize the word ''secretary'' to conform to other usages of such word in the By-Laws. The Exchange also proposes to correct a typographical error in Section 3.2(c) of the By-Laws to express the word ''Business'' therein in the singular as ''business'' is not a defined term. *See* proposed Section 3.2(c) of the By-Laws.

to the binding or final nature of Board actions, which language has been the challenged on the basis that it purports to limit or foreclose judicial review by Delaware courts.

Section 3.3 of the By-Laws governs determinations regarding nominations or business eligible to be considered at annual or special meetings. Section 3.3(a) provides, in part, that the chairman of the meeting has the power and duty to determine whether a nomination or business proposed to be brought before the meeting was made or proposed in accordance with the By-Laws and, if not so made or proposed, to declare that such nomination or business shall be disregarded.[30] The Exchange proposes to amend that provision of Section 3.3(a) to add a parenthetical stating that, in advance of any meeting of stockholders, the Board of Directors or an authorized committee thereof shall have the same powers and duties, including the power to declare that a particular nomination or business shall be disregarded.[31] The Exchange believes the proposed changes align the By-Laws with current practices because plaintiffs have argued that a determination to disregard a matter from consideration at a meeting should be subject to fiduciary duties. The proposed changes clarify that the chair of a meeting must be a director or officer whose decisions, in turn, are subject to fiduciary duties.

The Exchange further proposes to amend Section 3.3(a) to clarify that the Corporation may disregard nominees proposed by a stockholder under the Commission's universal proxy rule if the shareholder has failed to comply with that rule. To effect that change, the Exchange proposes to insert, at the conclusion of current Section 3.3(a), new text providing as follows:

Notwithstanding anything to the contrary in these By-Laws, unless otherwise required by law, if any Proposing Person (i) provides notice pursuant to Rule 14a–19(b) promulgated under the Act with respect to any proposed nominee and (ii) subsequently fails to comply with the requirements of Rule 14a–19(a)(2) or Rule 14a–19(a)(3) promulgated under the Act (or fails to timely provide reasonable evidence sufficient to satisfy the Corporation that such Proposing Person has met the requirements of Rule 14a–19(a)(3) promulgated under the Act in accordance with the following sentence), then the nomination of each such proposed nominee shall be disregarded, notwithstanding that proxies or votes in respect of the election of such proposed nominees may have been received by the Corporation (which proxies and votes shall be disregarded). Upon request by the Corporation, if any Proposing Person provides notice pursuant to Rule 14a–19(b) promulgated under the Act, such Proposing Person shall deliver to the Corporation, no later than five (5) business days prior to the applicable meeting, reasonable evidence that it has met the requirements of Rule 14a–19(a)(3) promulgated under the Act.

This proposed change to Section 3.3(a) would align the By-Laws with current practices by specifying that failure to comply with requirements of the Commission's universal proxy rule would constitute grounds for the Corporation to disregard a stockholder's proposed nomination, as well as setting out redress procedures for stockholders seeking to demonstrate that such requirements have been met.

Section 3.4 of the By-Laws governs the conduct of meetings. Section 3.4 provides in part that the date and time of the opening and closing of the polls for each matter to be voted upon at a meeting must be announced at the meeting by the person presiding over the meeting. The Exchange proposes to amend Section 3.4 to clarify, consistent with the advance notice provisions in Section 3.1 of the By-Laws, that the person presiding over a meeting must be a chairman of the meeting who shall be an officer or director of the Corporation.[32] The Exchange believes this proposed change enhances the clarity of Section 3.4 by specifying, consistent with the advance notice provisions under Section 3.1 of the By-Laws, that the chairman and presiding person of the meeting must be an officer or director of the Corporation. Section 3.4 also provides in part that the person presiding over a meeting shall have the right to, among other things, convene and adjourn the meeting.[33] The Exchange proposes to clarify that the presiding person also shall have the right to recess the meeting for any or no reason.[34] The Exchange believes this proposed change will make explicit that the presiding person's rights with respect to the conduct of the meeting includes the right to recess the meeting for any or no reason, thereby enhancing the clarity and transparency of this rule.

Section 3.6(d) of the By-Laws governs the amount of shares that a stockholder must own to invoke proxy access. Section 3.6(d) provides in part that ''[w]hether outstanding shares of the common stock of the Corporation are 'owned' for these purposes shall be determined by the Board or any committee thereof, in each case, in its sole discretion.'' [35] The Exchange proposes to amend Section 3.6(d) to delete therefrom the words ''in each case, in its sole discretion.'' [36] The Exchange further proposes to remove from Section 3.6(h)(ii), Section 3.6(h)(viii), Section 3.6(i)(i), and Section 3.6(k) of the By-Laws similar references to the finality or ''binding'' nature of decisions by the Board (or persons authorized by the Board), any committee thereof, or the chairman of a meeting of stockholders.[37] These proposed changes align the By-Laws with current practice because provisions that purport to assign a binding effect to or otherwise finality to the decisions of the Board—such as those proposed to be deleted—are likely targets by litigants who argue that such provisions unlawfully purport to foreclose judicial review.

Finally, Section 3.6(m) provides that Section 3.6 shall be the exclusive method for stockholders to include nominees for director in the Corporation's proxy materials. The Exchange proposes to amend Section 3.6(m) to provide an exception for nominees for director in the Corporation's proxy materials submitted pursuant to, and in compliance with, the Commission's universal proxy rule.[38] The proposed changes to Section 3.6(m) align the By-Laws with current practice by providing that, in addition to the exclusive method set out in Section 3.6 of the By-Laws, stockholders may also include nominees for such purposes pursuant to and consistent with requirements under the SEC's universal proxy rule.[39]

[30] *See* Section 3.3(a) of the By-Laws.

[31] *See* proposed Section 3.3 of the By-Laws. To effect this change, the Exchange proposes to insert, immediately after the words ''Except as otherwise provided by law, the chairman of the meeting'' a parenthetical to read as follows: ''(or, in advance of any meeting of stockholders, the Board of Directors or an authorized committee thereof).'' The Exchange also proposes to make a non-substantive conforming change to Section 3.3(a) to insert, immediately after the word ''proxies'' in the second full sentence of Section 3.3(a) the words ''or votes,'' consistent with changes proposed for Section 3.1(b)(iii)(O) of the By-Laws.

[32] *See* proposed Section 3.4 of the By-Laws. To effect this change, the Exchange proposes to insert, in the first full sentence of Section 3.4 and immediately after ''shall be announced at the meeting by the'' the words ''chairman of the meeting who shall be an officer or director of the Corporation and who shall be the.'' *See id.*

[33] *See* Section 3.4 of the By-Laws.

[34] *See* proposed Section 3.4 of the By-Laws.

[35] *See* Section 3.6(d) of the By-Laws.

[36] *See* proposed Section 3.6(d) of the By-Laws.

[37] *See* proposed Section 3.6(h)(ii), Section 3.6(h)(viii), Section 3.6(i)(i), and Section 3.6(k) of the By-Laws.

[38] To effect this proposed change, the Exchange proposes to add immediately after the conclusion of current Section 3.6(m) the words ''other than nominees included pursuant to, and in compliance with, Section 14a–19 of the Act.'' *See* proposed Section 3.6(m) of the By-Laws.

[39] *See* proposed Section 3.6(m) of the By-Laws.

(ii) *Article IV Board of Directors*

Section 4.3 of Article IV of the By-Laws governs qualifications for Directors of the Corporation. This section currently provides in part the Board may include at least one, but not more than two, Issuer Directors. The Exchange proposes to amend Section 4.3 to remove limitations on the number Issuers Directors on the Board.[40] The proposed change would provide the Corporation with greater flexibility with respect to the number of Issuer Directors that may be members of the Board, as NASDAQ is frequently in search of officers of NASDAQ-listed companies to join the Board.

Section 4.9 of the By-Laws governs quorum and voting. Section 4.9 provides in part that, in general, a quorum for the transaction of all business at all meetings of the Board shall consist of a majority of the Board.[41] The Exchange proposes to make a clarifying change to specify that for purposes of this section, a majority of the Board, means a majority of the total numbers of directors constituting the Board.[42] The Exchange believes this proposed change would provide greater clarity to and facilitate the application of this provision. The Exchange further proposes to amend Section 4.9 to clarify the process through which notice of meetings adjourned to another time and place may be given to each member of the Board.[43] Specifically, the Exchange proposes to clarify in Section 4.9 that in the absence of a quorum, a majority of the Directors present may adjourn the meeting to another time and place, and that notice of the time, place and purposes of any such adjourned meeting will be given in accordance with the By-Laws. [44] The Exchange further proposes to clarify that, if the notice of such adjourned meeting is announced at the meeting at which the adjournment is taken, notice need only be given to the Directors not present at such meeting.[45] The Exchange believes this proposed change would provide greater clarity to the By-Laws by providing a clear and practical process for giving notices of adjournments to members of the Board.

Section 4.12 of the By-Laws governs the process for providing notice of any meeting to Directors of the Board as well as related waivers of such notice. The Exchange proposes to amend Section 4.12 to remove obsolete references to certain modes of communication (both for transmission and confirmation of receipt) other than facsimile, email, or other means of electronic transmission.[46] The Exchange believes this proposed change would provide greater clarity to and facilitate the application of this provision by eliminating modes of communications, such as telegram, telefax, cable, and radio, that are no longer in use. In addition, the proposed amendments reflect current practices, as a substantial amount of communications between NASDAQ and its directors outside of Board meetings occurs in electronic form.

Section 4.13 of the By-Laws governs matters relating to committees of the Board. The Exchange proposes to amend Section 4.13(a) of the By-Laws to specify that the Corporation has opted into Section141(c)(2) of Delaware law.[47] Section 141(c) of Delaware law describes the formation and powers of board committees. Opting into Section 141(c)(2) of Delaware law is a common and recommended practice for Delaware corporations such as NASDAQ, in part because it provides corporations with greater flexibility with respect to the formation and powers of board committees, such as by allowing greater delegations of authority, including as it relates to setting terms of stock. The Exchange believes that opting into Section 141(c)(2) is appropriate to provide the Corporation with greater flexibility with respect to the functions and powers of committees of the Board.

The Exchange further proposes to amend Section 4.13 of the By-Laws to remove from Section 4.13(c) limitations on the ability of committees to take certain actions, such as the authorization of preferred stock designations. As a substitute for that limiting language, the Exchange proposes to insert new text in Section 4.13(c) of the By-Laws that would conform this subsection with the Delaware General Corporation Law, which removes limitations on the ability of committees to take certain actions, such as the authorization of preferred stock designations, as it relates to the powers of committees of the Board.[48] Consistent with proposed changes for Section 4.13(a), the Exchange believes this proposed change to Section 4.13(c) of the By-Laws would align this provision with current Delaware General Corporation Law, thereby updating the By-Laws as well as providing the Corporation with greater flexibility with respect to committees of the Board.

The Exchange proposes to amend Section 4.13(d)–(g) of the By-Laws to remove all references to limitations on the terms of committee members.[49] To effect that change, the Exchange proposes to (1) remove from Section 4.13(d) of the By-Laws the words ''[a]n Executive Committee member shall hold office for a term of one year'';[50] (2) remove from Section 4.13(e) of the By-Laws the words ''[a] Finance Committee member shall hold office for a term of one year'';[51] (3) remove from Section 4.13(f) of the By-Laws the words ''[a] Management Compensation Committee member shall hold office for a term of one year'';[52] and (4) remove from Section 4.13(g) of By-Laws the words ''an Audit Committee member shall hold office for a term of one year.''[53] The Exchange believes that deleting all references to committee members having a limited term is appropriate because term limits are not customary in by-laws as they create unnecessary administrative burdens for and limit the

[40] To effect this change, the Exchange proposes to delete from Section 4.3 of the By-Laws the words ''at least one, but no more than two.'' *See* proposed Section 4.3 of the By-Laws.

[41] *See* Section 4.9 of the By-Laws.

[42] *See* proposed Section 4.9 of the By-Laws.

[43] *See* proposed Section 4.9 of the By-Laws.

[44] *See* proposed Section 4.9 of the By-Laws.

[45] *See* proposed Section 4.9 of the By-Laws. The Exchange proposes to make a conforming change to Section 4.9 to delete from the second full sentence thereof the words ''until a quorum be present.'' *See id.*

[46] *See* proposed Section 4.12(a)–(b) of the By-Laws. To effect this change, the Exchange proposes to (1) delete from Section 4.12(a)(ii) the words ''telegraph, telefax, cable, radio, wireless'' and substitute therefor the word ''facsimile''; (2) delete from Section 4.12(a)(ii) the word ''written''; and (3) delete from Section 4.12(b) the parenthetical ''(or by telegram, telefax, cable, radio, wireless, email or other means of written electronic transmission and subsequently confirmed in writing or by electronic transmission).'' *See id.*

[47] *See* proposed Section 4.13(a) of the By-Laws. To effect this change, the Exchange proposes to insert, as the first full sentence in Section 4.13(a) the words ''The Corporation has opted into Section 141(c)(2) of Delaware law.'' *See id.*

[48] *See* proposed Section 4.13(c) of the By-Laws. To effect this change, the Exchange proposes to delete from Section 4.13(c) the words ''amending the Restated Certificate of Incorporation or the By-Laws of the Corporation; adopting an agreement of merger or consolidation; recommending to the stockholders the sale, lease, or exchange of all or substantially all the Corporation's property and assets; or recommending to the stockholders a dissolution of the Corporation or a revocation of a dissolution. Unless the resolution of the Board expressly so provides, no committee shall have the power or authority to authorize the issuance of stock.'' The Exchange further proposes to amend Section 4.13(c) to insert, immediately after the words ''no committee shall have the power or authority of the Board with regard to:'' the following: ''(a) approving or adopting, or recommending to the stockholders, any action or matter (other than the election or removal of directors) expressly required by Delaware law to be submitted to stockholders for approval or (b) adopting, amending or repealing any By-Law of the Corporation.'' *See id.*

[49] *See* Section 4.13(d)-(g) of By-Laws.

[50] *See* proposed Section 4.13(d) of By-Laws.

[51] *See* proposed Section 4.13(e) of the By-Laws.

[52] *See* proposed Section 4.13(f) of the By-Laws.

[53] *See* proposed Section 4.13(g) of the By-Laws.

flexibility of a board. The Exchange notes that the proposed changes also align the By-Laws with current practice as the typical practice of the Board is to provide, in the annual resolutions regarding committee appointments, that committee members are appointed for one year or until their successors are duly elected.

The Exchange further proposes to amend Section 4.13(g) of the By-Laws to delete language specifying the Chair of the Audit Committee must be a Public Director.[54] The Exchange believes that this proposed change would eliminate unnecessary restrictions regarding, as well as provide the Corporation with greater flexibility with respect to, those who may serve as Audit Committee Chair since the Chair of the Audit Committee must in any event satisfy the independence standards in SEC as well as NASDAQ rules.[55] The proposed change would, for example, allow an issuer representative to be appointed as Chair of the Audit Committee. Finally, the Exchange proposes a non-substantive, clarifying change to Section 4.13(g) to provide that the Audit and Risk Committee (or such committee as the same may be renamed from time to time or any successor of such committee delegated with similar duties) shall be known as the ''Audit Committee.'' [56] The Exchange believes these proposed changes to Section 4.13(g) would provide greater flexibility to the Corporation with respect to those that may serve as Chair of the Audit Committee as well as enhance the clarity of and thus facilitate the application of the By-Laws by making the term ''Audit Committee'' a more clearly defined term.

The Exchange proposes to amend Section 4.13(h)(ii) of the By-Laws to remove language providing that a ''majority vote of'' the Board is required to remove a member of the Nominating & Governance Committee.[57] This change removes duplicative language and reduces potential confusion since the voting standards for all decisions of the board are set forth separately in Section 4.9(b) of the By-Laws.

Section 4.13(j) of the By-Laws provides that, in general, a majority of a committee shall constitute a quorum for the transaction of business.[58] The Exchange proposes to amend Section 4.13(j) to specify that a majority of the members of a committee then serving in office (rather than a majority of total directors on the committee as Section 4.13(j) currently provides) shall constitute a quorum for the transactions of business.[59] The Exchange believes this proposed change would remove barriers to and facilitate the work of Board committees since a vacancy in a committee would not be a barrier to action, as the quorum would be based on the directors then serving rather than the total number of directors on the committee.

(iii) Article VII Officers, Agents, and Employees

Article VII of the By-Laws governs matters relating to the officers, agents, and employees of the Corporation. The Exchange proposes to amend certain provisions in Article VII to delete references to a corporate structure that no longer reflects the structure at NASDAQ. Specifically, Article VII generally envisions a corporate structure where a President is a director and/or has executive authority over the entire company. The Exchange proposes to amend certain sections of Article VII to delete references to such a structure and replace them with language suited for a corporate structure with multiple presidents, such as the current structure of NASDAQ. To effect these changes, the Exchange proposes to amend several provisions of Article VII as follows.

Section 7.1 of the By-Laws governs matters relating to the principal officers of the Corporation. Section 7.1 specifies the principal officers to be elected by the Board, including, among others, a Chair and a President. The Exchange proposes to amend Section 7.1 to provide that the principal officers to be elected by the Board may—rather than must—include the roles set out in Section 7.1. The Exchange further proposes to amend Section 7.1 to provide that one or more Presidents, rather than only a President, may elected by the Board, among other principal officers. Section 7.1 further provides that in part that one person may not hold the offices and perform the duties of both President and Vice President or of President and Secretary. The Exchange proposes to amend Section 7.1 of the By-Laws to delete references to ''President and Vice President or of President'' and substitute therefor the words ''Chief Executive Officer.'' [60] As thus proposed, one person could not hold the offices and perform the duties of both Chief Executive Officer and Secretary (rather than of President and Vice President or of President and Secretary).[61]

For the reasons discussed above in connection with Article VII of the By-Laws more broadly, the Exchange further proposes to amend Section 7.3 (Subordinate Officers, Agents, or Employees), Section 7.5 (Resignation and Removal of Officers), Section 7.9 (President), Section 7.10 (Vice President), Section 7.11 (Secretary), and Section 7.13 (Treasurer) of the By-Laws as follows.

First, the Exchange proposes to delete from Sections 7.3 and 7.5(a) of the By-Laws the following: '', the President.''

With respect to Section 7.9 of the By-Laws, the Exchange proposes to (1) delete the words ''[t]he President shall, in the absence of the Chair of the Board and the Chief Executive Officer, preside at all meetings of the Board and stockholders at which the President is present. The President shall have general supervision over the business and affairs of the Corporation,'' substituting therefor the words ''The Board or the Chief Executive Officer may appoint one or more Presidents and each.'' The Exchange would further amend Section 7.9 to (1) delete from its final sentence the word ''The'' replacing it with ''Each''; (2) delete also from that final sentence the word ''the'' and replacing it with ''such''; and (3) insert, also in that final sentence and immediately after ''the Board'' the words ''or the Chief Executive Officer.''

With respect to Section 7.11 and Section 7.13 of the By-Laws, the Exchange proposes to amend these two sections to delete, from their respective final sentences, the words ''or the President,'' substituting therefore the words ''or any other person delegated such power by the Board or Chief Executive Officer.'' Consistent with similarly proposed changes to Article VII of the By-Laws, the Exchange believes that the proposed changes to Sections 7.11 and Section 7.13 of the By-Laws would remove impediments to the proper administration of the By-Laws as they would more closely align such By-Laws with the current corporate structure at NASDAQ as well as provide the Corporation with greater

[54] See proposed Section 4.13(g) of the By-Laws.

[55] *See* proposed Section 4.13(g) of the By-Laws. To effect this change, the Exchange proposes to insert in the first full sentence of Section 4.13(g) of the By-Laws and immediately after the words ''[t]he Audit'' the words and symbol ''& Risk'' and further insert, immediately following the word ''Committee'' a parenthetical reading as follows: ''(such committee as the same may be renamed from time to time or any successor of such committee delegated with similar duties, the ''Audit Committee'').''The Exchange also proposes to renumber Section 4.13(g)(i) to delete the ''(i)'' and subsume the text of Section 4.13(g)(i) with that of proposed Section 4.13(g). *See* proposed Section 4.13(g) of the By-Laws.

[56] *See* proposed Section 4.13(g) of the By-Laws.

[57] *See* Section 4.13(h) of the By-Laws.

[58] *See* Section 4.13(j) of the By-Laws.

[59] *See* proposed Section 4.13(j) of the By-Laws.

[60] *See* proposed Section 7.1 of the By-Laws.

[61] *See* proposed Section 7.1 of the By-Laws.

flexibility in the application of these provisions.

The Exchange believes the proposed changes to these provisions of Article VII of the By-Laws would enhance the transparency of and facilitate the application of the By-Laws because they replace obsolete or inaccurate textual references to an outdated corporate structure with updated text designed to more closely reflect the current structure of NASDAQ.

Section 7.10 of the By-Laws governs the selection of Vice Presidents. The Exchange proposes to amend Section 7.10 of the By-Laws to provide greater clarity with respect to the duties of as well as the process for selecting Vice Presidents of the Corporation. Specifically, the Exchange proposes to amend Section 7.10 of the By-Laws to provide that the Board, the Chief Executive Officer or any other person delegated such power by the Board or Chief Executive Officer, may appoint one or more Vice Presidents. The Exchange further proposes to clarify that, any Vice President may have such additional designations in such Vice President's title as the Board, the Chief Executive Officer, or the authorized person appointing such Vice President may determine.[62] As proposed, each Vice President would have all powers and duties usually incident to the office of a Vice President, except as specifically limited by the Board, the Chief Executive Officer or the authorized person appointing such Vice President.[63] The Exchange also proposes to clarify in the next to final sentence of Section 7.10 that, in addition to the Board and the Chief Executive, as provided under this section, the authorized person appointing such Vice President may also assign such Vice President other duties and powers as the Vice Presidents shall be authorized to exercise and perform pursuant to the By-Laws.[64] The Exchange believes that the proposed changes to Section 7.10 of the By-Laws would provide greater clarity with respect to the duties of and the process for selecting the Vice Presidents, thereby facilitating the application of the By-Laws with respect to Vice Presidents of the Corporation.

(iv) *Article VIII Indemnification*

Section 8.1 of Article VIII of the By-Laws governs indemnification of Directors, officers, employees, and agents of the Corporation. Subsection (j) of Section 8.1 addresses circumstances in which a claim for indemnification or advancement of expenses is not paid in full within 60 days after a written claim under this provision has been received by the Corporation. The Exchange proposes to amend Section 8.1(j) to clarify that the Corporation will not be required to pay claims or expenses under this provision if prohibited by law. To effect this change, the Exchange proposes to insert within the first full sentence and immediately after ''[the indemnified person] shall be entitled to be paid the expense of prosecuting such claim'' the words ''to the fullest extent permitted by law.'' [65] The Exchange believes this proposed change is appropriate as it would enhance the clarity of this provision by specifying that the extent of the Corporation's obligation to pay claims or expenses under this provision is limited to those claims or expenses not prohibited by law.

(v) IX Capital Stock

Section 9.2(a) of Article IX of the By-Laws governs requirements for signatures on stock certificates of the Corporation. Section 9.2(a) provides in part that shares of capital stock of the Corporation represented by certificates shall be signed in the name of the Corporation by two officers, with one being the Chair of the Board, the Chief Executive Officer, the President, or a Vice President, and the other being the Secretary, the Treasurer, or such other officer that may be authorized by the Board.

The Exchange proposes to amend Section 9.2(a) to broaden the scope of officers authorized to sign stock certificates. Specifically, the Exchange proposes to provide that Shares of capital stock of the Corporation represented by certificates shall be signed in the name of the Corporation by two authorized officers which shall include, without limitation, the Chair of the Board, the Chief Executive Officer, the President, any Vice President, the Secretary, and the Treasurer.[66] The Exchange believes the proposed changes to Section 9.2(a) would remove unnecessary limitations on officers authorized to sign stock certificates thereby providing greater flexibility in the By-Laws with respect to officers authorized to perform this important function.

Section 9.3 of the By-Laws governs matters relating to holders of record as shown on the stock ledger of the Corporation. Section 9.3(b) of the By-Laws provides that the Corporation shall be entitled to treat the holder of record of shares of capital stock as shown on the stock ledger as the owner thereof and as the person entitled to vote such shares and to receive notice of meetings, and for all other purposes. That subsection further provides that the Corporation shall not be bound to recognize any equitable or other claim to or interest in any share of capital stock on the part of any other person, whether or not the Corporation shall have express or other notice thereof.[67] The Exchange proposes to amend Section 9.3(b) to provide for the possibility that applicable law might require a different outcome. Specifically, the Exchange proposes to provide that the Corporation shall, to the fullest extent permitted by law, be entitled to treat the holder of record of shares of capital stock as shown on the stock ledger as the owner thereof and as the person entitled to vote such shares and to receive notice of meetings, and for all other purposes. As further proposed, Section 9.3 would provide that the Corporation shall not be bound to recognize any equitable or other claim to or interest in any share of capital stock on the part of any other

[62] *See* proposed Section 7.10 of the By-Laws.

[63] *See* proposed Section 7.10 of the By-Laws.

[64] *See* proposed Section 7.10 of the By-Laws. To effect the proposed changes to Section 7.10, the Exchange proposes to (1) delete therefrom the words ''The Board shall elect'' and substitute therefor the words ''The Board, the Chief Executive Officer or any other person delegated such power by the Board or Chief Executive Officer, may appoint''; (2) delete, from the second sentence of Section 7.10 the words ''[i]n the absence or disability of the President or if the office of President becomes vacant, the Vice Presidents in the order determined by the Board, or if no such determination has been made, in the order of their seniority, shall perform the duties and exercise the powers of the President, subject to the right of the Board at any time to extend or restrict such powers and duties or to assign them to others''; (3) insert, in the third sentence of Section 7.10 of the By-Laws and immediately following the words ''as the Board'' the words ''the Chief Executive Officer, or the authorized person appointing such Vice President''; (4) delete, from the fourth sentence of Section 7.10 the words ''The Vice Presidents shall generally assist the President in such manner as the President shall direct'' substituting therefor the words ''Each Vice President shall have all powers and duties usually incident to the office of a Vice President, except as specifically limited by the Board, the Chief Executive Officer or the authorized person appointing such Vice President.''; and (5) insert in the final sentence of Section 7.10 of the By-Laws and immediately after the words ''the Chief Executive Officer or the'' the words ''authorized person appointing such Vice.'' *See id.*

[65] *See* proposed Section 8.1(j) of the By-Laws.

[66] *See* proposed Section 9.2 of the By-Laws. To effect this change as well as make conforming changes to Section 9.2 of the By-Laws, the Exchange proposes to (1) insert, immediately after ''certificates shall be signed in the name of the Corporation by two'' the word ''authorized''; (2) insert, immediately after ''officers'' the words ''which shall include, without limitation,''; and (3) delete the words ''with one being,'' as well as ''or a,'' ''and the other being,'' and '', or such other officer that may be authorized by the Board.'' *See id.*

[67] *See* Section 9.3(b) of the By-Laws.

person, whether or not the Corporation shall have express or other notice thereof, except as required by law.[68] The Exchange believes the proposed changes to Section 9.3 of the By-Laws would ensure the enforceability of this provision by recognizing that there may be circumstances where its application would be subject to and possibly limited or otherwise affected by applicable law.

Section 9.6 of the By-Laws governs matters relating to lost, stolen, destroyed, and mutilated certificates for shares of stock of the Corporation. Section 9.6 sets out procedures for addressing the issuance of a new certificate or uncertified shares in the event that any certificate for stock of the Corporation becomes mutilated, lost, stolen, or destroyed. The Exchange proposes to amend Section 9.6 to delete language providing that the Board or a committee thereof is authorized to take action to address each such instance of lost, stolen, destroyed, or mutilated certificates and in its place provide that the Corporation (rather than solely the Board) shall have the authority to do so.[69] The Exchange believes this proposed change would remove obstacles to and facilitate the reissuance of new certificates under the specified circumstances by providing that the Corporation is authorized to act under those circumstances and by removing unnecessary requirements for the Board to take action in each and every instance that that a new certificate to replace a mutilated, lost, stolen, or destroyed certificate is sought.

(vi) Article X Miscellaneous Provisions

Section 10.4 of Article X of the By-Laws governs procedures relating to the execution of instruments, contracts, and the like. The Exchange proposes to delete Section 10.4 in its entirety and provide new text to better align the provisions of this section with NASDAQ's policies and procedures on signature authority. Specifically, the Exchange proposes to provide that, except as otherwise provided by law, all contracts and other documents requiring signature entered into by or on behalf of the Corporation, including, without limitation, all (i) checks, drafts, bills of exchange, notes, or other obligations or orders for the payment of money, (ii) deeds, bonds, mortgages, contracts, and other obligations or instruments, and (iii) applications, instruments, and papers required by any department of the United States Government or by any state, county, municipal, or other governmental authority, shall, in each case, be executed by such officer(s), employee(s), agent(s), or other person(s) as the Board, a duly authorized committee thereof, or the Chief Executive Officer may designate from time to time. As further proposed, the authority to execute any contract or document in the name and on behalf of the Corporation granted in accordance with this Section may (1) be general or confined to specific instances, (2) be designated by name, title, or role, (3) include the power to delegate signature authority further to one or more other persons, whether by name, title, or role, to the extent authorized by the Board, a duly authorized committee thereof, or the Chief Executive Officer, and (4) be revoked at any time by the Board, any committee thereof, or the Chief Executive Officer.[70] The Exchange believes that the proposed changes to Section 10.4 of the By-Laws would enhance clarity and facilitate the application of the By-Laws by removing language that has become obsolete and replacing it with provisions that more closely reflect NASDAQ's current policies and procedures on signature authority.

Section 10.5 of the By-Laws governs the form of records of the Corporation. The Exchange proposes to delete Section 10.5 in its entirety and insert in its place new text that would conform this provision with the updated Delaware statute governing signature authority. Specifically, the Exchange proposes to provide that any records administered by or on behalf of the Corporation in the regular course of its business, including its stock ledger, books of account, and minute books, may be kept on, or by means of, or be in the form of, any information storage device, method, or one or more electronic networks or databases (including one or more distributed electronic networks or databases), provided that the records so kept can be converted into clearly legible paper form within a reasonable time and otherwise comply with applicable law.[71]

(vii) Article XI Amendments; Emergency By-Laws

Section 11.4 of Article XI of the By-Laws addresses the adoption of emergency by-laws. The Exchange proposes to update Section 11.4 to reflect amendments to the emergency by-law provision of the Delaware General Corporation Law. Specifically, the Exchange proposes to provide that as provided in Section 11.4, the Board may adopt emergency by-laws which shall be operative during any emergency resulting from ''any emergency resulting from an attack on the United States or on a locality in which the Corporation conducts its business or customarily holds meetings of its Board of Directors or its stockholders, or during any nuclear or atomic disaster or during the existence of any catastrophe, including, but not limited to, an epidemic or pandemic, and a declaration of a national emergency by the United States government, or other similar emergency condition, irrespective of whether a quorum of the Board of Directors or a standing committee thereof can be readily convened for action.''[72] In addition, and consistent with Delaware General Corporation Law, the Exchange proposes to update Section 11.4 to provide, in a final sentence to Section 11.4 of the By-Laws, that ''[n]othing contained in this Section 11.4 shall be deemed exclusive of any other provisions for emergency powers consistent with other sections of Delaware law which have been or may be adopted by corporations created under Delaware law.''[73]

(viii) Article XIII Forum Selection

The Exchange proposes to adopt new language to provide the By-Laws with a customary forum selection provision. To effect this change, the Exchange proposes to add a new Article XIII titled ''Forum Selection'' providing as follows:[74]

Unless the Corporation consents in writing to the selection of an alternative forum, (A) (i) any derivative action or proceeding brought on behalf of the Corporation, (ii) any action asserting a claim of breach of a fiduciary duty owed by any current or former director, officer, other employee or stockholder of the Corporation to the Corporation or the Corporation's stockholders, (iii) any action asserting a claim arising pursuant to any provision of Delaware law, the Restated Certificate of Incorporation or these By-Laws (as either may be amended or restated) or as to which

[68] *See* proposed Section 9.3(b) of the By-Laws.

[69] *See* proposed Section 9.6 of the By-Laws. To effect his change, the Exchange proposes to (1) delete from the fourth sentence of Section 9.6 the words ''Board or such committee'' and substitute therefor the word ''Corporation'' and (2) delete from the fifth sentence the word ''Board,'' substituting therefor the word ''Corporation.'' *See id.*

[70] *See* proposed Section 10.4 of the By-Laws.

[71] *See* proposed Section 10.5 of the By-Laws.

[72] *See* proposed Section 11.4 of the By-Laws.

[73] *See* proposed Section 11.4 of the By-Laws. The Exchange further proposes to delete from Section 11.4 the following language as it has become obsolete: ''nuclear or atomic disaster, an attack on the United States or on a locality in which the Corporation conducts its business or customarily holds meetings of the Board or the stockholders, any catastrophe, or other emergency condition, as a result of which a quorum of the Board or a committee thereof cannot readily be convened for action.'' *See id.*

[74] *See* proposed Article XIII of the By-Laws.

Delaware law confers jurisdiction on the Court of Chancery of the State of Delaware or (iv) any action asserting a claim governed by the internal affairs doctrine of the law of the State of Delaware shall, to the fullest extent permitted by law, be exclusively brought in the Court of Chancery of the State of Delaware or, if such court does not have subject matter jurisdiction thereof, the federal district court of the State of Delaware; and (B) the federal district courts of the United States shall be the exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act of 1933, as amended. Notwithstanding the foregoing, This Section 13.1 shall not apply to claims seeking to enforce any liability or duty created by the Act. To the fullest extent permitted by law, any person or entity purchasing or otherwise acquiring or holding any interest in shares of capital stock of the Corporation shall be deemed to have notice of and consented to the provisions of this Section 13.1.

The Exchange believes that this proposed addition of Article XIII to the By-Laws is appropriate as it would provide the Corporation as well as litigants with greater certainty with respect to the applicable judicial forum for addressing claims or actions involving the Corporation.[75]

(ix) Non-Substantive Changes

The remaining proposed amendments to the By-Laws are non-substantive changes designed to simplify and streamline the document. Specifically, the Exchange proposes to (1) amend Article I(k) and Article I(m) to correct typographical errors by deleting a period and substituting in its place a semicolon and by inserting a missing parenthesis respectively; (2) make non-substantive clarifying changes to subparagraph (p) of Article I; (3) amend Article I(s) to correct a typographical error by removing a period after ''and'''; and (4) delete from Section 3.1(a) the term ''shareholder'' and substitute therefor the word ''stockholder.'' the latter which more closely reflects established terminology of the By-Laws. The Exchange believes the proposed non-substantive changes are either administrative or clarifying in nature, and that, as such, they are in the public interest as they are designed to avoid confusion with respect to the operation of the By-Laws thus facilitating their use.

2. Statutory Basis

The Exchange believes that the proposed changes are consistent with Section 6(b) of the Act,[76] in general, and furthers the objectives of Section 6(b)(1) of the Act,[77] in particular, in that they enable the Exchange to be so organized so as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. The Exchange also believes that the proposed changes are consistent with Section 6(b) of the Act,[78] in general, and furthers the objectives of Section 6(b)(5) of the Act,[79] in particular, in that they are 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.

(a) Proposed Changes to the Certificate

The Exchange believes the proposed changes to paragraphs A and B of Article Sixth of the Certificate are in the public interest as they would update the Certificate, consistent with developments in Delaware General Corporation Law that enable companies incorporated in Delaware, such as NASDAQ, to limit the liability of certain of their officers in narrow circumstances, as discussed above. The Exchange notes that amendments providing for officer exculpation are increasingly common for public companies, and that the number of shareholder proposals calling for such amendments have continued to increase since 2022 when the Delaware law was passed.[80]

(b) Proposed Changes to the By-Laws

The Exchange believes that changes proposed for Article III of the By-Laws are in the public interest as they would update the By-Laws and conform them to current practices and developments in the law with respect to corporate matters such as procedures governing the annual and special meetings of stockholders, the conduct of such meetings, and the invocation of proxy access. The proposed changes to Article IV of the By-Laws are either clarifying in nature or otherwise purport to refine governance practices by providing the Corporation with greater flexibility with respect to such matters as the qualifications of Directors, quorum and voting, or otherwise update such provisions to make them more consistent with current governance practices as well as the policies and procedures of NASDAQ. The Exchange believes that proposed changes to Articles VII through XIII are in the public interest and consistent with the protection of investors as they are designed to accomplish several objectives, including updating the By-Laws to conform with current practices or recent developments in Delaware General Corporation Law, aligning the By-Laws with current NASDAQ policies and procedures, and enhancing the clarity of the By-Laws thus facilitating their proper application and use. Finally, the remaining changes can be characterized as non-substantive, because they are designed to either correct typographical errors, conform NASDAQ governance documents to terminology in the By-Laws, remove obsolete text, or otherwise make non-substantive revisions to the By-Laws to make them clearer and easier to use.

B. Self-Regulatory Organization's Statement on Burden on Competition

Because the proposed rule change relates to the governance of NASDAQ and not to the operations of the Exchange, 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.

B. 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

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

[75] The Exchange notes that the bylaws of Cboe Global Markets, Inc. as well as those of CME Group, Inc., contain forum selection provisions similar to those proposed by the Exchange. *See* Article 11 (''Forum for Adjudication of Disputes'') of the Eight Amended and Restated Bylaws of Cboe Global Markets, Inc. (2024) *https://s202.q4cdn.com/174824971/files/doc_governance/2024/Dec/04/Cboe-Global-Markets-Eighth-AR-Bylaws-2ffa4c.pdf;* Article IX, Section 9.1 (''Forum for Adjudication of Certain Disputes'') of the Seventeenth Amended and Restated Bylaws of CME Group, Inc. (2022) *https://www.sec.gov/Archives/edgar/data/1156375/000119312522301477/d412380dex31.htm.*

[76] 15 U.S.C. 78f(b).

[77] 15 U.S.C. 78f(b)(1).

[78] 15 U.S.C. 78f(b).

[79] 15 U.S.C. 78f(b)(5).

[80] *See supra* note 3 and accompanying text.

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 (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–ISE–2025–31 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–ISE–2025–31. 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 website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–ISE–2025–31 and should be submitted on or before October 22, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[81]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–19175 Filed 9–30–25; 8:45 am]

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[81] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104104; File No. SR–OCC–2025–017]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change by The Options Clearing Corporation Concerning Adjustments to Cleared Contracts

September 26, 2025.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 25, 2025, The Options Clearing Corporation (''OCC'' or ''Corporation'') 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 primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

This proposed rule change concerns proposed changes to OCC's By-Laws and Rules pertaining to cleared contract adjustments (the ''Proposal''). Specifically, the proposed changes would (i) relocate OCC's existing provisions in its By-Laws related to adjustments to proposed Chapter XXVIII of the Rules, with certain non-substantive clarifying changes thereto; (ii) consolidate provisions regarding OCC's adjustment authority and practices for actively traded products with similar methods of adjustments,[3] such as adjustments to stock futures with provisions for adjustments to stock options, to eliminate duplicative provisions; (iii) set forth certain new provisions to provide greater detail describing OCC's current practices in making adjustment determinations (*e.g.,* by specifying additional circumstances when OCC will generally not make an adjustment or specifying additional factors guiding adjustment determinations); and (iv) update references to current adjustment By-Laws sections relating to the governance of changes to the By-Laws and Rules.

OCC filed Exhibits 5A and 5B of filing SR–OCC–2025–017, respectively, as the proposed amendments to OCC's By-Laws and Rules and Exhibit 3A of filing SR–OCC–2025–017 as a comparison of the proposed changes to OCC's By-Laws and Rules. Highlighted text in Exhibit 3A indicates places where OCC proposes to consolidate currently separate provisions for options contracts and stock futures; the highlighted text shows stock futures-related provisions that OCC proposes to add to an option contract-related provision to allow for such single provision to govern both options contracts and stock futures. All capitalized terms not defined herein have the same meaning as set forth in the OCC By-Laws and Rules.[4]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

OCC is proposing changes to its By-Laws and Rules related to adjustment of options contracts. The proposed changes would (i) relocate the existing By-Law provisions concerning adjustments to proposed Chapter XXVIII of the Rules, with certain non-substantive clarifying changes thereto; (ii) consolidate provisions regarding adjustments between certain products with similar provisions to eliminate duplicative provisions; (iii) set forth certain new adjustment provisions to provide greater detail describing OCC's current practices in making adjustment determinations (*e.g.,* by specifying additional circumstances in which OCC will generally not make an adjustment); and (iv) update references to current

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] By-Law adjustment provisions for products that do not currently trade will not be consolidated in the proposed Rules at this time. Article XIV, Sections 3A and 3B (Adjustments for Binary Options), Article XV, Section 4 (Adjustments for Foreign Currency Options), Article XVI, Section 3 (Adjustments for Yield-Based Treasury Options), Article XXIV, Section 4 (Adjustments for BOUNDS), and Article XXVI (Adjustments for Packaged Spread Options) will remain in the By-Laws but would be updated as part of the Proposal to reflect references to other adjustment provisions that are proposed for relocation to the Rules.

[4] OCC's By-Laws and Rules can be found on OCC's public website: *https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules.*

adjustment By-Laws sections contained in other adjustment provisions of the By-Laws for products not actively trading with the newly proposed Rules.

Background

Certain corporate actions that affect an underlying security—such as declaration of dividends or distributions, stock splits, rights offerings, reorganizations, or the merger or liquidation of an issuer—may require an adjustment to the terms of the overlying derivatives, like the options that are cleared and settled by OCC. The future occurrence of corporate actions is not always foreseeable at the time parties enter a derivatives trade, and therefore the occurrence of such a corporate action is not priced into the economics of the trade. Because derivative contract positions of trading parties may exist for weeks, months or years after the position was established, corporate actions may occur during the life of the contract that affect the economic position of the parties. In general, an adjustment to a contract in such cases is intended to maintain the economic value of the existing positions by mirroring what occurs to the underlying security to the extent possible and within the parameters established in the OCC By-Laws.

An example in the stock options context is useful to help illustrate these points. Assume that the issuer of stock XYZ announces a 2-for-1 stock split. The stock split will result in twice the number of shares of XYZ at half the pre-split price. That is, if there were 1,000 shares of XYZ before the 2-for-1 split (with each share having a value of $58), immediately post the split there will be 2,000 shares of XYZ with each share having a value of $29. Now consider these consequences in the context of a related options contract covering XYZ. Assume that prior to the announcement (when XYZ was still trading at $58 per share), Investor 1 wrote a call option on XYZ with an exercise price of $60. Assume further that Investor 2 bought that same series of call option having an exercise price of $60 and paid the related premium. When the 2-for-1 split causes the number of XYZ shares to double and the price of each XYZ share to fall to $29, Investor 2 will no longer be in the same economic position in the option contract unless some additional and corresponding action is taken to adjust its terms. This is because Investor 2 as the option holder will only profit from exercising the call option if the price of XYZ shares is above $60. Now that the XYZ shares are valued at $29 due to the 2-for-1 split, the chances of that occurring are substantially diminished (*i.e.,* the market price of the XYZ shares would have to increase by more than $31 prior to the expiration of the option), even though at the time Investor 2 bought the option the market price of XYZ would have only needed to increase by more than $2 dollars prior to the expiration for Investor 2 to be able to realize a profit from exercising the option.[5]

The manner in which OCC would generally handle the option contract adjustment in this example is described in Characteristics and Risks of Standardized Options, which is commonly referred to as the Options Disclosure Document (''ODD'').[6] It states in relevant part:

> When a stock distribution, stock split, or stock dividend results in the issuance of one or more whole shares of stock for each outstanding share—such as a 2-for-1 or 3-for-1 split—as a general rule the number of shares will not be adjusted. Instead, the number of outstanding options will be proportionately increased, and the exercise price will be proportionately decreased.
>
> *Example:* Before a 2-for-1 stock split, an investor holds an option on 100 shares of XYZ stock with an exercise price of $60. After adjustment for the split, he will hold two XYZ options, each on 100 shares and each with an exercise price or $30.[7]

OCC currently has broad authority to effect contract adjustments on a case-by-case basis. The factors typically used to inform whether OCC will make an adjustment to a contract are: (a) the fairness to holders and writers (or purchasers and sellers) of the affected contracts; (b) the maintenance of a fair and orderly market in the affected contracts; (c) consistency of interpretation and practice; (d) the efficiency of exercise settlement procedures; and (e) the coordination with other clearing agencies of the clearance and settlement of transactions in the underlying interest. OCC also maintains a Securities Committee, consisting of one designated representative of each Securities Exchange[8] and the Chief Executive Officer of OCC, that is authorized to adopt certain statements of policy or interpretations having general application to specified types of events or OCC cleared contracts.[9] The purpose of the Securities Committee is to help guide adjustment policy for new or unusual situations as needed, consistent with OCC's By-Laws and Rules.

OCC will generally not make an adjustment to an options or futures contract with respect to ordinary dividends or distributions that are routinely made by the issuer. This is because ordinary dividends or distributions may be factored into the economic expectations of the parties to an options or futures contract even though the event has not yet been formally announced or declared. OCC notes that when OCC makes a determination to adjust an options or futures contract, all market participants holding options or futures contracts are uniformly subject to OCC's adjustment determination.

Proposed Consolidation of Adjustments Provisions Into OCC Rule Chapter XXVIII

Currently, provisions related to adjustments are found in multiple sections of OCC's By-Laws. The provisions related to options contract adjustments are set forth in Article VI, Section 11 and 11A of the By-Laws. The provisions related to futures contracts and futures options adjustments are set forth in Article XII, Sections 3, 4, and 4A of the By-Laws. Similarly, provisions relating to adjustments for cash settled foreign currency options and index options and certain other cash-settled options (*e.g.,* flexibly structured options) are currently set forth in Article XXII, Section 3 and Article XVII, Section 3 respectively. OCC proposes to consolidate all of these provisions related to adjustments into a single, new Chapter XXVIII of OCC's Rules to promote clarity, consistency, and understanding of OCC's Rules.[10] OCC believes that this will improve the readability and understanding of OCC's provisions regarding adjustments by

[5] Example excludes premium cost, taxes, commissions, or other fees that may impact the profitability of an option position.

[6] Unless a broker-dealer furnishes or has furnished to its customer a copy of the definitive ODD, it is prohibited under Exchange Act Rule 9b–1 from accepting an order from the customer to purchase or sell an option contract in a class covered by the ODD and from approving the customer's account for trading of such options. *See* 17 CFR 240.9b–1.

[7] *See* ODD at 19 (June 2024), *available at https://www.theocc.com/company-information/documents-and-archives/options-disclosure-document.*

[8] Consistent with OCC's rules, a Securities Exchange means a national securities exchange or national securities association that has qualified for participation in OCC as an ''Equity Exchange'' or ''Non-Equity Exchange'' pursuant to either Article VIIA or VIIB of OCC's By-Laws. *See* OCC By-Laws, Article I, Section 1.

[9] OCC notes that it filed as proposed rule changes stated policies, practices, or interpretations as required under Section 19 of the Exchange Act and Rule 19b–4 thereunder. 17 CFR 240.19b–4(a)(6).

[10] OCC also believes that these provisions are better organized as Rules rather than continuing to be maintained in OCC's By-Laws. This is because typical corporate by-laws address governance and administrative matters and do not address derivatives contract adjustments. Relocating the adjustment provisions into the Rules would therefore incrementally help OCC reshape its By-Laws in a manner that better reflects typical corporate bylaws.

having a single chapter of OCC's Rules that governs adjustments for all instruments. OCC believes this will facilitate greater understanding of OCC's regulatory framework in this area, which OCC believes is in the public interest and would further the protection of investors. OCC also proposes to make certain clarifying edits to certain of these provisions. Where there are substantively similar provisions for different instruments—*e.g.,* where OCC's adjustment determinations are the same for options contracts and futures contracts—OCC's proposes to consolidate such provisions for the same reason of promoting clarity, consistency, and understanding of OCC's Rules and handling of adjustments. Similarly, OCC also proposes to add headers to most of the paragraphs or subparagraphs in italicized text to briefly preview and describe in a few words the purpose of the provision in order to improve the readability of the Rules.[11]

Set forth below is a brief description of each of the five newly proposed Rules in Chapter XXVIII (Rules 2801 through 2805), followed by a table that sets forth a list of current OCC By-Law provisions related to adjustments and where they have been redesignated under proposed Chapter XXVIII of OCC's Rules.[12] The third column in each table describes notable changes or consolidations from the current By-Law provision to the new Chapter XXVIII Rule provision. Newly proposed provisions are described separately in the next section of this proposed rule change.

Proposed Rule 2801—Adjustment by the Corporation

OCC proposes to set forth in Rule 2801 its general authority to make adjustments, the factors that OCC considers in making adjustments and to specify that adjustment determinations are within the sole discretion of OCC. The table below describes where current By-Law provisions are being relocated to proposed Rule 2801 and notable changes to such provisions.

TABLE 1—PROPOSED RULE 2801 CHANGES

[Footnotes at end of table.]

Current By-Law provisions	Proposed Chapter XXVIII Rule	Notable changes
Section 11(a) and (b) of Article VI (Adjustment Policies and Procedures). Section 3 of Article XXII (relating to adjustments on futures and futures options).	Rule 2801—Adjustment by the Corporation.	OCC proposes to change the section title from ''Adjustment Policies and Procedures'' to ''Adjustment by the Corporation,'' add clarifying headers (*e.g.,* by creating a new section (b) as ''Factors'' considered by OCC and redesignating current Section 11(b) as Rule 2801(c)). OCC also proposes to move the second to last sentence of Section 11(a) of Article VI describing the authority of OCC's Securities Committee to adopt certain statements of policy or interpretation to proposed Rule 2802(a) described below.[a] A modified version of the last sentence of Section 11(a) of Article VI (describing that OCC will apply the factors set forth in Rule 2801(b) in making an adjustment determination based on its knowledge at the time of such determination) is in Rule 2801(b).[b]

[a] *See* Exhibit 3A of filing SR–OCC–2025–017, n.5. OCC also proposes other non-substantive changes, such as to delete certain extraneous language or redundant language (*e.g.,* proposed Rule 2801(c) would begin by reading ''Every adjustment determination of the Corporation . . .'' rather than ''Every adjustment determination under the By-Laws or Rules of the Corporation . . .'').

[b] This sentence of Proposed Rule 2801(b) would also replace the last sentence of Section 3(b) of Article XII of the By-Laws with respect to stock futures, which currently sets forth a substantively similar provision (stating that OCC shall apply the factors set forth in Section 4 of Article XII in light of the circumstances known to it at the time such determination is made).

Proposed Rule 2802—Statements of Adjustment Policies and Interpretations

OCC proposes to set forth in Rule 2802 certain adjustment policies and interpretations, including a description of OCC's Securities Committee, including its composition, governance, and authority to adopt statements of policy or interpretation having general application to specified types of events. The table below describes where current By-Law provisions are being relocated to proposed Rule 2802 and notable changes to such provisions.

TABLE 2—PROPOSED RULE 2802 CHANGES

[Footnotes at end of table.]

Current By-Law provisions	Proposed Chapter XXVIII Rule	Notable changes
Sections 11(a), (b) and (c) of Article VI.	Rule 2802(a)—Statements of Policies and Interpretations Regarding Adjustments of Option Contracts.	OCC proposes to describe in Rule 2802(a)(1) the authority of the Securities Committee to adopt statements of policy or interpretation and to specify the types of options for which it may make such statements of policy or interpretation.[a] OCC would also add non-substantive language such as headers to promote clarity, such as by adding the header in proposed Rule 2802(a)(2) (taken from Section 11(c) of Article VI of the By-Laws) ''Securities Committee Composition and Governance.'' [b] Proposed Rule 2802(a)(2) relocates Section 11(c) of Article VI of the By-Laws with only non-substantive changes.[c]

[11] These headers can be seen in italicized text in Exhibit 3A of filing SR–OCC–2025–017. In addition, OCC proposes to replace internal cross-references throughout the proposed Rules to ensure that they correspond to the correct Rule provision(s).

[12] OCC proposes to adjust all internal cross-references within adjustment provisions in its current By-Laws to correspond to the appropriate Chapter XXVIII Rule provision.

TABLE 2—PROPOSED RULE 2802 CHANGES—Continued

[Footnotes at end of table.]

Current By-Law provisions	Proposed Chapter XXVIII Rule	Notable changes
Section 3(a) of Article XII	Rule 2802(b)—Statements of Adjustments of Futures and Futures Options.	OCC proposes to relocate the third sentence of Article XII, Section 3(a) to Rule 2802 so that statements on policies for both stock options contracts and stock futures are located within the same rule.[d]

[a] Specifically, OCC proposes to specify that such policies or interpretations may be made for stock option contracts, Treasury securities option contracts, yield-based Treasury option contracts, debt securities option contracts, foreign currency option contracts, cash-settled foreign currency option contracts, index option contracts or other cash-settled option contracts. OCC proposes to add text to the beginning of Rule 2802(a)(1) specifying that the Securities Committee's authority under (a)(1) is ''[i]n addition to the policies contained in this Chapter . . .'' in order to make clear that the Securities Committee's authority to adopt statements and policies is additional to the policies set forth in Chapter 28. OCC also proposes to modify the title of Rule 2802 to provide that it relates to ''Statements of Adjustment Policies and Interpretations'' rather than simply ''Adjustment Policies and Interpretations'' in order to promote clarity that the Securities Committee's function is to issue such statements.

[b] OCC proposes to delete text in current Section 11(c) of Article VI of the By-Laws that describes the Securities Committee's authority as being able to ''make certain determinations with respect to cleared contracts'' and replace this with ''adopt certain statements of policy or interpretations under paragraph (a) above'' because this would more accurately describe the Securities Committee's authority and is more germane to the purpose of proposed Rule 2802(a)(2).

[c] *See* n.6 of Exhibit 3A of filing SR–OCC–2025–017. For example, these non-substantive edits include changing a reference from ''him'' to ''them.'' OCC also proposes as a non-substantive edit to modify the numbering convention in describing the Securities Committee under (a)(2) from using Arabic numerals to instead use romanettes, to promote consistency with numbering conventions in OCC's Rules.

[d] Currently, Section 11(a) of Article VI of the By-Laws provides that the Securities Committee may adopt statements of policy or interpretation ''to specified types of events or specified kinds of cleared contracts.'' For futures and futures options, proposed Rule 2802(c) would provide that OCC may adopt statements of policy or interpretations having general application to specified types of events, which corresponds to Article XII, Section 3(a) of the By-Laws (third sentence), which currently provides (among other things) that the Corporation may ''adopt statements of policy or interpretations having general application specified types of events. OCC proposes to delete text from Article XII, Section 3(a) of the By-Laws specifying that this authority is policy or interpretation authority is ''in addition to determining adjustments to futures and futures options on a case-by-case basis,'' because that authority would be set forth under proposed Rules 2804 and 2805.

Proposed Rule 2803—Adjustments for Stock Option Contracts and Stock Futures

OCC proposes to set forth in Rule 2803 provisions related to adjustments for stock option contracts and stock futures. OCC proposes to combine substantially similar provisions related to adjustments for stock option contracts and stock futures into a single Rule. The table below describes where current By-Law provisions are being relocated to proposed Rule 2803 and notable changes to such provisions.

TABLE 3—PROPOSED RULE 2803 CHANGES

[Footnotes at end of table.]

Current By-Law provisions	Proposed Chapter XXVIII Rule	Notable changes
Section 11A of Article VI of the By-Laws;. Section 3(b) of Article XII (regarding stock Futures. Section 3(a) of Article XVII (regarding certain flexibly structured options)..	Rule 2803 (a) and (b)—Adjustments for Stock Options and Stock Futures.	OCC proposes to consolidate substantively similar provisions currently located in Section 11A of Article VI and Section 3(b) of Article XII of the By-Laws into proposed Rule 2803 to describe the circumstances when OCC may make an adjustment (*e.g.*, where a dividend is issued). OCC proposes to add headers to improve readability (*e.g.*, by specifying that 2803(a) relates to ''Corporate Actions; Adjustments Policies and Procedures'') and other non-substantive changes (*e.g.*, to reorganize the option or stock future contract terms that OCC may adjust (such as the exercise price and unit of trading) as a numbered list).[a] OCC also proposes to relocate Article XVII, Section 3(a) of the By-Laws to proposed Rule 2803(a) to make clear that proposed Rule 2803 applies to flexibly structured options on fund shares that are cash settled.[b]
Section 11A(c) of Article VI (clause (x));[c]. Section 3(c) of Article XII (regarding stock futures).	Rule 2803(c) and (c)(1)—Events not normally resulting in a contract adjustment.	OCC proposes to consolidate substantively similar provisions describing events that will generally not result in an adjustment currently located in Section 11A(c) of Article VI (clause (x)) and Section 3(c) of Article XII (regarding stock futures) into proposed Rule 2803(c).[d]
Interpretation and Policy .01 to Section 11A of Article VI (third sentence of first paragraph[e] and first sentence of second paragraph);[f] and Interpretation and Policy .01(a) to Section 3 of Article XII (regarding stock futures) (last sentence of first paragraph[g] and first sentence of the second paragraph)[h].	Rule 2803(c)(1)(i)—Factors considered in making adjustment determinations.	OCC proposes to set forth in Rule 2803(c)(1)(i) the factors that OCC may consider in determining whether to make an adjustment by consolidating certain provisions currently set forth in Policy .01 to Section 11A of Article VI and Policy .01(a) to Section 3 of Article XII of the By-Laws. In so doing, OCC proposes combining substantively identical provisions in its By-Laws for options and stock futures to consolidate OCC's rules and improve readability. OCC proposes to set forth these factors as lettered items (items (A) through (D)) rather than as a single sentence to improve readability. OCC does not propose substantive changes to these provisions.

TABLE 3—PROPOSED RULE 2803 CHANGES—Continued

[Footnotes at end of table.]

Current By-Law provisions	Proposed Chapter XXVIII Rule	Notable changes
Interpretation and Policy.01 to Section 11A of Article VI (first sentence);[i] Interpretation and Policy .01(a) to Section 3 of Article XII (regarding stock futures) (first sentence)[j].	Rule 2803(c)(1) (ii)(A) (describing cash dividends and distributions deemed to be an ''ordinary distribution'').	OCC proposes to describe the meaning of an ''ordinary distribution'' in the context of cash dividends or distributions in Rule 2803(c)(1)(ii)(A) by combining substantively similar provisions currently set forth in the first sentence of Interpretation and Policy .01 to Section 11A of Article VI and to Interpretation and Policy .01(a) to Section 3 of Article XII to the By-Laws.[k] OCC does not propose substantive changes to meaning of what is considered an ''ordinary distribution.''
Interpretation and Policy .09 to Section 11A of Article VI;[l] and Interpretation and Policy .10 to Section 3 of Article XII (regarding stock futures)[m].	Rule 2803(c)(1)(ii)(B) (specifying that interest payments on index-linked securities will generally be considered an ''ordinary distribution'').	OCC proposes to specify that an ''ordinary distribution'' generally includes interest payments on index-linked securities in Rule 2803(c)(1)(ii)(B) by combining substantively similar provisions currently set forth in the first sentence of Interpretation and Policy .09 to Section 11A of Article VI and to Interpretation and Policy .10 to Section 3 of Article XII to the By-Laws.[n] OCC does not propose substantive changes to this provision—i.e., OCC does not propose any different treatment of interest payments on index-linked securities as part of the Proposal.
Interpretation and Policy .01 to Section 11A of Article VI (second sentence);[o] and Interpretation and Policy .01(b) to Section 3 of Article XII (regarding stock futures)[p].	Rule 2803(c)(1)(iii) (A) (describing when stock dividends and distributions are deemed to be an ''ordinary distribution'').	OCC proposes to describe the meaning of an ''ordinary distribution'' in the context of stock dividends or distributions in Rule 2803(c)(1)(iii)(A) and (B) by combining substantively similar provisions currently set forth in the first sentence of Interpretation and Policy .01 to Section 11A of Article VI and to Interpretation and Policy .01(b) to Section 3 of Article XII to the By-Laws.[q] OCC does not propose substantive changes to meaning of what stock dividends or distributions are generally considered an ''ordinary distribution.''
Interpretation and Policy .01 to Section 11A of Article VI (last sentence of second paragraph);[r] Interpretation and Policy .01(a) to Section 3 of Article XII (regarding stock futures) (last sentence of second paragraph)[s].	Rule 2803(c)(1)(iv)(A) (describing dividends and distributions generally not deemed ordinary).	OCC proposes to describe certain types of dividends or distributions not deemed to be an ''ordinary distribution'' in Rule 2803(c)(1)(iv)(A) (specifically when OCC does not expect such distribution to be provided regularly) by combining substantively similar provisions currently set forth in Interpretation and Policy .01 to Section 11A of Article VI and to Interpretation and Policy .01(a) to Section 3 of Article XII to the By-Laws.[t] OCC does not proposes substantive changes to these provisions.
Interpretation and Policy .08 to Section 11A of Article VI (clause (i));[u] and Interpretation and Policy .08 to Section 3 of Article XII (regarding stock futures) (clause (i))[v].	Rule 2803(c)(1)(iv)(B) (describing how distributions of short and long term capital gains are ordinarily not considered an ordinary distribution).	OCC proposes to describe certain types of dividends or distributions not deemed to be an ''ordinary distribution'' in Rule 2803(c)(1)(iv)(B) (specifically distributions of short-term and long-term capital gains) by combining substantively similar provisions currently set forth in Interpretation and Policy .08 to Section 11A of Article VI and to Interpretation and Policy .08(a) to Section 3 of Article XII to the By-Laws.[w] OCC does not propose substantive changes to these provisions.
Interpretation and Policy .08 to Section 11A of Article VI (clause (ii));[x] and Interpretation and Policy .08 to Section 3 of Article XII (regarding stock futures) (clause (ii))[y].	Rule 2803(c)(1)(iv)(C) (describing when certain distributions resulting from certain events on an index will not be considered an ''ordinary distribution'').	OCC proposes to describe when certain types of dividends or distributions on index fund shares are not deemed to be an ''ordinary distribution'' in Rule 2803(c)(1)(iv)(C) by combining substantively similar provisions currently set forth in Interpretation and Policy .08 to Section 11A of Article VI and to Interpretation and Policy .08(a) to Section 3 of Article XII to the By-Laws.[z] OCC does not propose substantive changes to these provisions.
Interpretation and Policy .01 to Section 11A of Article VI (last sentence of the first paragraph)[aa].	Rule 2803(c)(1)(v) (describing how OCC determines whether a dividend is issued on a quarterly or other regular basis).	OCC proposes to replace text from Interpretation and Policy .01 to Section 11A of Article VI in Rule 2803(c)(1)(v) to provide that where a question arises as to whether a dividend or distribution was declared pursuant to a policy of paying such dividend/distribution quarterly or on another regular basis, such question shall be determined by OCC. OCC does not propose substantive changes to this provision other than to change the phrase ''shall be referred to the Corporation for determination'' to ''shall be determined by the Corporation.'' This change is to make the Rule more accurate because no entity refers these to OCC—rather, OCC identifies and makes these determinations.
Interpretation and Policy .02 to Section 11A of Article VI; and Interpretation and Policy .02 to Section 3 of Article XII (regarding stock futures) (fifth and sixth sentences)[bb].	Rule 2803(c)(3)(i) (describing poison pill rights among events not ordinarily resulting in adjustments).	OCC proposes to consolidate substantively similar provisions currently located in the Interpretation and Policy .02 to Section 11A of Article VI and fifth and sixth sentences Interpretation and Policy .02 to Section 3 of Article XII, which specify (among other things) that OCC will not ordinarily make an adjustment to reflect the issuance of so-called ''poison pill'' rights that are not immediately exercisable, trade as a unit or automatically with the underlying security, and may be redeemed by the issuer. OCC does not propose substantive changes to these provisions.

TABLE 3—PROPOSED RULE 2803 CHANGES—Continued

[Footnotes at end of table.]

Current By-Law provisions	Proposed Chapter XXVIII Rule	Notable changes
Interpretation and Policy .03 to Section 11A of Article VI; and Interpretation and Policy .03 to Section 3 of Article XII (regarding stock futures) [cc].	Rule 2803(c)(3)(ii) (describing a tender offer or exchange offer as among events not ordinarily resulting in adjustments).	OCC proposes to consolidate substantively similar provisions currently located in Interpretation and Policy .03 to Section 11A of Article VI and Interpretation and Policy .03 to Section 3 of Article XII of the By-Laws, which specify (among other things) that OCC will not ordinarily make an adjustment to reflect a tender offer or exchange offer irrespective of whether the offer is made by the issuer or a third party and whether the offer is for cash, securities or other property.[dd] OCC does not propose substantive changes to the these provisions.
Interpretation and Policy .04 to Section 11A; and Interpretation and Policy .04 to Section 3 of Article XII (regarding stock futures) [ee].	Rule 2803(c)(3)(iii) (describing changes in capital structure as among events not ordinarily resulting in adjustments).	OCC proposes to consolidate substantively similar provisions currently located in the Interpretation and Policy .04 to Section 11A of Article VI and Interpretation and Policy .04 to Section 3 of Article XII of the By-Laws, which specify (among other things) that OCC will not ordinarily adjust a contract to reflect changes in the capital structure of an issuer where all of the underlying securities outstanding in the hands of the public (other than dissenters' shares) are not changed into another security, cash or other property. OCC does not propose substantive changes to these provisions.
Section 11A(d) of Article VI; Section 3(d) of Article XII (regarding stock futures) [ff].	Rule 2803(d) (describing events ordinarily resulting in contract adjustments).	OCC proposes to relocate current Section 11A(d)(i)—(iii) of Article VI of the By-Laws as Rule 2803(d)(1)(i)—(iii) to describe when OCC ordinarily will make an adjustment for distributions of combinations of shares. OCC proposes to add a header as Rule 2803(d)(1) to clarify that these adjustments are circumstances where the distribution of additional shares of the underly security by the issuer of the security are not deemed to be ''ordinary dividends and distributions'' pursuant to proposed Rule 2803(c).[gg] OCC also proposes to consolidate Section 3(d) of Article XII of the By-Laws, which sets forth substantively similar provisions with respect to stock futures into Rule 2803(d)(1), with added language to clarify that the provision governs both options contract adjustments and stock futures.[hh] OCC does not propose substantive changes to the these provisions.
Interpretation and Policy .05 to Section 11A of Article VI; and Interpretation and Policy .05 to Section 3 of Article XII (regarding stock futures) [ii].	Rule 2803(d)(2) (describing adjustments in the case of cash mergers and similar events).	OCC proposes to relocate Interpretation and Policy .05 to Section 11A of Article VI of the By-Laws, which generally governs adjustments to options contracts where an underlying security is converted into a right to receive a fixed amount of cash. OCC also proposes to consolidate Interpretation and Policy .05 to Section 3 of Article XII of the By-Laws, which sets forth substantively similar provisions with respect to stock futures into Rule 2803(d)(2).[jj] OCC does not propose substantive changes to these provisions.
Interpretation and Policy .06 to Section 11A of Article VI; and Interpretation and Policy .06 to Section 3 of Article XII (regarding stock futures) [kk].	Rule 2803(d)(3) (describing adjustments in the case of a reorganization, stock merger or a cash and stock merger or a similar event).	OCC proposes to replace Interpretation and Policy .06 to Section 11A of Article VI and Interpretation and Policy .06 to Section 3 of Article XII of the By-Laws, which currently governs adjustments in the case of corporate reorganizations or similar events that result in an automatic share for share exchange of shares will ordinarily be adjusted by replacing such underlying security with a like number of units of the shares of the resulting company.[ll] OCC proposes to consolidate these substantively similar option contract and stock future provisions into new Rule 2803(d)(3) to provide that ''[w]hen an underlying security is converted into a right to receive another security or a combination of another security and cash, such as in a merger, reorganization, or similar event, the Corporation shall adjust outstanding option contracts and stock futures by replacing such underlying security with the like number of units of the shares of the resulting company or cash in an amount per share or unit equal to the conversion or redemption price.'' OCC does not believe that the revised language represents a substantive change, as both the existing and revised provisions provide that option and stock future holders will receive a like number of units of shares of the resulting company.[mm]
Interpretation and Policy .07 to Section 11A of Article VI; and Interpretation and Policy .07 to Section 3 of Article XII (regarding stock futures) [nn].	Rule 2803(d)(4) (describing subsequent adjustments for conversion to a debt security or a preferred stock).	OCC proposes to consolidate Interpretation and Policy .07 to Section 11A of Article VI and Interpretation and Policy .07 to Section 3 of Article XII of the By-Laws, which govern additional adjustments for options contracts and stock futures respectively when an underlying security is converted in whole or in part into a debt security or a preferred stock, into proposed Rule 2803(d)(4). OCC proposes non-substantive edits to these provisions to combine the options and stock futures provisions [oo] and to improve readability.[pp]

TABLE 3—PROPOSED RULE 2803 CHANGES—Continued

[Footnotes at end of table.]

Current By-Law provisions	Proposed Chapter XXVIII Rule	Notable changes
Interpretation and Policy .02 to Section 3 of Article XII (regarding stock futures) (second through fourth sentences) [qq].	Rule 2803(d)(5) (describing rights distributions with respect to stock futures).	OCC proposes to relocate the second through third sentences of Interpretation and Policy .02 to Section 3 of Article XII without substantive edit.
Section 11A(e) of Article VI of the By-Laws; and Section 3(e) of Article XII (regarding stock futures) [rr].	Rule 2803(e) (describing adjustments for other distributions not addressed elsewhere in OCC's Rules).	OCC proposes to consolidate and relocate current Section 11A(e) of Article VI and Section 3(e) of Article XII of the By-Laws as proposed Rule 2803(e) to govern other types of distributions not addressed elsewhere in OCC's Rules. OCC proposes to add language to make clear that the consolidated Rule applies to both options and stock futures.[ss] OCC also proposes to relocate text from these By-Laws provisions which provides that OCC has the authority to the determine the value of distributed property to proposed Rule 2803(j). OCC does not otherwise propose substantive changes to these By-Law provisions.
Section 11A(f) of Article VI; and Section 3(f) of Article XII (regarding stock futures) [tt].	Rule 2803(f) (describing corporate actions not otherwise provided for in OCC's adjustment Rules).	OCC proposes to consolidate and relocate current Section 11A(f) of Article VI and Section 3(f) of Article XII of the By-Laws as proposed Rule 2803(e) to govern other corporate actions not otherwise provided for in OCC's Rules. OCC proposes to add language to make clear that the consolidated Rule applies to both options and stock futures.[uu] OCC does not otherwise propose substantive changes to these By-Law provisions.
Section 11A(g) of Article VI; and Section 3(g) of Article XII (regarding stock futures) [vv].	Rule 2803(g) (providing that adjustments pursuant to proposed Rule 2803 will become effective on the ''ex-date'').	OCC proposes to consolidate and relocate current Section 11A(g) of Article VI and Section 3(g) of Article XII of the By-Laws as proposed Rule 2803(g) to provide that adjustments under proposed Rule 2803 will become effective on the ''ex-date'' established by the primary market for the underlying security. OCC proposes to add language to make clear that the consolidated Rule applies to both options and stock futures.[ww] OCC does not otherwise propose substantive changes to these By-Law provisions.
Section 11A(h) of Article VI; and Section 3(h) of Article XII (regarding stock futures) [xx].	Rule 2803(h) (describing OCC's rounding process for adjustments).	OCC proposes to consolidate and relocate current Section 11A(h) of Article VI and Section 3(h) of Article XII of the By-Laws as proposed Rule 2803(h) to describe how OCC performs rounding of exercise prices or settlement prices. OCC proposes to add language to make clear that the consolidated Rule applies to both options and stock futures.[yy] OCC does not otherwise propose substantive changes to these By-Law provisions.
Section 11A(e) of Article VI (last sentence); and Section 3(e) of Article XII (last sentence) (regarding stock futures) [zz].	Rule 2803(j) (regarding OCC's authority to determine the cash value of any distributed property).	OCC proposes to relocate the last sentence from Section 11A(e) of Article VI of the By-Laws (which is also the last sentence of and Section 3(e) of Article XII of the By-Laws) as the first sentence of Proposed Rule 2803(j). OCC proposes to add an additional new provision to proposed Rule 2803(j), which is described below in this proposed rule change.[aaa] OCC does not otherwise propose substantive changes to this By-Law provision.
Section 11A(i) of Article VI; and Section 3(i) of Article XII (regarding stock futures) [bbb].	Rule 2803(n) (describing OCC's authority to make exceptions to the general rules governing adjustments).	OCC proposes to consolidate and relocate current Section 11A(i) of Article VI and Section 3(i) of Article XII of the By-Laws as proposed Rule 2803(n) to set forth OCC's authority to make exceptions to its general rules governing adjustments. OCC proposes non-substantive changes to the phrasing of these By-Law provisions and changes to internal cross-references therein.[ccc]
Section 3(j) of Article XII (regarding stock futures) [ddd].	Rule 2803(o) (describing adjustment of stock futures using amounts reported by an exchange).	OCC proposes to relocate Section 3(j) of Article XII of the By-Laws as Rule 2803(o) without substantive change. The only change would be to update internal cross-references and add the phrase ''of this Rule'' following the reference to paragraph (c) in the first sentence.

[a] OCC would also specify that OCC may adjust any of these contract terms or any combination of them with respect to all outstanding stock option contracts and stock futures in that underlying security in the sentence preceding the numbered list, rather than at the end of the list. *See* n.9 of Exhibit 3A of filing SR–OCC–2025–017. OCC also proposes to add specificity to item 2 of the numbered list regarding the unit of trading to specify that OCC may adjust the ''unit of trading in the case of an options contract or the unit of trading (or settlement price) in the case of a stock futures.'' Similarly, item 3 of the list would specify that OCC may adjust the exercise price ''in the case of an options contract.'' These changes are intended to provide greater clarity to OCC's Rules to make clear, for example, that OCC would not adjust the ''exercise price'' in the case of a stock future because stock futures do not involve a settlement price.

[b] Currently, Section 3(a) of Article XVII provides that ''Except in the case of flexibly structure options on fund shares that are cash settled, Section 11A of Article VI of the By-Laws shall not apply to cash-settled option contracts.'' OCC proposes a non-substantive rephrasing of this provision as ''For the avoidance of doubt, flexibly structured options on fund shares that are cash settled are governed by this Rule 2803.'' *See* n.10 of Exhibit 3A of filing SR–OCC–2025–017. OCC also proposes to reiterate this provision in proposed Rule 2804 (which governs adjustments of index options and futures and certain other cash-settled options and futures) to provide additional clarity that flexibly structured options on fund shares that are cash settled are governed by Rule 2803 (and not Rule 2804). *See* n.57 of Exhibit 3A of filing SR–OCC–2025–017.

[c] Clause (x) currently provides that as a general rule, there will be no adjustment to reflect ordinary cash dividends or distributions or ordinary stock dividends or distributions.

[d] *See* n.11 of Exhibit 3A of filing SR–OCC–2025–017.

[e] This provision provides: ''The Corporation will determine on a case-by-case basis whether other dividends or distributions are 'ordinary distributions' or whether they are dividends or distributions for which an adjustment should be made.''

[f] This provision describes the factors that OCC may take into account, which include without limitation, the issuer's stated dividend payment policy, the issuer's characterization of a particular dividend or distribution as ''regular,'' ''special,'' ''accelerated,'' or ''deferred.''

[g] This provision is identical to the third sentence of the first paragraph of Interpretation and Policy .01 to Section 11A of Article VI cited above but applies to stock futures.

[h] This provision is identical to the first sentence of the second paragraph of Interpretation and Policy .01 to Section 11A of Article VI cited above.

[i] This provision describes the meaning of an ''ordinary cash dividend or distribution,'' generally providing that cash dividends or distributions (regardless of size) by the issuer of the underlying security which OCC believes to have been declared pursuant to a policy of paying such dividend or distributions on a quarterly or other regular basis will generally be deemed an ordinary cash dividend or distribution.

[j] This provision is substantively similar to the first sentence of Interpretation and Policy .01 to Section 11A of Article VI cited immediately above.

[k] *See* n.13 of Exhibit 3A of filing SR–OCC–2025–017.

[l] This provision provides in relevant part that interest payments on index-linked securities will, as a general rule, be deemed to be ''ordinary cash dividends or distributions.''

[m] This provision is substantively similar to Interpretation and Policy .01 to Section 11A of Article VI cited immediately above.

[n] *See* n.14 of Exhibit 3A of filing SR–OCC–2025–017.

[o] This provision sets forth the criteria by which OCC will generally consider a stock dividend or distribution to be considered an ''ordinary stock dividend or distribution,'' such as where the stock dividend does not exceed 10% of the number of shares outstanding at the close of trading on the declaration date and where OCC believes the distribution was declared pursuant to a policy or practice of paying such dividend or distribution on a quarterly basis.

[p] This provision is substantively similar to the second sentence of Interpretation and Policy .01 to Section 11A of Article VI cited immediately above.

[q] *See* n.15 of Exhibit 3A of filing SR–OCC–2025–017.

[r] This provision currently provides that, normally, OCC shall classify a cash dividend or distribution as non-ordinary when it believes that similar dividends or distributions will not be paid on a quarterly or other regular basis.

[s] This provision is substantively similar to the last sentence of the second paragraph of Interpretation and Policy .01 to Section 11A of Article VI cited immediately above.

[t] *See* n.17 of Exhibit 3A of filing SR–OCC–2025–017.

[u] This provision provides that distributions of short-term and long-term capital gains in respect of fund shares by the issuer thereof shall not, as a general rule, be deemed to be ''ordinary distributions''

[v] This provision substantively similar to clause (i) of Interpretation and Policy .08 to Section 11A of Article VI cited immediately above.

[w] *See* n.18 of Exhibit 3A of filing SR–OCC–2025–017.

[x] This provision generally provides that other distributions in respect of fund shares by the issuer thereof, as a general rule, shall not be deemed to be an ''ordinary distribution'' if the fund meets certain criteria (*e.g.,* the fund distributes short-term or long-term capital gains, the fund tracks the performance of an index that underlies a class of index options or index futures and the distribution on the fund shares includes a dividend or other distribution on a portfolio security that resulted in an adjustment of the index divisor).

[y] This provision substantively similar to clause (ii) of Interpretation and Policy .08 to Section 11A of Article VI of the By-Laws cited immediately above.

[z] *See* n.19 of Exhibit 3A of filing SR–OCC–2025–017.

[aa] *See* n.20 of Exhibit 3A of filing SR–OCC–2025–017.

[bb] *See* n.23 of Exhibit 3A of filing SR–OCC–2025–017.

[cc] *See* n.24 of Exhibit 3A of filing SR–OCC–2025–017.

[dd] OCC proposes to add a cross reference to Rule 2803(d)(2), which would govern adjustments for cash mergers and similar events.

[ee] *See* n.25 of Exhibit 3A of filing SR–OCC–2025–017.

[ff] *See* n.28 of Exhibit 3A of filing SR–OCC–2025–017.

[gg] OCC also proposes to add non-substantive clarifying language to proposed Rule 2803(d)(i)—(iii) to, for example, add the phrase ''in the event of'' to precede a description of the type of distribution (*e.g.,* a stock dividend, stock split, or reverse stock split) and to specify that the type of distribution is caused by the issuer (*e.g.,* a stock split ''for which the issuer of the security issues'' some number of shares).

[hh] *See* highlighted text of proposed Rule 2803(d)(1) of Exhibit 3A of filing SR–OCC–2025–017, which notes relevant language from Section 3(d) of Article XII of the By-Laws that has been added to make Rule 2803(d) also apply to stock futures. For example, OCC would add language to proposed Rule 2803(d)(1)(ii) to note that that, in the event of certain distributions other than a whole number of shares, OCC would proportionately reduce the exercise price ''in case of options contracts, or the last settlement price established, in the case of stock futures.''

[ii] *See* n.29 of Exhibit 3A of filing SR–OCC–2025–017.

[jj] Specifically, OCC proposes to add language from Interpretation and Policy .05 to Section 3 of Article XII of the By-Laws that OCC will adjust outstanding options ''and outstanding stock futures to replace such underlying interest with cash'' in an amount per share or unit equal to the conversion or redemption price.''

[kk] *See* n.30 of Exhibit 3A of filing SR–OCC–2025–017.

[ll] These provisions also specify that, because the securities are generally exchanged only on the books of the issuer and the resulting company (and are not generally exchanged physically), deliverable shares will ordinarily include certificates that are denominated on their face as shares in the original issuer, but which, as a result of the corporate transaction, represent shares in the resulting company. OCC proposes to delete this language because OCC does not believe that such specificity is necessary. In all adjustments under this provision relating to share for share exchanges, the result will be shares of the resulting company.

[mm] Proposed Rule 2803(d)(3) adds language to address a stock *and* cash merger, which was previously not addressed explicitly in OCC's By-Laws.

[nn] *See* n.31 of Exhibit 3A of filing SR–OCC–2025–017.

[oo] Currently, Interpretation and Policy .07 to Section 11A of Article VI provides that the further adjustment (in contemplation of conversion to a debt security or a preferred stock) applies to outstanding options ''that have been adjusted to call for delivery of such debt security or preferred stock.'' OCC proposes to replace this text with language from Interpretation and Policy .07 to Section 3 of Article XII (which currently only applies to stock futures) to provide that the further adjustment applies to outstanding options or stock futures ''that have been adjusted by replacing the original underlying security with the security into which the original underlying security has been converted.'' OCC believes that this change is not material because ''the adjustment of an outstanding option to call for delivery of such debt security or preferred stock'' would necessarily require replacement of the original underlying security with the security into which the original underlying security has been converted. OCC also proposes to add the word ''such'' to the first sentence of proposed Rule 2803(d)(4) before the clause ''. . . as in a merger'' to promote clarity in the Rule that this a merger is just one example of the type of corporate action contemplated by the Rule.

[pp] OCC also proposes non-substantive edits to streamline the text of the Rule, such as by replacing the clause ''shall be further adjusted, effective as of the ex-date for each payment of interest or dividends thereon, to call for delivery of the securities distributed as interest or dividends thereon'' with ''shall be further adjusted to call for delivery of the securities distributed as interest or dividends, effective as of the ex-date for each payment of interest or dividends.''

[qq] *See* n.32 of Exhibit 3A of filing SR–OCC–2025–017.

[rr] *See* n.33 of Exhibit 3A of filing SR–OCC–2025–017.

[ss] For example, OCC proposes to add text to part (i) of the proposed Rule to note that OCC shall make certain adjustments to the exercise price in effect ''in the case of an option or the last settlement price established in the case of a stock future.'' OCC also proposes to add the word ''alternatively'' just before part (ii) of the proposed Rule to improve readability.

[tt] *See* n.34 of Exhibit 3A of filing SR–OCC–2025–017.

[uu] Specifically, OCC proposes to add the phrase ''and stock futures'' to the proposed Rule.

[vv] *See* n.35 of Exhibit 3A of filing SR–OCC–2025–017.
[ww] Specifically, OCC proposes to add the phrase ''and stock futures'' to the proposed Rule.
[xx] *See* n.36 of Exhibit 3A of filing SR–OCC–2025–017.
[yy] Specifically, OCC proposes to add the phrase ''and stock futures'' in two instances to the proposed Rule, as well as references to the ''settlement price'' in four instances where the proposed Rule references the exercise price with respect to options contracts.
[zz] *See* n.38 of Exhibit 3 of filing SR–OCC–2025–017.
[aaa] *See infra* n.28 and accompanying text.
[bbb] *See* n.43 of Exhibit 3A of filing SR–OCC–2025–017.
[ccc] For example, OCC proposes to delete the phrase ''[n]otwithstanding the general rules set forth in paragraphs (c) through (h) of this Section 11A'' with ''[t]he Corporation shall have the power to make exceptions to the general ules set forth in paragraphs (c) through (i) of this Rule.'' Proposed Rule 2803(i), relating to election mergers and similar events, is described below in this proposed rule change.
[ddd] *See* n.44 of Exhibit 3A of filing SR–OCC–2025–017.

Proposed Rule 2804—Adjustments of Index Options and Futures and Certain Other Cash-Settled Options and Futures

OCC proposes to set forth in Rule 2804 provisions related to adjustments for index options and futures and certain other cash-settled options and futures. Proposed Rule 2804 would primarily consolidate into a single Rule provisions currently located in Section 3 of Article XVII and Section 4 of Article XII of the By-Laws. The table below describes where current By-Law provisions are being relocated to proposed Rule 2804 and notable changes to such provisions.

TABLE 4—PROPOSED RULE 2804 CHANGES

[Footnotes at end of table.]

Current By-Law provisions	Proposed Chapter XXVIII Rule	Notable changes
Section 3(b) of Article XVII (regarding index options and certain other cash-settled options); and Section 4A(b) of Article XII (regarding stock futures) [a].	Rule 2804(a) (governing adjustment of index options and futures and certain other cash-settled options and futures).	OCC proposes to consolidate and relocate Section 3(b) of Article XVII and Section 4 of Article XII as proposed Rule 2804(a). Proposed Rule 2804(a) would generally provide that, in the case of cash-settled options or cash-settled futures that do not require physical delivery of the underlying interest (except as expressly provided otherwise in the Rules [b] relating to a particular cleared contract) determinations as to whether and how to adjust the terms of such instruments to reflect events affecting the underlying interest shall be made by OCC in accordance with Rule 2801. The notable changes from the baseline By-Law provisions include: (i) specifying that proposed Rule 2804(a) applies to cash settled options or cash-settled futures that ''do not require physical delivery of the underlying interest''; [c] (ii) delete text describing the factors OCC would consider in making an adjustment decision and replace it with a cross-reference to Rule 2801.[d] OCC also proposes to specify in proposed Rule 2804(a) that flexibly structure options on fund shares that are cash settled are governed by proposed Rule 2803.[e] Finally, OCC proposes to replace Section 4A(b) of Article XII of the By-Laws, which currently sets forth OCC's authority to adjust the underlying interest, unit of trading, settlement price or any other terms of a futures contract that does not require physical delivery of the underlying interest.[f]
Section 3(c) of Article XVII (regarding index options and certain other cash-settled options); and Section 4(a) of Article XII (regarding stock futures) [g].	Rule 2804(b) (governing the addition, deletion or change to index components).	OCC proposes to consolidate and relocate Section 3(c) of Article XVII and Section 4(a) of Article XII of the By-Laws as proposed Rule 2804(b) to set forth OCC's adjustment practices with respect to changes to index components that underlie an index option contract, index futures contract, or variance futures that have an index as their reference variable.[h] OCC does not propose substantive changes to these provisions.[i]
Section 3(d) of Article XVII (regarding index options and certain other cash-settled options); and Section 4(b) and 4(d) of Article XII (regarding stock futures) [j].	Rule 2804(c) (governing a change to an index multiplier, calculation method, or underlying index or reference index).	OCC proposes to consolidate and relocate Section 3(d) of Article XVII and Section 4(b) and (d) of Article XII of the By-Laws as proposed Rule 2804(c) to set forth the conditions precedent and adjustment practices where there is a change to an index multiplier, calculation method, or the underlying index or reference index with respect to an index option contract, index futures contract or variance futures contract.[k] OCC proposes to reorganize these provisions into two parts to improve readability and describe in proposed Rule 2804(c)(1) the conditions when OCC will make adjustments to these contracts and in proposed Rule 2804(c)(2) the adjustment practices.[l] OCC proposes to restate the condition for an adjustment to an underlying variance currently set forth in Section 4(d) of Article XII of the By-Laws as proposed Rule 2804(c)(1)(iii).[m] OCC does not propose substantive changes to these provisions.

TABLE 4—PROPOSED RULE 2804 CHANGES—Continued

[Footnotes at end of table.]

Current By-Law provisions	Proposed Chapter XXVIII Rule	Notable changes
Section 3(e) of Article XVII (regarding index options and certain other cash-settled options); and Section 4(c) of Article XII (regarding stock futures) [n].	Rule 2804(d) (governing the substitution of a successor index).	OCC proposes to consolidate and relocate Section 3(e) of Article XVII and Section 4(c) of Article XII of the By-Laws as proposed Rule 2804(d) to address when OCC may substitute another index (a ''successor index'' may be substituted for an index option, index futures contract, or variance futures contract.[o] OCC proposes to reorganize these provisions into three separate subparts (as proposed Rule 2804(d)(1)–(3). OCC proposes to relocate the final sentence of Section 4(c) of Article XII of the By-Laws, which is specific only to index futures contracts and variance futures as proposed Rule 2804(d)(3).[p] OCC does not propose substantive changes to these provisions.
Section 3(f) of Article XVII (regarding index options and certain other cash-settled options) [q].	Rule 2804(e) (addressing where the underlying relative performance index is below zero).	OCC proposes to relocate Section 3(f) of Article XVII of the By-Laws in proposed Rule 2804(e) to address events where the value of an underlying relative performance index falls below zero. OCC does not propose substantive changes to these provisions.[r]
Section 3(g) of Article XVII (regarding index options and certain other cash-settled options) [s].	Rule 2804(f) (addressing the elimination of an individual reference security).	OCC proposes to relocate Section 3(g) of Article XVII of the By-Laws in proposed Rule 2804(f) to address events where any individual reference security in an underlying relative performance index is eliminated.[t] OCC does not propose substantive changes to these provisions.
Section 4(e) of Article XII (regarding stock futures) [u].	Rule 2804(g) (governing adjustments of options on index futures or variance futures).	OCC proposes to relocate Section 4(e) of Article XII of the By-Laws as proposed Rule 2804(g) to provide that where OCC adjusts an index futures or variance futures contract underlying a futures option, such futures option ordinarily will be adjusted to provide, upon exercise, for delivery of the futures contract as adjusted by OCC.
Section 3(h) and Interpretations and Policies .01 of Section 3 of Article XVII (regarding index options and certain other cash-settled options.	Rule 2804(h) (rule application and adjustment authority for OTC options).	OCC proposes to combine and relocated 3(h) and Interpretations and Policies .01 of Section 3 of Article XVII of the By-Laws to Rule 2804(g). Reference to applicability of Article VI, Sections 11 and 11A are removed as they are included in Rule 2804(a) as references to Rules 2801 and 2803.

[a] *See* n.55 and 56 of Exhibit 3A of filing SR–OCC–2025–017.

[b] Currently, Section 3 of Article XVII of the By-Laws provides an exception for any other provision expressly relating to a particular cleared contract in OCC's ''By-Laws and Rules.'' As proposed, Rule 2804 would note that such exception only arises where OCC's ''Rules'' (and not By-Laws) expressly provide for different treatment. The reason for this change is because OCC is, through this proposed rule change, relocating all of its adjustment authority to its Rules, which obviates the need to also incorporate its By-Laws in this carve-out.

[c] Currently, Section 3(b) of Article XVII of the By-Laws provides that it applies to cash settled options that have ''a single commodity as their underlying interest.'' OCC proposes to delete the condition, add cash-settled futures, and replace the qualifying condition as cash-settled options or cash-settled futures that ''do not require physical delivery of the underlying interest.'' OCC proposes this change because all cash settled options that have a single commodity as their underlying interest also do not require physical delivery of the underlying interest.

[d] Specifically, OCC proposes to delete text from current Section 3 of Article XVII of the By-Laws specifying that OCC would make an adjustment decision based on its judgment as to what is appropriate for the protection of investors and the public interest and taking account factors such as fairness to buyers and sellers, maintaining a fair and orderly market, and consistency of interpretation and practice. Each of these same considerations are set forth in proposed Rule 2801(b) (which also includes additional considerations such as the efficiency of exercise settlement procedures and coordination with other clearing agencies). As a result, OCC believes that the same factors would be considered for the adjustment of instruments covered by proposed Rule 2804, plus additional relevant considerations set forth in Rule 2801(b).

[e] Currently, Section 3(a) of Article XVII of the By-Laws specifies that ''[e]xcept in the case of flexibly structured options on fund shares that are cash settled, Section 11A of Article VI of the By-Laws shall not apply to cash-settled option contracts.'' OCC proposes in this proposed rule change to replace Section 11A of Article VI of the By-Laws with proposed Rule 2803. As a result, the new language in proposed Rule 2804 relating to flexibly structured options would remain the same—*i.e.,* it would continue to specify that flexibly structured options are governed by Section 11A, now redesignated as proposed Rule 2803. *See* n.57 of Exhibit 3A of filing SR–OCC–2025–017.

[f] Proposed Rule 2804(a) differs from current Section 4A(b) of Article XII of the By-Laws in that it would no longer specify that OCC may ''adjust the underlying interest, unit of trading, settlement price or any other terms of such futures contract.'' OCC believes that these details are not necessary because it is captured in OCC's general authority, stated in proposed Rule 2804(a), to ''adjust the terms'' of the contracts. Section 4A(b) of Article XII of the By-Laws also describes the factors that would be considered by OCC in making an adjustment determination, which OCC proposes to replace with the cross-reference to proposed Rule 2801.

[g] *See* n.58 of Exhibit 3A of filing SR–OCC–2025–017.

[h] Section 3(c) of Article XVII and Section 4(a) of Article XII of the By-Laws are substantially similar to one another, both providing that OCC will not ordinarily make adjustments to such contracts in the event that index components are added to or deleted from the underlying index or reference index.

[i] OCC proposes certain non-substantive changes and rephrasing of certain of the provisions, such as by splitting the current text of Section 3(c) of Article XVII and Section 4(a) of Article XII of the By-Laws into proposed Rule 2804(b)(1) and (2) and by revising the first sentence of these provisions to provide ''[e]xcept as provided by paragraph (b)(2), the Corporation ordinarily will not . . .'' in lieu of ''[n]o adjustments will ordinarily be made in . . . However, if . . .'' OCC also proposes to add the final sentence of Section 4(a) of Article XII of the By-Laws regarding variance futures as the final sentence of proposed Rule 2804(b)(2).

[j] *See* n.59 of Exhibit 3A of filing SR–OCC–2025–017.

[k] Section 3(d) of Article XVII and Section 4(b) of Article XII of the By-Laws are substantially similarly to one another, but the former address index options contracts while the latter addresses index futures contracts/variance futures contracts. Given these similarities, OCC proposes to combine these provisions so that they are addressed in a single Rule and add language to effect this combination (*e.g.,* by adding references to ''buyers and sellers'' of index futures/variance futures contracts rather than just ''holders and writers'' of index options or by replacing a reference to ''the index securities'' with ''the constituents of the index'' given that OCC). OCC also proposes in proposed Rule 2804(c)(1)(ii) to revise the phrase ''an underlying index or reference index'' with ''an index that is an underlying interest or reference variable'' to allow the proposed Rule to apply to index options, index futures options, and variance futures. This same change is proposed (for the same reason) in Rule 2804(d)(2) where the phrase ''underling index or reference index'' would be replaced with ''underling interest or reference variable.''

[l] To accomplish this reorganization, OCC proposes to add new introductory language to proposed Rule 2804(c)(1) providing that ''[t]he Corporation shall make adjustments to an index option contract, index futures contract, or variance futures contract if . . .'' and in proposed Rule 2804(c)(2) providing that ''[in] the event an above condition occurs . . .'' OCC proposes to update the current cross-reference to Section 3(e) in current Section 3(d) of Article XVII to Section 3(d) of the By-Laws with a cross-reference to proposed Rule 2804(e).

[m] The second part of Section 4(d) of Article XII of the By-Laws describing the adjustments that OCC would make to variance futures would be set forth in proposed Rule 2804(c)(2).

[n] *See* n.60 of Exhibit 3A of filing SR–OCC–2025–017.

[o] Section 3(e) of Article XVII and Section 4(c) of Article XII of the By-Laws are substantially similar to one another, but the former address index options contracts while the latter addresses index futures contracts/variance futures contracts. Given these similarities, OCC proposes to combine these provisions so that they are addressed in a single Rule. OCC proposes to add introductory language to proposed Rule 2804(d)(1) to make clear the purpose of the Rule by providing that ''[t]he Corporation may substitute another index (a 'successor index') as the underlying interest or reference variable if . . .'' and to delete the current introductory phrase ''[i]n the event . . .''

[p] OCC proposes to add introductory language to proposed Rule 2804(d)(3) to make clear that such provision is specific just to index futures contracts and variance futures. OCC also proposes to update the internal cross reference to Section 5 of Article XII in this provision, rather than Section of 5 of ''this Article'' as the provision is being moved to proposed Rule 2804(d)(3).

[q] *See* n.61 of Exhibit 3A of filing SR–OCC–2025–017.

[r] OCC proposes to add text to the first sentence of this provision to make clear that it applies to ''a cash-settled option or future,'' consistent with how Section 3(f) of Article XVII of the By-Laws applies today.

[s] *See* n.62 of Exhibit 3A of filing SR–OCC–2025–017.

[t] OCC proposes certain non-substantive edits to this provision to delete the introductory phrase ''[i]n the event that . . .'' and an extraneous reference to an underlying relative performance index ''defined in the preceding paragraph'' as such phrases are unnecessary and improve readability. The paragraph that precedes current Section 3(g) of Article XVII of the By-Laws (Section 3(f)) does not define a relative performance index, so this reference is obsolete. A ''relative performance index'' refers to an index that measures the relative performance of two components, generally using relative total return.

[u] *See* n.63 of Exhibit 3A of filing SR–OCC–2025–017.

Proposed Rule 2805—Adjustment of Cash-Settled Foreign Currency Options and Futures

OCC proposes to set forth in Rule 2805 provisions related to adjustment of cash-settled foreign currency options and futures. Proposed Rule 2805 would consolidate into a single Rule provisions currently located in Section 3 of Article XXII and Section 4A(a) of Article XII of the By-Laws. The table below describes where current By-Law provisions are being relocated to proposed Rule 2805 and notable changes to such provisions.

TABLE 5—PROPOSED RULE 2805 CHANGES

[Footnotes at end of table.]

Current By-Law provisions	Proposed Chapter XXVIII Rule	Notable changes
Section 3 of Article XXII (regarding cash-settled foreign currency options); and Section 4A(a) of Article XII (regarding stock futures) [a].	Rule 2805 (regarding adjustment of cash-settled foreign currency options and futures).	OCC proposes to relocate Section 3 of Article XXII and Section 4A(a) of Article XII of the By-Laws (including Interpretation and Policy .01 to each) as proposed Rule 2805 to address adjustments of cash-settled foreign currency options and cash-settled foreign currency futures.[b] OCC proposes to set forth Interpretation and Policy .01 of these By-Law provisions as proposed Rule 2805(b) without substantive change. OCC proposes to delete a reference in Section 3 of Article XXII of the By-Laws providing that ''[t]he provisions of Article VI, Section 11 of the By-Laws shall apply equally to adjustments made by OCC pursuant to this Article XXII, Section 4,'' because these references would be no longer current and are not necessary.[c] OCC does not propose substantive changes to these provisions.

[a] *See* n.55 and 56 of Exhibit 3A of filing SR–OCC–2025–017.

[b] Currently, Section 3 of Article XVII of the By-Laws provides an exception for any other provision expressly relating to a particular cleared contract in OCC's ''By-Laws and Rules.'' As proposed, Rule 2804 would note that such exception only arises where OCC's ''Rules'' (and not By-Laws) expressly provide for different treatment. The reason for this change is because OCC is, through this proposed rule change, relocating all of its adjustment authority to its Rules, which obviates the need to also incorporate its By-Laws in this carve-out.

[c] Currently, Section 3(b) of Article XVII of the By-Laws provides that it applies to cash settled options that have ''a single commodity as their underlying interest.'' OCC proposes to delete the condition, add cash-settled futures, and replace the qualifying condition as cash-settled options or cash-settled futures that ''do not require physical delivery of the underlying interest.'' OCC proposes this change because all cash settled options that have a single commodity as their underlying interest also do not require physical delivery of the underlying interest.

Proposed Consolidation of Adjustments for All Instruments Cleared by OCC Into a Single Rule Chapter

As noted above, one of the key purposes of the proposed rule change is to consolidate into the Chapter XXVIII Rule series the various By-Law provisions relating to adjustments for different types of instruments cleared by OCC, including: (i) options contracts (Article VI of the By-Laws); (ii) futures, futures options and commodity options (Article XII of the By-Laws); (iii) index options and certain other cash-settled options (Article XVII of the By-Laws); and (iv) cash-settled foreign currency options (Article XXII of the By-Laws). Currently, each of the Articles in OCC's By-Laws regarding each type of cleared instrument has a separate provision concerning adjustments, and in many cases these provisions are substantially similar or identical to each other. For example, Section 11(a) of Article VI of the By-Laws (regarding options), Section 3(b) of Article XII of the By-Laws (regarding futures), and Section 3(b) of Article XVII (regarding index options and certain other cash-settled options) each provide, among other things, that OCC shall determine whether to make adjustments to reflect particular events in respect of an underlying interest based on OCC's judgment as to what is appropriate for the protection of investors and the public interest, taking into account such factors as fairness to holders and writers (or purchasers and

sellers) of the instruments, the maintenance of a fair and orderly market in the affected contracts, and consistency of interpretation and practice.[13] Rather than setting forth separate provisions that are substantively similar for each of these different instruments, OCC believes Clearing Members and the public would benefit from having a single set of Rules describing OCC's practices related to adjustments, including the criteria OCC considers in making such adjustments.

To accomplish this objective, OCC proposes in a number of places to add language to an existing provision of Section 11, Article VI of the By-Laws, restated as a Chapter XXVIII Rule, to add mention of ''stock future(s)'' and add other relevant text to ensure the proposed Rule appropriately applies to stock futures (*e.g.,* by adding mention of the ''settlement price'' of a stock future).[14] OCC has highlighted proposed newly added text in Exhibit 3A of filing SR–OCC–2025–017 to indicate such changes where OCC proposes to integrate stock futures provisions into a proposed Rule that is based off of an options-related adjustment provision.

Proposed New Provisions Related to Adjustments

OCC also proposes to add several new provisions related to its adjustment process which are intended to codify in OCC's rules certain practices that OCC has developed with respect to adjustments under OCC's existing adjustment authority. OCC believes that these additions will provide greater detail and transparency regarding OCC's current adjustment practices. Each new provision is described below.

Distributions ''in Lieu of'' Ordinary Dividends or Distributions

OCC proposes two additions to the Rules to reflect that distributions made in lieu of ordinary dividends or distributions will generally not result in an adjustment regardless of the manner in which the dividend is ultimately paid. The first of these additions applies to cash dividends or distributions with rule text in proposed Rule 2803(c)(1)(iii)(B), providing that as a general rule, a stock dividend or distribution by the issuer of the underlying security that is paid in lieu of a cash dividend or distribution which otherwise would have been an ordinary distribution as a cash dividend or distribution, will be deemed to be ''ordinary distributions'' and therefore will generally not warrant an option contract adjustment.[15] This provision is intended to clarify that where an issuer initiates some form of distribution that is paid in lieu of a cash dividend or distribution that would have been considered an ordinary distribution, OCC will view such ''in lieu of'' distribution as an ordinary distribution.[16] OCC believes that treating such an ''in lieu of'' distribution as an ordinary distribution where the cash dividend or distribution would have otherwise been considered an ordinary distribution is consistent with OCC's current adjustment rules, which are broadly designed to treat ordinary distributions as such, even where an ordinary distribution may be replaced with an ''in lieu of'' distribution.

Second, OCC proposes Rule 2803(c)(3)(v) to provide that adjustments generally will not be made where a dividend or distribution is determined to be ordinary regardless of whether it is subject to a shareholder election regarding the form in which it will be paid, such as cash or stock. OCC believes that this proposed provision would be consistent with Section 11A(a) of Article VI of OCC's By-Laws (replaced by proposed Rule 2803(c)(1)), which generally provides that OCC will not make adjustments where a stock or cash dividend or distribution is considered to be ordinary. The purpose of this proposed Rule 2803(c)(3)(v) is to make clear that the determination of whether a dividend or distribution is considered ordinary will generally determine whether OCC will make an adjustment for such dividend or distribution, notwithstanding that there may have been a shareholder election to determine the precise form of the ordinary distribution.

Cash in Lieu of Fractional Entitlements

In certain circumstances, the terms of a corporate action on an underlying security of an option may result in a fractional entitlement per 100 shares of stock for which cash will be paid in lieu of the fractional shares. In such situations, a contract adjustment that is effective on the option in response to the corporate action on the underlying security may result in an adjusted option deliverable that includes a cash component in lieu of fractional shares. For example, in the case of a stock dividend where fractional entitlements are paid as cash in lieu of additional shares, if the issuer of XYZ stock issues a stock dividend for all whole shares with a distribution rate of 18.2 percent, an owner of 100 shares of XYZ stock would be entitled to 18.2 shares, which may be distributed as 18 whole shares of XYZ and cash-in-lieu amount for the 2/10 share. Such situations can result from various types of corporate actions, such as mergers and spinoffs, among others. OCC proposes to add several provisions to its adjustments Rules to directly address adjustments in the context of cash in lieu of fractional entitlements.

First, OCC proposes to add a new provision as Rule 2803(k) providing that cash amounts in lieu of fractional share entitlements included in adjusted deliverables will generally be made in a manner consistent with the cash-in-lieu price used by a central securities depository clearing agency. The purpose of this provision is to make clear that where a stock dividend or distribution by an issuer involves some cash amount in lieu of fractional share entitlements and OCC determines that an adjustment is necessary pursuant to its By-Laws and Rules, OCC will generally seek to align its distribution with the approach taken by the central securities depository clearing agency (*i.e.,* Depository Trust Company) so that an option's adjusted deliverable resulting from a corporate action reflects the amount of cash paid in lieu of fractional shares that the holder of 100 shares of the underlying security receives from the corporate action. This is and has been the longstanding practice of determining cash in lieu of fractional shares for adjusted option deliverables, as evidenced by the following examples:

- On February 12, 2024, options on Precision BioSciences, Inc. (''DTIL'') were adjusted in response to a 1-for-30 reverse stock split, and the adjusted deliverable resulting from the option contract adjustment called for 1) 3 (New) DTIL Common Shares and 2) cash in lieu of approximately 0.3333

[13] The adjustment provisions for options contracts and futures contracts also specify two additional criteria to be considered: (i) the efficiency of exercise settlement procedures and (ii) the coordination with other clearing agencies of the clearance and settlement of transactions in the underlying interest. OCC proposes that all instruments would be subject to these two additional criteria pursuant to proposed Rule 2801, which OCC believes are also potentially relevant considerations for determining adjustments for index options and certain other cash-settled options.

[14] *See e.g.,* proposed Rule 2803(h). Options contracts involve an exercise price while a stock future involves a settlement price. Accordingly, where OCC proposes to integrate stock futures into an existing options-related adjustment provision, OCC proposes to add reference to a stock future's settlement price where the current provision references an exercise price.

[15] *See* n.16 of Exhibit 3A of filing SR–OCC–2025–017.

[16] For example, if an issuer normally provides a cash dividend each quarter but in one quarter determines to provide a stock dividend in lieu of such cash dividend, OCC will consider the stock dividend as an ordinary distribution.

fractional DTIL Shares. After the cash-in-lieu price was available from the central securities depository clearing agency, OCC published an information memo stating that the price of $11.81 was used to determine the cash-in-lieu component amount of $3.94 cash per contract (.3333 × $11.81 = $3.94).[17]

- On February 11, 2015, options on Intervest Bancshares Corporation (''IBCA'') were adjusted in response merger with Bank of the Ozarks, Inc. (''OZRK''), and the adjusted deliverable resulting from the option contract adjustment called for 1) 30 OZRK Common Shares, and 2) cash in lieu of 0.14 fractional OZRK Common Shares. After the cash-in-lieu price was available from the central securities depository clearing agency, OCC published an information memo stating that the price of $33.88 was used to determine the cash-in-lieu component amount of $4.74 cash per contract (0.14 × $33.88).[18]
- On April 12, 2015, PC Mall, Inc. (''MALL'') distributed 1.2071 common shares of eCOST.com, Inc. (''ECST'') to MALL Shareholders for each share held as a spinoff, and the adjusted deliverable resulting from the option contract adjustment called for 1) 100 MALL Common Shares, 2) 120 ECST Common Shares, and 3) cash in lieu of .71 fractional ECST Shares. After the cash-in-lieu price was available from the central securities depository clearing agency, OCC published an information memo stating that the price of $4.61was used to determine the cash-in-lieu component amount of $3.27 cash per contract (.71 × $4.61 = $3.27.)[19]

In connection with clarifying language in Rule 2803(k), OCC notes that in rare instances, OCC may be required to independently determine a cash-in-lieu price for fractional shares because of the terms of the underlying corporate action. For example, on July 13, 2007, options on CBOT Holdings, Inc. (''BOT'') were adjusted to reflect the merger between BOT and CME Group Inc. (''CME'').[20] The adjusted options deliverable became 1) 37 CME Group Inc. (''CME'') Common Shares and 2) cash in lieu of .5 fractional CME shares. However, pursuant to the terms of the corporate action, CME issued fractional shares instead of paying cash in lieu of fractional shares. Because OCC cannot facilitate settlement of fractional shares, it was determined that the closing price from the day prior to the consummation of the merger would be used to determine the cash-in-lieu amount. Such situations are very uncommon, but when they do occur OCC may utilize its authority currently in Section 11A(e) of Article VI and in proposed Rule 2803(j) to determine the cash value of any distributed property.

Second, pursuant to Article VI, Section 11A(c) paragraph (y) of OCC's By-Laws (redesignated as proposed Rule 2803(c)(2) under this Proposal), OCC will generally not make an adjustment to a stock option contract for any cash dividend or distribution of the underlying security if such dividend or distribution is less than $0.125 per share.[21] For the avoidance of doubt, OCC proposes to note that this provision is not applicable to cash paid in lieu of fractional share entitlements or other distributed property. Specifically, OCC proposes to state in Rule 2803(c)(2) that in connection with contract adjustment determinations involving fractional entitlements (for example in respect of stock rights, contingent value rights or other distributions) the determination will not be subject to this general rule.[22] This proposed change is necessary to clarify that adjustments in lieu of property are governed by other provisions of proposed Rule 2803. Additionally, this clarification aligns with longstanding practices. For example, on January 31, 2013, options on LATAM Airlines Group S.A. (''LFL'') were adjusted in response to a $ 0.011576 cash distribution made to holder of LFL American Depositary Shares in lieu of rights that were distributed to LFL common shareholders.[23] The adjustment was effected by reducing option strike prices by 0.011576 despite the fact that the distribution amount was below the $0.125 adjustment threshold established by Article VI, Section 11A, Interpretation and Policies .08 because the $0.125 adjustment threshold does not apply to this type of contract adjustment.

Election Mergers or Similar Events

OCC proposes to add a new provision as Rule 2803(i) providing that the deliverable resulting from an adjustment in the case of an election merger or similar event involving shareholder elections, such as shareholder election of a non-ordinary dividend, will generally be based on the consideration accruing to a non-electing shareholder if the Corporation determines in its sole discretion that it is readily able to facilitate delivery of that consideration. The purpose of this provision is to provide additional details to the Rules to describe the longstanding adjustment practice for corporate action events involving shareholder elections to reflect, to the extent possible, what a shareholder who does not make an election will receive.[24] For example, on September 26, 2014, Iron Mountain Incorporated (''IRM'') was ex-distribution a $3.62 special dividend payable in cash or stock at the election of IRM shareholders. Pursuant to the terms of the corporate action on the underlying security, IRM shareholders who did not make an election for the dividend would receive the dividend in the form of shares, and the corresponding contract adjustment to IRM options ultimately resulted in an adjustment deliverable of 1) 110 IRM Common Shares, and 2) $5.97 cash resulting from cash in lieu of fractional shares.[25] As an additional example, on February 1, 2006, Siebel Systems, Inc. (''SEBL'') merged with Oracle Corporation, and the merger was subject to SEBL shareholder election to receive the merger consideration in the form of cash or stock. Pursuant to the terms of

[17] *See* OCC Information Memo #54176, https://infomemo.theocc.com/infomemos?number=54176.

[18] *See* OCC Information Memo #36262, https://infomemo.theocc.com/infomemos?number=36262.

[19] *See* OCC Information Memo #20861, https://infomemo.theocc.com/infomemos?number=20861.

[20] *See* OCC Information Memo #23267, https://infomemo.theocc.com/infomemos?number=23267.

[21] Where the stock option contract is originally listed with a unit of trading larger than 100 shares, the applicable threshold under both OCC's current and proposed By-Laws and Rules, the applicable threshold is $12.50 per contract.

[22] *See* n.22 of Exhibit 3A of filing SR–OCC–2025–017. As a result of this proposed provision, where OCC a distribution involves cash in lieu of fractional entitlements, OCC would not be subject to the general rule that it will not make an adjustment if the dividend or distribution is that $0.125 per share (or $12.50 per contract where the option contract is originally listed with a trading unit of more than 100 shares).

[23] *See* OCC Information Memo #32143, https://infomemo.theocc.com/infomemos?number=32144.

[24] OCC notes that there may be circumstances where it is not possible to determine the make an adjustment that aligns with the interest of a non-electing shareholder. For example, in anticipation of the consummation of the election merger whereby Allis-Chalmers Energy Inc. was acquired by Seawell Limited, OCC published Information Memos #28424 and #28448 to state that if the non-electing merger consideration included a security that did not trade on a U.S. market, a U.S. dollar equivalent would be determined for the non-electing merger consideration as the adjusted options deliverable. Although the non-electing merger consideration was subsequently determined to be all cash as states in Information Memo #28570, the information in Information Memos #28424 and #28448 illustrates that it is possible that the non-electing merger consideration may not be used to determine an adjusted option deliverable in rare circumstances. *See* OCC Information Memo #28424, https://infomemo.theocc.com/infomemos?number=28424; OCC Information Memo #28448 https://infomemo.theocc.com/infomemos?number=28448; OCC Information Memo #28750 https://infomemo.theocc.com/infomemos?number=28570.

[25] *See* OCC Information Memos #35275, https://infomemo.theocc.com/infomemos?number=35311;#35663, https://infomemo.theocc.com/infomemos?number=35663.

the underlying corporate action, SEBL shareholders who did not make an election received the cash consideration, and the corresponding contract adjustment to SEBL options resulted in an adjusted option deliverable of $1033.00 cash per option contract.[26]

Other Events Not Ordinarily Resulting in an Adjustment

OCC proposes to add a new provision to specify an additional type of event that will ordinarily not result in an adjustment. OCC's current By-Laws relocated to new Rule 2803(c)(3) under this Proposal, specify certain types of events that will ordinarily not result in an adjustment, such as the issuance of so-called ''poison pill'' rights, tender offers, or changes in capital structure. OCC proposes to add an additional type of event to this list for transparency purposes to reflect longstanding adjustment determination practices. OCC proposes Rule 2803(c)(3)(iv) to provide that adjustments generally will not be made to reflect a distribution of non-transferable property. OCC proposes this addition because distributions of non-transferable property can neither be traded on a national market nor transferred through the facilities of a central securities depository clearing agency. As a practical matter, there is no means to facilitate delivery of non-transferable distributions in fulfilment of option exercises and assignments and no trading price of the non-transferable property to provide a value. OCC therefore has determined in the past that adjustments would not be made for distributions of non-transferable property. As an example, in November of 2018, Pulse Biosciences, Inc. (''PLSE'') distributed non-transferable rights to PLSE shareholders. In response to this non-transferable distribution, OCC issued Information Memo #43972 to state that no adjustment would be made.[27] In this and other instances when adjustments are not made for a non-transferable distribution, call option holders who receive the distribution must exercise their options in sufficient time to become a holder of record with entitlement to receive the distribution. OCC would, however retain general authority pursuant to proposed Chapter XXVIII of the Rules to make adjustments to non-transferable property on a case-by-case where necessary.

Cash Value Determination

Section 11A(e) of Article VI and the last sentence of Section 3(e) of Article XII of the By-Laws both provide that OCC has authority to determine the value of distributed property with respect to any adjustments. As previously noted, OCC proposes to relocate this provision as Rule 2803(j). OCC also proposes to add to Rule 2803(j) additional text providing that OCC may use this authority in circumstances that include but are not limited to cases in which OCC determines that the final amount or distribution resulting from a corporate action may not be determined for a long period. OCC proposes to add this additional text to make clear that OCC would consider using its authority to determine the value of distributed property when OCC expects that it may take a long period of time to determine the final amount of a distribution resulting from a corporate action. Where a lengthy delay to determine the distributed property value is expected, options or stock futures contracts may expire or mature prior the time when the value is determined, which would leave such options and stock futures contract holders with considerable uncertainty as to the value of their position and their positions subject to delayed settlement for an extended period of time. As a historical example of this type of situation, options on Winthrop Realty Trust (''FUR'') were adjusted on August 8, 2016, in response to the liquidation of the underlying security. As detailed in Information Memo #39462, assets and liabilities of the trust were transferred to a liquidating trust, and each FUR share would be converted into a non-transferable Unit of Beneficial Interest in the liquidating trust. Since the timing and amount of any liquidating distributions were unknown and because the Unit of Beneficial Interest could not be transferred, the adjustment determination was made to set a cash value equivalent for FUR Shares using a high and low price from the last day of trading, thereby allowing settlement to occur in a timely manner. In certain situations, OCC believes that it is appropriate to use its existing authority to determine the cash value of distributed property in such circumstances. OCC believes that adding this provision to proposed Rule 2803(j) will provide detail regarding the anticipated use cases of such provision, which OCC believes furthers the protection of investors and the public interest.[28]

Foreign Withholding Tax

OCC proposes to add as Rule 2803(l) a provision relating to foreign withholding tax, which would provide that, in general, all contract adjustments will be made net of any relevant foreign withholding taxes, with the exception of events for which local tax authorities issue rulings that exempt certain groups from the withholding tax and it is reasonable that U.S. investors collectively can be included in such groups.[29] The purpose of this provision is to make clear to market participants that OCC's contract adjustments will ordinarily include foreign withholding taxes unless, as noted above, there is an exception from local tax authorities in the foreign jurisdiction for which OCC reasonably believes U.S. investors could avail themselves. For example, on May 12, 2023, Loma Negra Compania Industrial Argentina Sociedad Anonima (''LOMA'') was ex-dividend a $0.4010845 distribution; however, the contract adjustment for this event on LOMA options reduced option strike prices by 0.3530086 as the net dividend, reduced by foreign withholding tax and a dividend fee.[30] In contrast, the cash settlement adjustment for DSP Group, Inc. (''DSPG'') options in response to the all-cash merger of DSPG with a subsidiary of Synaptics Incorporated, did not reduce the cash settlement amount by any withholding tax because DSPG received an Israeli Tax Authority ruling, exempting non-Israeli shareholders from withholding.[31] OCC investigates withholding tax information on foreign securities routinely and intends to adjust options taking withholding tax into account in the manner described above when such information is readily available.

Adjustments Made per Contract

OCC proposes to add as Rule 2803(m) a provision specifying that all contract adjustments will be made on a per contract basis. As a practical matter, all exercises and assignments of options are based on a single contract as the lowest possible holding of an option. Consequently, contract option adjustments must also be made on a per contract basis. This practice is required for the proper functioning of the exercise and assignment process;

[26] *See* OCC Information Memo #21403, https://infomemo.theocc.com/infomemos?number=21403.

[27] *See* OCC Information Memo #43972, https://infomemo.theocc.com/infomemos?number=43972.

[28] 15 U.S.C. 78q-1(b)(3)(F).

[29] *See* n.41 of Exhibit 3A of filing SR–OCC–2025–017.

[30] *See* OCC Information Memo #52394, https://infomemo.theocc.com/infomemos?number=52394.

[31] *See* OCC Information Memo #49777, https://infomemo.theocc.com/infomemos?number=49777.

however, this fact is not explicitly stated in OCC's By-Laws and Rules. OCC proposes to add this provision to promote clarity, consistency, and understanding of its Rules.

Proposed Updates to By-Laws Sections for Adjustment Provisions Relating to Products Not Actively Traded

OCC's By-Laws relating to certain products that are not currently actively traded have provisions relating to contract adjustments for such products. These provisions generally provide that adjustments for such products will be governed by Section 11 and/or Section 11A of Article VI of the By-Laws or, in the case of Packaged Spread Options, Section 3 of Article XVII of the By-Laws. As these adjustment-related provisions of the By-Laws would be deleted under the Proposal and moved to Chapter XXVIII of the Rules, OCC proposes to update the cross references in the By-Laws relating to the inactive products to correspond to the appropriate Rule provisions in Chapter XXVIII.

Specifically, OCC proposes to modify the following adjustment related cross references for products that are not actively traded today:

• *Binary options and range options (Article XIV)*—The following cross references would be updated in Article XIV: (i) in the bracketed language at the end of Section 3, the reference to Section 11 and 11A of Article VI of the By-Laws would be updated to refer to Chapter XXVIII of the Rules; (ii) the reference to Section 11 of Article VI of the By-Laws in Section 3A(a)(2) would be updated to refer to Rule 2801 and Rule 2802; (iii) the reference to Section 11(a) of Article VI of the By-Laws in Section 3A(d) would be updated to refer to Rule 2801; (iv) the reference to Article VI, Section 11A of the By-Laws in Interpretation and Policy .02 would be updated to refer to Rule 2803(c)(1)(iv); and (v) the reference to Section 11 of Article VI of the By-Laws in Section 3B(d) would be updated to refer to Rule 2801 and Rule 2802.

• *Foreign currency options (Article XV)*—The following cross references would be updated in Article XV: (i) the reference to Article VI, Section 11 of the By-Laws in Section 4 would be updated to refer to Rule 2801 and Rule 2802; and (ii) in the bracketed language at the end of Section 4, the reference to Section 11A of would be updated to refer to Rule 2803 and the reference to Article VI of the By-Laws would be updated to refer to Chapter XXVIII of the Rules.

• *Yield-based Treasury options (Article XVI)*—The following references would be updated in Article XVI: (i) the reference to Section 11 of Article VI of the By-Laws in Section 3(a) and (d) would be updated to refer to Rule 2801 and Rule 2802; (ii) in the bracketed language at the end of Section 3, the reference to Section 11 of Article VI of the By-Laws would be updated to refer to Rule 2801 and Rule 2802; and (iii) the reference to Section 11 of Article VI of the By-Laws in Section 4(a)(2) would be updated to refer to Rule 2802.

• *BOUNDS (Article XXIV)*—The following references would be updated in Article XXIV: (i) the references to Section 11 and Section 11A of Article VI of the By-Laws, including reference to Interpretations and Policies following Section 11A, in Sections 4(a) and 4(f) of Section 4 would be updated to refer to Rule 2801, Rule 2802 and Rule 2803; (ii) the references to Section 11A of Article VI of the By-Laws in Sections 4(d) as well as the second reference to Section 11A contained in Section 4(a) of Section 4 would be updated to refer to Rule 2803; and (iii) in the bracketed language at the end of Section 4 would be updated to refer to Chapter XXVIII of the Rules.

• *Packaged spread options (Article XXVI)*—The reference in Section 3 of Article XXVI to Section 3 of Article XVII of the By-Laws would be changed to Rule 2804.

These proposed changes are not intended as substantive changes but rather are necessary to ensure consistency in OCC's Rules, notwithstanding that they pertain to products that are not currently traded.

Proposed Updates to By-Laws Sections Governance Provisions for By-Law and Rules Amendments

Article XI, Section 1 of the By-Laws states that amendment to certain provisions of the By-Laws, including Sections 11 and 11A of Article VI, requires approval of the holders of all outstanding Common Stock of OCC. Because of the proposed relocation of the content of Sections 11 and 11A of Article VI to Chapter XXVII of the Rules, OCC proposes to move the requirement for stockholder approval to Section 2 of Article XI, which states the requirements for amendments to the Rules, by including language that amendment to Chapter XXVII of the Rules will require approval of the holders of all outstanding Common Stock of OCC.

2. Statutory Basis

OCC believes the proposed rule change is consistent with Section 17A of the Act [32] and the rules thereunder applicable to OCC. Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions (and, to the extent applicable, derivative agreements, contracts, and transactions), to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions, and, in general, to protect investors and the public interest.[33] OCC believes that the proposed changes are consistent with these provisions of Section 17A(b)(3)(F) because they would provide greater clarity, consistency, and understanding of OCC's adjustment practices and further the goals of Section 17A(b)(3)(F). The primary purpose of the proposed rule change is to consolidate and relocate OCC's current By-Law provisions related to adjustments into a single Rule chapter (Chapter XXVII). Currently, OCC's practices with respect to adjustments are, in many cases, described in separate By-Law provisions that pertain to a specific type of option or derivative, notwithstanding that such separate provisions are substantially similar to one another. OCC believes that consolidating these provisions into a single Rule chapter, which will allow Clearing Members and the public to review a single Rule chapter relating to adjustments that covers all instruments cleared and settled by OCC rather than separate By-Law provisions specific to a particular type of contract, will improve the readability of OCC's adjustment rules and facilitate greater understanding of OCC's Rules and adjustment practices. OCC believes that greater understanding of OCC's Rules in turn helps promote the prompt and accurate clearance settlement of securities and derivatives transactions where an adjustment may be necessary by reducing potential uncertainty and questions that may arise among Clearing Members and holders and writers (or buyers and sellers) of options (or derivatives) contracts. OCC also believes that greater understanding of its Rules and adjustment practices helps removes impediments to and helps perfect the mechanism of a national market system for the prompt and accurate settlement of securities transactions and, in general, promotes the protection of investors and the public interest by similarly reducing uncertainty as to when and how an adjustment made by OCC might occur and the potential

[32] 15 U.S.C. 78q–1.

[33] 15 U.S.C. 78q–1(b)(3)(F).

impact on a market participant's options or futures contract.

While the majority of the proposed changes to OCC's By-Laws and Rules would simply relocate existing By-Law provisions related to adjustments into Chapter XXVIII of OCC's Rules without substantive changes, OCC also proposes certain new provisions related to adjustments, including with respect to: (i) distributions ''in lieu of'' an ordinary dividend or distribution; (ii) cash in lieu of fractional entitlements; (iii) election mergers or similar events; (iv) certain other events not ordinarily resulting in an adjustment (*e.g.,* for non-transferable property); (v) cash value determinations (to provide that OCC may use its authority to determine the cash value of a distribution when the final determination of a corporate action may not be determined for a long period of time); (vi) foreign tax withholding; and (vii) to specify that adjustments are made on a per contract basis. Each of these proposed new provisions is designed to provide greater specificity and clarity with respect to OCC's adjustment practices than are currently set forth in OCC's By-Laws and Rules. These proposed new provisions are also already within the scope of OCC's existing adjustment authority, which provides OCC with broad discretion to adjust the terms of cleared contract to reflect particular events in respect of an underlying interest, taking into account such factors as (among other things) the fairness to holders and writers (or purchasers and sellers) of the affected contracts, the maintenance of a fair and orderly market in the affected contracts, and consistency of interpretation and practice. As such, the proposed new provisions are generally utilized by OCC, and the additional language to the Rules will promote additional transparency and clarity to the industry. OCC believes that these proposed new provisions are consistent with Section 17A(b)(3)(F) because they will facilitate greater understanding of OCC's adjustment practices, which in turn promotes the prompt and accurate clearance and settlement of securities and derivatives transactions, helps support the mechanism of a national systems for the prompt and accurate clearance and settlement of securities transactions and generally promotes the protection of investors and the public interest by reducing uncertainty regarding when and how a contract adjustment will be made.[34]

OCC also believes that the proposed rule changes are consistent with Rule 17ad–22(e)(1), which requires that a covered clearing agency's policies and procedures provide for a well-founded, clear, transparent, and enforceable legal basis for each aspect of its activities in all relevant jurisdictions.[35] Specifically, OCC believes that by improving the readability of its Rules governing contract adjustments through the consolidation of adjustment provisions into a single Rule chapter and by providing additional clarity with respect to OCC's adjustment practices in a variety of different situations, OCC policies and procedures regarding contract adjustments will be more clear, transparent and enforceable.[36]

In addition, the proposed rule change is not inconsistent with the existing By-Laws and Rules of OCC, including any rules proposed to be amended.

(B) Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Act [37] requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. OCC does not believe that the proposed rule change would impose any burden on competition. As noted, the primary purpose of the proposed rule change is to consolidate and relocate OCC's current By-Law provisions related to adjustments into a single Rule chapter (Chapter XXVIII) and to set forth certain additional provisions that provide greater specificity regarding OCC's adjustment practices. Any adjustment made by OCC pursuant to the Rules set forth in proposed Chapter XXVIII would apply equally to all holders and writers (or buyers and sellers in the case of derivatives contracts). As a result, OCC does not believe that the proposed rule change would result in any competitive burden on market participants. OCC notes that much of the proposed rule changes would simply relocate existing adjustment provisions from OCC's By-Laws into Chapter XXVIII of the Rules without substantive changes, so there would be no change with respect to OCC's adjustments practices with respect to such provisions that could result in a competitive burden. The newly proposed provisions are intended to provide greater clarity regarding OCC's existing adjustment practices which may not be expressly described in OCC's current adjustment provisions. Such new provisions are within OCC's existing, broad adjustment authority and would, in any case, apply equally to all market participants such that they should not give rise to a competitive burden on any one market participant relative to another. For the foregoing reasons, OCC believes the proposed rule change would not impact or impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change; however, OCC did receive an unsolicited letter from a Clearing Member regarding the methodology used to determine cash in lieu of fractional shares.[38] The letter requested that OCC adopt and publish a uniform policy for a transparent and deterministic method of determining a cash component of an adjusted deliverable for cash in lieu of fractional shares that would also help limit the time required to determine a cash-in-lieu component. The letter encouraged OCC to consider a change to its current practice and suggested instead that OCC could use the closing price from the first day of trading after a contract adjustment is effective. OCC considered this approach and brought the suggestion to the OCC Operations Roundtable.[39] The OCC Operations Roundtable overwhelmingly agreed that the current process should not change, stating that there is credibility to the process that uses the cash-in-lieu price as provided by the central securities depository clearing agency.[40] OCC also

[34] For example, because OCC's By-Laws and Rules do not currently explicitly address whether OCC would make an adjustment to reflect a distribution of non-transferable property, market participants could be uncertain as to whether such a distribution might result in an adjustment that would affect their option or derivative contract. By adding proposed Rule 2803(c)(iv) to make clear that such a distribution will not ordinarily result in an adjustment, such uncertainty would be reduced.

[35] 17 CFR 240.17ad–22(e)(1).

[36] For example, if a market participant were to believe that a distribution of non-transferable property should result in an adjustment, such market participant might try to object to OCC not making an adjustment in respect of such a distribution. By specifying in proposed Rule 2803(c)(iv) that OCC ordinarily would not make an adjustment for such a distribution, there would be greater clarity, consistency, and understanding that this is OCC's practice and reduce any uncertainty about the legal enforceability of OCC's determination to not make an adjustment in such case.

[37] 15 U.S.C. 78q–1(b)(3)(I).

[38] OCC has filed the letter as confidential Exhibit 3B to File No. SR–OCC–2025–017.

[39] The Operations Roundtable consists of operations staff of a cross-section of OCC's Clearing Members and staff of the options exchanges.

[40] OCC has filed notes from Operations Roundtable meetings held on November 2, 2023

Continued

believes it appropriate to continue to use its current practice of using the cash-in-lieu price used to determine cash received by shareholders of the underlying security in lieu of fractional shares as it reflects what is received by shareholders of the underlying security as a result of the corporate action that resulted in the options adjustment. Utilizing a different method would be arbitrary and stray from the terms of the underlying corporate action.

To the Clearing Member's request for additional transparency, OCC believes that the addition of provisions to the Rules explaining the manner in which cash in lieu of fractional shares is determined will provide greater clarity, consistency, and transparency for the industry.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include file number SR–OCC–2025–017 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–OCC–2025–017. 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 website (*https://www.sec.gov/rules/sro.shtml*). Copies of such filing will be available for inspection and copying at the principal office of OCC and on OCC's website at *https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules*.

Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection.

All submissions should refer to file number SR–OCC–2025–017 and should be submitted on or before October 22, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[41]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–19099 Filed 9–30–25; 8:45 am]

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and January 30, 2024 as confidential Exhibit 3C to File No. SR–OCC–2025–017.

[41] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104126; File No. SR–NYSETEX–2025–33]

Self-Regulatory Organizations; NYSE Texas, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Ordering Window Deposit Requirement in Colocation Note 8

September 29, 2025.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on September 25, 2025, the NYSE Texas, Inc. (''NYSE Texas'' or the ''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 self-regulatory organization. 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] 15 U.S.C. 78a.

[3] 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 the Ordering Window deposit requirement in Colocation Note 8 of the Connectivity Fee Schedule. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Ordering Window deposit requirement in Colocation Note 8 of the Connectivity Fee Schedule.

Background

In November 2023, the Commission approved the Exchange's proposal to amend the Connectivity Fee Schedule to provide, in Colocation Note 8, an alternative procedure by which the Exchange can allocate power in the colocation hall at the Mahwah Data Center (''MDC'')[4] via deposit-guaranteed orders from Users made within a 90-day ''Ordering Window.''[5] Under that procedure, during an Ordering Window, each User may submit a single order for its anticipated

[4] Through its Fixed Income and Data Services (''FIDS'') business, Intercontinental Exchange, Inc. (''ICE'') operates the MDC. The Exchange and its affiliates New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., and NYSE National, Inc. (the ''Affiliate SROs'') are indirect subsidiaries of ICE. Each of the Exchange's Affiliate SROs has submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSE–2025–36, SR–NYSEAMER–2025–59, SR–NYSEARCA–2025–70, and SR–NYSENAT–2025–22.

[5] *See* Securities Exchange Act Release No. 98937 (November 14, 2023), 88 FR 80793 (November 20, 2023) (SR–NYSE–2023–29, SR–NYSEAMER–2023–39, SR–NYSEARCA–2023–53, SR–NYSECHX–2023–16, SR–NYSENAT–2023–18).

power needs, without regard to the provision of Colocation Note 7 that prohibits the Exchange from accepting orders for more than four dedicated cabinets and/or 32 kW of power. Orders submitted during the Ordering Window are currently subject to deposits equal to two months' worth of the monthly recurring costs of the amount of power ordered, and such orders are not finalized until the User's signed order form and deposit are received by the Exchange. After the Ordering Window closes, space and power are allocated by the Exchange according to a formula described in Colocation Note 8.

As the Exchange explained in its original proposal, the purpose of the Ordering Window procedure is to permit the Exchange to obtain a real indication of Users' true demands for power both now and in the future. At the time of the original proposal, ICE was in the process of developing a new colocation hall—Hall 5—at the MDC, yet lacked any way to gauge Users' true demand for space and power given Users' inability to place orders for more than four dedicated cabinets and/or 32 kW of power. In addition, ICE sought firm, guaranteed commitments from Users that they would actually purchase the additional space and power if it was offered to them, thereby justifying ICE's investment in building out additional colocation halls. The Exchange developed the Ordering Window procedure to address these issues.

To date, the Exchange has used the Ordering Window procedure once, in early 2024, before the opening of the MDC's Hall 5. While the procedure worked as intended, the Exchange did observe behavior on the part of some Users that impacted the allocation of space and power. Seven Users submitted orders for 32 kW or less, and were all allocated the full amount of their orders under ''Step 2'' of the allocation procedure in Colocation Note 8. An additional nine Users ordered more than 32 kW. The Exchange has learned from discussions with those nine firms that five of them placed orders for the amount of power they actually wished to receive, while the other four firms placed orders for three to six times their desired amount of power—and, in some cases, more than all the power that was actually available in all of Hall 5.[6] When power was allocated to these nine firms pursuant to ''Step 3'' of the allocation procedure in Colocation Note 8, the result was that the five firms that ordered their actual desired amount of power received approximately 60% of their requested amounts, while the four firms that ordered several times more power than they actually wanted received an amount of power closer to their actual desired amount.

Proposed Change

ICE is currently developing an additional colocation hall at the MDC—Hall 6—and seeks to evaluate customer demand for the space and power in that Hall, as well as whether customer demand would support additional expansion projects beyond Hall 6. The Exchange plans to use the Ordering Window procedure to assist in evaluating these issues, but proposes one change to the procedure before doing so.

Specifically, the Exchange proposes to increase the deposit that Users must provide when submitting orders for more than 32 kW during the Ordering Window to six months' worth of the monthly recurring costs of the amount of power ordered, up from two months' worth. There would be no change to the deposit requirement for Users ordering 32 kW or less, who would continue to provide a deposit equal to two months' worth of the monthly recurring costs of the amount of power ordered. Similarly, there would be no change to the use of the deposit: it would continue to be applied to the User's first and subsequent months' invoices after the power is delivered until it is completely depleted. If the User withdraws its order during the Ordering Window, the deposit will be returned.

The Exchange believes that increasing the deposit requirement for orders of more than 32 kW during the Ordering Window would discourage Users seeking more than 32 kW of power from acting opportunistically and placing orders for amounts of power several times their actual desired amount. The Exchange believes that increasing the deposit amount for orders exceeding 32 kW by a multiple of three will have a material effect on the ordering behavior of these Users, since ordering several times more power than their actual desired amount would tie up sizeable amounts of capital as deposits. By way of example, during the Ordering Window in early 2024, the four firms that placed orders for significantly more power than they needed paid deposits totaling $17 million; under the proposed rule change, similar orders would require deposits of $51 million. The Exchange believes from discussions with several Users that such a deposit requirement would dissuade Users from submitting such inflated orders for power.

The Exchange believes that increasing the deposit requirement to six months from two months for orders more than 32 kW is the best way to meet the goals of the Ordering Window procedure while dissuading certain Users' opportunistic ordering behavior. In addition, the proposal would have no impact on Users ordering less than 32 kW of power, whose deposit requirement would not change and who would continue to be allocated power in ''Step 2'' of the allocation procedure, before any orders larger than 32 kW are considered.

Application and Impact of the Proposed Changes

The proposed change is not targeted at, or expected to be limited in applicability to, market participants of any specific type or size. Rather, the proposed change would apply equally to any User ordering more than 32 kW of power during an Ordering Window.

Users with more modest power needs would not be disadvantaged by the proposed change. This proposal would not change the deposit requirement for Users finalizing orders during the Ordering Window of 32 kW or less. Nor would this proposal change the fact that in ''Step 2,'' each User that finalized an order during the Ordering Window would be allocated up to 32 kW of power (subject to sufficient power being available) before any User's order for more than 32 kW would be filled.

The proposed changes are not otherwise intended to address any other issues relating to colocation services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[8] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities, is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, and does not unfairly discriminate between customers, issuers, brokers or dealers.

The proposed rule change is designed to mitigate the opportunistic behavior of

[6] One User submitted an order for 2,700 kW, which was more than the total amount of power available in all of Hall 5 during the Ordering Window, while another User submitted an order for 5,500 kW, nearly double that amount.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4) and (5).

Users who submitted Ordering Window orders for significantly more power than their actual desired amounts. The Exchange believes that increasing the deposit requirement for orders of more than 32 kW during the Ordering Window to six months' worth of the monthly recurring costs of the amount of power ordered, up from two months' worth, would discourage Users seeking more than 32 kW of power from acting opportunistically and placing orders for amounts of power several times their actual desired amount. The Exchange believes that increasing the deposit amount for orders exceeding 32 kW by a multiple of three will have a material effect on the ordering behavior of these Users, since ordering several times more power than their actual desired amount would tie up sizeable amounts of capital as deposits. By way of example, during the Ordering Window in early 2024, the four firms that placed orders for significantly more power than they needed paid deposits totaling $17 million; under the proposed rule change, similar orders would require deposits of $51 million. The Exchange believes from discussions with several Users that such a deposit requirement would dissuade Users from submitting such inflated orders for power.

The Exchange believes that increasing the deposit requirement to six months from two months for orders more than 32 kW is the best way to meet the goals of the Ordering Window procedure while dissuading certain Users' opportunistic ordering behavior. In addition, the proposal would have no impact on Users ordering less than 32 kW of power, whose deposit requirement would not change and who would continue to be allocated power in ''Step 2'' of the allocation procedure, before any orders larger than 32 kW are considered. The Exchange's proposal is thus specifically tailored to dissuade Users from submitting orders for significantly more power than their actual desired amounts.

The proposed rule change would protect investors and the public interest in that it would provide the Exchange with more accurate insight into Users' true power requirements. It is in the public interest for the Exchange to take User demand into account and to make reasoned, informed decisions about whether and how to expand the MDC.

At the same time, there would be no change to the use of the deposit: it would continue to be applied to the User's first and subsequent months' invoices after the power is delivered until it is completely depleted. If the User withdraws its order during the Ordering Window, the deposit will be returned. Accordingly, a User would continue to benefit from the deposit.

The proposed rule change provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The proposed change is not targeted at, or expected to be limited in applicability to, market participants of any specific type or size. Rather, the proposed change would apply equally to any User ordering more than 32 kW of power during an Ordering Window. Users with more modest power needs would not be disadvantaged by the proposed change. This proposal would not change the deposit requirement for Users finalizing orders during the Ordering Window of 32 kW or less. Nor would this proposal change the fact that in ''Step 2,'' each User that finalized an order during the Ordering Window would be allocated up to 32 kW of power (subject to sufficient power being available) before any User's order for more than 32 kW would be filled.

For all these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act, the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change would increase the deposit requirement for orders for more than 32 kW submitted during an Ordering Window in order to mitigate the opportunistic behavior of Users ordering significantly more power than their actual desired amounts. The Exchange does not expect the proposed rule change to impact intra-market or intermarket competition between exchanges, Users, or any other market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to Section 19(b)(3)(A)(ii) of the Act,[9] and Rule 19b–4(f)(2) thereunder[10] the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing. 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 (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include file number SR–NYSETEX–2025–33 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NYSETEX–2025–33. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NYSETEX–2025–33 and should be submitted on or before October 22, 2025.

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 17 CFR 240.19b–4.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–19182 Filed 9–30–25; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104106; File No. SR–OCC–2025–016]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change by The Options Clearing Corporation Concerning Revisions to OCC's Schedule of Fees Effective November 1, 2025, To Implement a Decrease in Certain Clearing Fees

September 26, 2025.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 25, 2025, The Options Clearing Corporation (''OCC'') 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 primarily by OCC. OCC filed the proposed rule change pursuant to Section 19(b)(3)(A)[3] of the Act and paragraph (f) of Rule 19b–4[4] thereunder, such that the proposed rule change was immediately effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule

Change

The Options Clearing Corporation is filing with the Securities and Exchange Commission a proposed rule change to revise OCC's schedule of fees effective November 1, 2025, to implement a decrease in certain clearing fees. Specifically, OCC proposes to eliminate its clearing fee for linkage transactions, currently $0.02 with a per transaction fee cap of $55.00 for transactions of 2,751 or more contracts. The fee change will have minimal impact on OCC's finances, and better reflect the economic and operational reality of linkage trades. OCC filed proposed changes to OCC's schedule of fees as Exhibit 5 to File Number SR–OCC–2025–016. Material proposed to be added to OCC's schedule of fees as currently in effect is underlined and material proposed to be deleted is marked in strikethrough text. All capitalized terms not defined herein have the same meaning as set forth in the OCC By-Laws and Rules.[5]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Founded in 1973, OCC operates as a central counterparty (''CCP'') under the jurisdiction of both the SEC and the Commodity Futures Trading Commission (''CFTC''). As a registered clearing agency under the SEC's jurisdiction, OCC is the sole clearing agency for equity options listed on national securities exchanges. As a registered Subpart C DCO under the CFTC's jurisdiction, OCC clears and settles transactions in futures and options on futures. OCC also provides central counterparty clearing and settlement services for securities lending transactions. In its role as a CCP, OCC guarantees the performance of its Clearing Members for all transactions cleared by OCC by becoming the buyer to every seller and the seller to every buyer. Given OCC's critical role, OCC has been designated by the Financial Stability Oversight Council as a systemically important financial market utility (''SIFMU'') under Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, entitled the Payment, Clearing and Settlement Supervision Act of 2010 (''Clearing Supervision Act'').[6]

To support its critical role, OCC's principal source of revenue is derived from the clearing fees that it charges for each contract cleared through OCC. OCC currently charges a reduced clearing fee per side for so-called ''linkage'' transactions; *i.e.,* when one national securities exchange routes an order for a listed options contract to another national securities exchange that has a better priced quote through a joint member of both exchanges (''Linkage Member''). Historically, the Linkage Member would recoup its fees for executing the linkage transaction, including OCC's linkage fees, from the exchanges. To support the linkage process, OCC has rebated to the exchanges the difference between the fee for linkage trades and the standard clearing fee on a quarterly basis. To better reflect the economic reality of these trades, OCC now proposes to eliminate the fee for linkage trades, such that the fee on the Linkage Member for such trades would be $0.00. OCC would continue to charge its standard clearing fee to the Clearing Member on each side of the transaction with the Linkage Member, as it does today.

1. Purpose

Background

In 2009, the national securities exchanges that list standardized equity options filed a new plan to link the various options exchanges and achieve intermarket order protection with the SEC.[7] The plan was referred to as Decentralized Linkage or Distributed Linkage and allows the options exchanges to access other options exchanges using private connectivity and membership. Decentralized Linkage replaced a previous hub and spoke linkage plan where OCC operated as the hub.

With decentralized linkage, when another exchange has a better priced quote, an options exchange is required to fill an order from its own order book at the better price from the other options exchange through a Linkage Member. In these cases, the Linkage Member executes a transaction at the better price on the other exchange and then fills the initial order, again at the better price, on the first exchange. As a result, there are two trades cleared at OCC for every linkage transaction, one on the ''away''' exchange between the Linkage Member and a counterparty and a second one on the ''initiating''' exchange between the Linkage Member and the original order submitter. Both of these trades are cleared separately at OCC as standalone transactions.

Historically, the Linkage Member passed their fees back to the exchanges, including the OCC clearing fee. The

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f).

[5] OCC's By-Laws and Rules can be found on OCC's public website: *https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules.*

[6] 12 U.S.C. 5463.

[7] *See e.g.,* Exchange Act Release No. 60187 (June 29, 2009); 74 FR 32664 (July 8, 2009) (File No. SR–CBOE–2009–040).

exchanges asked OCC to consider charging these linkage trades at a reduced rate, making the argument that these trades represent a service to the national options market and should be discounted similar to Market Maker scratch trades. OCC agreed and implemented a process to identify the linkage trades and rebate the difference between the standard clearing rate and the linkage rate back to the routing firm on a quarterly basis.

Proposed Fee Change

OCC proposes to eliminate the linkage fee effective November 1, 2025, to better reflect the economic and operational reality of the trade. From an economic perspective, the Linkage Member is performing a service and is not trading for its own economic gain. The Linkage Member enters into the two trades at the same price leaving it in the same economic position it was before the transactions. The SEC has similarly acknowledged this reality and exempted riskless principal sales, which include linkage transactions, from SEC Section 31 fees.[8] Operationally, linkage transactions do not require margining, corporate actions or any other post-settlement services provided by OCC because the Linkage Member's legs of the transactions net off on settlement.

Additionally, OCC can remain compliant with its target capital level as defined by OCC's Capital Management Policy following the removal of the linkage fee. Regulation 17ad–22(e)(15), in part, requires OCC to maintain liquid net assets funded by equity (''LNAFBE'') in an amount equal to, among other things, 6 months of OCC's current operating expenses.[9] OCC's capital management plan requires OCC to set fees based on its projected operating expenses, LNAFBE target and other capital needs, and projected trading volume. Based on previous years, OCC anticipates the financial impact of removing the linkage fee will be approximately $3 million per year.[10] For 2024, the fees collected for linkage trades (approximately $2.1 million) amounted to less than 0.5% of clearing fee revenue (approximately $477.9 million).[11] As of June 30, 2025, OCC's LNAFBE was $401.70 million,[12] which is above OCC's Target Capital Requirement of $286 million. Based on projected trading volumes, projected expenses, and OCC's LNAFBE target, OCC does not believe that eliminating the linkage fee will have any effect on OCC's ability to meet its regulatory requirements.[13]

To implement the proposed changes, OCC would update its schedule of fees as set out below.

Current fee schedule	Proposed fee schedule
Linkage per side	Linkage per side
$0.02 $0.02	$0.00

* A Linkage Transaction that includes more than 2.750 contracts will be charged a flat fee of $55.00 per trade per side.

2. Statutory Basis

OCC believes the proposed rule change is consistent with the Act [14] and the rules and regulations thereunder.

Compliance With Section 17A(b)(3)(D) of the Act

OCC believes that the proposed fee change is consistent with Section 17A(b)(3)(D) of the Act,[15] which requires that the rules of a clearing agency provide for the equitable allocation of reasonable dues, fees, and other charges among its participants.

OCC believes that the proposed fee change is reasonable. As described above, removing the fee for linkage transactions accurately reflects the economic reality of the transaction. The Linkage Member is performing a service rather than entering into a transaction for their own economic gain. Further, the linkage trades are offset immediately upon settlement and are not transactions that OCC needs to margin and otherwise risk manage. Therefore, it is reasonable that linkage legs would not be subject to a clearing fee.

OCC further believes that removing the fee for linkage transactions represents an equitable allocation of its fees. When entering into a linkage transaction, the Linkage Member is not pursuing an options strategy for its own gain, but rather is performing a service for the options markets. By entering into the linkage trade, Linkage Members ensure that traders can access the best price for an option regardless of the exchange the trader uses. Performing this service free from an OCC fee is an equitable result. The options exchanges have long recognized this reality and rebated the fee paid for linkage transactions. Similarly, the SEC has exempted these trades from section 31 fees.[16]

As a result, OCC believes that the proposed change to OCC's fee schedule provides for the equitable allocation of reasonable fees in accordance with Section 17A(b)(3)(D) of the Act.[17]

Compliance With Rule 17ad–22(e)(15)

In addition, OCC believes that the proposed rule change is consistent with Rule 17ad–22(e)(15), which requires that OCC establish, implement, maintain and enforce written policies and procedures reasonably designed to identify, monitor, and manage OCC's general business risk and hold sufficient liquid net assets funded by equity to cover potential general business losses so that OCC can continue operations and services as a going concern if those losses materialize.[18] The Rule also requires OCC to hold LNAFBE equal to at least six months of OCC's current operating expenses, among other measures.[19] As described above, OCC will be able to continue to meet its ongoing obligations and hold the required amount of LNAFBE following the fee reduction. Linkage fees have made up less than 0.3% of fee revenue for 2025 and OCC will be able to remain compliant with its Target Capital Requirement after the reduction in fee revenue. Therefore, OCC believes that the proposed changes to OCC's schedule of fees are consistent with Rule 17ad–22(e)(15).[20]

[8] *See* 17 CFR 240.31(a)(11)(viii) (exempting any recognized riskless principal sale as defined in rule 31(a)(14).

[9] 17 CFR 240.17ad–22(e)(15)(ii).

[10] OCC has filed data concerning prior years' linkage fees as confidential Exhibit 3A to File No. SR–OCC–2025–016.

[11] OCC's income statement for 2024 can be found on its public website: *https://annualreport.theocc.com.*

[12] This measurement of LNAFBE is based on unaudited financials as of June 30, 2025.

[13] OCC has filed a chart showing projected cash flow outflows and LNAFBE compared to OCC's Target Capital Requirement as Exhibit 3B to File No. SR–OCC–2025–016.

[14] 15 U.S.C. 78a, *et seq.*

[15] 15 U.S.C. 78q–1(b)(3)(D).

[16] *See* 17 CFR 240.31(a)(11).

[17] 15 U.S.C. 78q–1(b)(3)(D).

[18] 17 CFR 240.17ad–22(e)(15).

[19] 17 CFR 250.17ad–22(e)(15)(ii).

[20] *Id.*

(B) Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Act [21] requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. OCC does not believe that the proposed rule change would have any impact or impose a burden on competition. Linkage transactions are not competitive trades but are the operational process that allows a trader to access a better price for an option contract that is quoted on a second exchange. Notably, the trader in this scenario and the seller on the second exchange still pay the same clearing fee as any other transaction. It is only the extra two legs that link the two exchanges that will not pay a fee. Further, the fee removal applies to any type of market participant that is serving as the Linkage Member and will not give any particular type of market participant a competitive advantage. In addition, the linkage fee will be eliminated for linkage transactions between any of OCC's participant exchanges, regardless of whether the exchange is an OCC stockholder. Accordingly, OCC does not believe that the proposed rule change would have any impact or impose a burden on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been 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 [22] and paragraph (f) of Rule 19b–4 [23] 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.

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.[24]

[21] 15 U.S.C. 78q–1(b)(3)(I).

[22] 15 U.S.C. 78s(b)(3)(A).

[23] 17 CFR 240.19b–4(f).

[24] Notwithstanding its immediate effectiveness, implementation of this rule change will be delayed until this change is deemed certified under CFTC Regulation 40.6.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (https://www.sec.gov/rules/sro.shtml); or
- Send an email to *rule-comments@sec.gov*. Please include file number SR–OCC–2025–016 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–OCC–2025–016. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of such filing will be available for inspection and copying at the principal office of OCC and on OCC's website at *https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules*.

Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection.

All submissions should refer to file number SR–OCC–2025–016 and should be submitted on or before October 22, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–19101 Filed 9–30–25; 8:45 am]

BILLING CODE 8011–01–P

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 35768]

Deregistration Under Section 8(f) of the Investment Company Act of 1940

September 26, 2025.

AGENCY: Securities and Exchange Commission (''Commission'' or ''SEC'').

ACTION: Notice of applications for deregistration under Section 8(f) of the Investment Company Act of 1940.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of September 2025. A copy of each application may be obtained via the Commission's website by searching for the applicable file number listed below, or for an applicant using the Company name search field, on the SEC's EDGAR system. The SEC's EDGAR system may be searched at *https://www.sec.gov/edgar/searchedgar/companysearch.html.* You may also call the SEC's Office of Investor Education and Advocacy at (202) 551–8090. An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at *Secretarys-Office@sec.gov* and serving the relevant applicant with a copy of the request by email, if an email address is listed for the relevant applicant below, or personally or by mail, if a physical address is listed for the relevant applicant below. Hearing requests should be received by the SEC by 5:30 p.m. on October 21, 2025, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to Rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary at *Secretarys-Office@sec.gov.*

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.*

FOR FURTHER INFORMATION CONTACT: Shawn Davis, Assistant Director, at (202) 551–6413 or Chief Counsel's Office at (202) 551–6821; SEC, Division of Investment Management, Chief Counsel's Office, 100 F Street NE, Washington, DC 20549–8010.

Apollo Senior Floating Rate Fund Inc. [File No. 811–22481]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to MidCap Financial Investment Corporation, and on July 22, 2024 made a final distribution to its shareholders based on net asset value. Expenses of $9,310,358.48 incurred in connection with the reorganization were paid by the acquiring fund's investment adviser.

Filing Dates: The application was filed on May 23, 2025, and amended on August 11, 2025.

Applicant's Address: 9 West 57th Street, New York, New York 10019.

Apollo Tactical Income Fund Inc. [File No. 811–22591]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to MidCap Financial Investment Corporation, and on July 22, 2024 made a final distribution to its shareholders based on net asset value. Expenses of $8,553,871.52 incurred in connection with the reorganization were paid by the acquiring fund's investment adviser.

Filing Dates: The application was filed on May 23, 2025, and amended on August 11, 2025.

Applicant's Address: 9 West 57th Street, New York, New York 10019.

BNY Mellon U.S. Mortgage Fund, Inc. [File No. 811–04215]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to BNY Mellon Core Plus Fund, a series of BNY Mellon Absolute Insight Funds, Inc., and on March 28, 2025 made a final distribution to its shareholders based on net asset value. Expenses of $175,891.11 incurred in connection with the reorganization were paid by the applicant's investment adviser.

Filing Date: The application was filed on September 10, 2025.

Applicant's Address: c/o BNY Mellon Investment Adviser, Inc., 240 Greenwich Street, New York, New York 10286.

Dreyfus Cash Management [File No. 811–04175]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On September 5, 2024, applicant made a liquidating distribution to its shareholders based on net asset value. Expenses of $3,353.56 incurred in connection with the liquidation were paid by the applicant's investment advisor.

Filing Date: The application was filed on September 12, 2025.

Applicant's Address: c/o BNY Mellon Investment Adviser, Inc., 240 Greenwich Street, New York, New York 10286.

Dreyfus Tax Exempt Cash Management [File No. 811–03954]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On September 5, 2024, applicant made a liquidating distribution to its shareholders based on net asset value. Expenses of $3,089 incurred in connection with the liquidation were paid by the applicant's investment advisor.

Filing Date: The application was filed on September 12, 2025.

Applicant's Address: c/o BNY Mellon Investment Adviser, Inc., 240 Greenwich Street, New York, New York 10286.

F/m Funds Trust [File No. 811–22691]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to F/M Investments Large Cap Focused Fund, Oakhurst Short Duration Bond Fund, Oakhurst Short Duration High Yield Credit Fund and Oakhurst Fixed Income Fund, respectively, each a series of The RBB Fund, Inc., and on October 27, 2023 made a final distribution to its shareholders based on net asset value. Expenses of $587,330 incurred in connection with the reorganization were paid by the applicant's sub-advisor.

Filing Dates: The application was filed on June 4, 2024, and amended on September 3, 2025.

Applicant's Address: 225 Pictoria Drive, Suite 450, Cincinnati, Ohio 45246.

General Municipal Money Market Funds, Inc. [File No. 811–03481]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On October 28, 2024, applicant made a liquidating distribution to its shareholders based on net asset value. Expenses of $2,915.00 incurred in connection with the liquidation were paid by the applicant's investment advisor.

Filing Date: The application was filed on September 11, 2025.

Applicant's Address: c/o BNY Mellon Investment Adviser, Inc. 240 Greenwich Street, New York, New York 10286.

New America High Income Fund, Inc. [File No. 811–05399]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to T. Rowe Price High Yield Fund, a series of the T. Rowe Price High Yield Fund, Inc., and on March 31, 2025 made a final distribution to its shareholders based on net asset value. Expenses of $831,476 incurred in connection with the reorganization were paid by the applicant.

Filing Date: The application was filed on September 12, 2025.

Applicant's Address: 33 Broad Street Boston, Massachusetts 02109.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2025–19111 Filed 9–30–25; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice:12843; No. 2025–08]

Determination Pursuant to the Foreign Missions Act

Pursuant to the authority vested in the Secretary of State under the Foreign Missions Act, 22 U.S.C. 4301 et seq (''the Act''), and delegated pursuant to Department of State Delegation of Authority No. 214 of September 20, 1994, I hereby determine it is reasonably necessary to achieve one or more of the purposes set forth in section 204(b) of the Act (22 U.S.C. 4304(b)) to require Nicaraguan Foreign Minister Valdrack Ludwing Jaentschke Whitaker and Presidential Advisor Denis Ronaldo Moncada Colindres to obtain approval from the Department of State's Office of Foreign Missions prior to any travel beyond a radius of 25 miles from Columbus Circle in New York when they travel to New York to attend UNGA High Level Week in September 2025, and to comply with any other requirements as may be established by the Director or Deputy Director of the Office of Foreign Missions with respect to geographical limitations on travel within the United States. This requirement will remain in place for the duration of the time that Foreign Minister Jaentschke and Presidential Advisor Moncada remain in the United

States to attend UNGA 80 High Level Week and any other UN business.

Clifton C. Seagroves,

Acting Director, Office of Foreign Missions, U.S. Department of State.

[FR Doc. 2025–19080 Filed 9–30–25; 8:45 am]

BILLING CODE 4711–07–P

DEPARTMENT OF STATE

[Public Notice:12841; No. 2025–04]

Determination Pursuant to the Foreign Missions Act

Pursuant to the authority vested in the Secretary of State under the Foreign Missions Act, 22 U.S.C. 4301 *et seq.* (''the Act''), and delegated pursuant to Department of State Delegation of Authority No. 214 of September 20, 1994, I hereby determine it is reasonably necessary to achieve one or more of the purposes set forth in section 204(b) of the Act (22 U.S.C. 4304(b)) to require the Chairman of the Transitional Sovereignty Council of Sudan, General Abdel Fattah al-Burhan, and the accompanying members of the delegation of the Government of Sudan to obtain approval from the Department of State's Office of Foreign Missions prior to any travel beyond a radius of 25 miles from Columbus Circle in New York City when they travel for the 80th Session of the UN General Assembly (UNGA 80) in September 2025 and to comply with any other requirements as may be established by the Director or Deputy Director of the Office of Foreign Missions with respect to geographical limitations on travel within the United States. This requirement will remain in place for the duration that General Burhan and the Sudanese delegation are in the United States for the UNGA 80 High-Level Week in September 2025.

Clifton C. Seagroves,

Acting Director, Office of Foreign Missions, U.S. Department of State.

[FR Doc. 2025–19081 Filed 9–30–25; 8:45 am]

BILLING CODE 4711–07–P

DEPARTMENT OF STATE

[Public Notice: 12846]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: ''Arts of Islamic Lands: Masterpieces From The al-Sabah Collection, Kuwait, Part II'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to an agreement with their foreign owner or custodian for temporary display in the exhibition ''Arts of Islamic Lands: Masterpieces from The al-Sabah Collection, Kuwait, Part II'' at the Museum of Fine Arts, Houston, in Houston, Texas, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Reed Liriano, Program Coordinator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Stefanie E. Williams,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2025–19113 Filed 9–30–25; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 12845]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: ''Rodin's Egypt'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to an agreement with their foreign owner or custodian for temporary display in the exhibition ''Rodin's Egypt'' at the Institute for the Study of the Ancient World, New York University, New York, New York, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Reed Liriano, Program Coordinator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Stefanie E. Williams,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2025–19112 Filed 9–30–25; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 12842; No. 2025–10]

Determination Pursuant to the Foreign Missions Act

Pursuant to the authority vested in the Secretary of State under the Foreign Missions Act, 22 U.S.C. 4301, *et seq.* (''the Act''), and delegated pursuant to Department of State Delegation of Authority No. 214 of September 20, 1994, I hereby determine it is reasonably necessary to achieve one or more of the purposes set forth in section 204(b) of the Act (22 U.S.C. 4304(b)) to require Magaly Gutierrez Vina to obtain approval from the Department of State's Office of Foreign Missions prior to any travel beyond a radius of one mile from her lodgings or beyond the routes allowing access to the point of entry, her lodgings, the United Nations Headquarters District, the Permanent Mission of Venezuela to the United Nations, the residence of the Permanent Representative of Venezuela to the United Nations, and facilities necessary to provide emergency medical care, and to comply with any other requirements

as may be established by the Director or Deputy Director of the Office of Foreign Missions with respect to geographical limitations on travel within the United States.

Clifton C. Seagroves,

Acting Director, Office of Foreign Missions, U.S. Department of State.

[FR Doc. 2025–19078 Filed 9–30–25; 8:45 am]

BILLING CODE 4711–07–P

DEPARTMENT OF STATE

[Public Notice: 12844; No. 2025–09]

Determination Pursuant to the Foreign Missions Act

Pursuant to the authority vested in the Secretary of State under the Foreign Missions Act, 22 U.S.C. 4301, *et seq.* (''the Act''), and delegated pursuant to Department of State Delegation of Authority No. 214 of September 20, 1994, I hereby determine it is reasonably necessary to achieve one or more of the purposes set forth in section 204(b) of the Act (22 U.S.C. 4304(b)) to require Alexandre Padilha and accompanying family members to obtain approval from the Department of State's Office of Foreign Missions prior to any travel beyond five blocks from their lodgings in New York City or beyond the routes allowing access to the point of entry, their lodgings, the United Nations Headquarters District, the Permanent Mission of Brazil to the United Nations, the residence of the Permanent Representative of Brazil to the United Nations, and facilities necessary to provide emergency medical care and to comply with any other requirements as may be established by the Director or Deputy Director of the Office of Foreign Missions with respect to geographical limitations on travel within the United States.

Clifton C. Seagroves,

Acting Director, Office of Foreign Missions, U.S. Department of State.

[FR Doc. 2025–19077 Filed 9–30–25; 8:45 am]

BILLING CODE 4711–07–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2025–0800]

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Unmanned Aircraft Systems (UAS) Support Center Case Management System (CMS)

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 for a renewal of an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on June 2nd, 2025. The collection involves a public form on the *faa.gov* website to streamline how stakeholders' questions are answered in a timely manner. Specifically, the Contact Customer Support form allows the public and other stakeholders to ask the FAA questions, as well as get the appropriate answer or information they need to operate their UAS or drone safely. The information to be collected will be used to and/or is necessary because it allows the UAS Integration Office to collect the appropriate information about the stakeholder's name, preferred method of communications email address, phone number, zip code, type of flyer that would allow the Support Center Analysts to more efficiently answer the customer's specific question.

DATES: Written comments should be submitted by October 29, 2025.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Jose Skinner by email at: *Jose.Skinner@faa.gov;* phone: 817–222–5283.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information.

OMB Control Number: 2120–0810.

Title: Unmanned Aircraft Systems (UAS) Support Center Case Management System (CMS).

Form Numbers: Customer Inquiry form; Customer Inquiry Status Check Form.

Type of Review: This is a 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 June 2nd, 2025 (90 FR 23414). Unmanned Aircraft Systems (UAS) Support Center Case Management System (CMS) streamlines how respondents' questions are answered. Specifically, the UAS Support Center CMS Customer Inquiry form allows the public and other stakeholders to ask the FAA questions, as well as get the appropriate answer/information that is needed to operate their UAS or drone safely. The UAS Support Center has a publicly available form to submit inquiries. This form allows the UAS Support Center to collect the appropriate information about the respondent's name (*i.e.,* first and last), preferred method of communications (*i.e.,* email or phone), email address, phone number, zip code (if needed), self-identification of type of flyer (*i.e.,* recreational, commercial/business, public safety, local government, educational/research, Eyewitness Report, Unsure, and other), the subject of the inquiry, and inquiry/question). This information allows the UAS Support Center Analysts more information to efficiently answer the respondent's specific question. The respondents public form process starts with submitting an inquiry by using the public webform, shared email inbox, or by calling the UAS Support Center Analysts. Once the public user submits an inquiry, they will receive an automated system email receipt that includes inquiry reference number, created date, ''tell us about yourself,'' subject, and their inquiry/question. The public users can also use the inquiry status public page to check their inquiry status. For a public user to check the status of an inquiry, the system requires the user to have and enter the reference number and email address that is used to when creating the inquiry. Once the system confirms that the email address and reference number match with the

inquiry record that's currently in the system, it will display inquiry status and created date of the inquiry.

Respondents: Anyone may use the publicly available form to submit an inquiry. The respondent may submit any number of inquiries.

Frequency: As needed.

Estimated Average Burden per Response: Less than two minutes for a typical inquiry.

Estimated Total Annual Burden: The majority of respondents submit a one-time inquiry. The annual burden per respondent per inquiry is two minutes. Estimate around 33,000 inquiries per year equating to 66,000 minutes of total burden to the public per year.

Issued in Washington, DC.

Jennifer Audette,

Manager, UAS Integration Office, Operational Programs, AUS–410.

[FR Doc. 2025–19167 Filed 9–30–25; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA 2025–0167]

Agency Information Collection Activity Under OMB Review: Fixed Guideway Capital Investment Grants (CIG) Program Section 5309

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

ACTION: Notice of request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Requirements (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describe the nature of the information collection and their expected burdens.

DATES: Comments must be submitted on or before October 31, 2025.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

Comments Are Invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Tia Swain, Office of Administration, Management Planning Division, 1200 New Jersey Avenue SE, Mail Stop TAD–10, Washington, DC 20590, (202) 366–0354 or *tia.swain@dot.gov.*

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, Section 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On July 28, 2025, FTA published a 60-day notice (90 FR 35572) in the **Federal Register** soliciting comments on the ICR that the agency was seeking OMB approval. FTA received no comments after issuing this 60-day notice. Accordingly, DOT announces that these information collection activities have been re-evaluated and certified under 5 CFR 1320.5(a) and forwarded to OMB for review and approval pursuant to 5 CFR 1320.12(c).

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507 (b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983. OMB believes that the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983.

The summaries below describe the nature of the information collection requirements (ICRs) and the expected burden. The requirements are being submitted for clearance by OMB as required by the PRA.

Title: Fixed Guideway Capital Investment Grants (CIG) Program Section 5309.

OMB Control Number: 2132–0561.

Background: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Federal Transit Administration (FTA) is requesting Office of Management and Budget (OMB) 3-year approval of an extension without change for a currently approved collection. The Federal Transit Administration (FTA) administers the discretionary Capital Investment Grants (CIG) grant program under 49 U.S.C. 5309 that provides funding for major transit capital investments including heavy rail, light rail, commuter rail, streetcar, bus rapid transit, and ferries. Three types of eligible projects are outlined in law: smaller scaled transit capital projects known as ''Small Starts''; new fixed guideway transit systems and extensions to existing fixed guideway systems known as ''New Starts''; and projects to improve overall system capacity in existing fixed guideway corridors, known as ''Core Capacity''. The CIG program has a longstanding requirement that FTA evaluate proposed projects against a prescribed set of statutory criteria at specific points during the projects' development including when they seek to enter a subsequent phase of the process or a construction grant agreement. In addition, FTA must report on its evaluations and ratings annually to Congress.

The current Federal Public Transportation Law, 49 U.S.C. 5309, has not changed the statutorily defined project justification and local financial commitment criteria that are the subject of this information collection. In addition, the statutorily required approval steps for projects seeking CIG funds have not changed. FTA will seek comment from stakeholders through the publication of a separate **Federal Register** Notice outside of the PRA process. In general, the information used by FTA for CIG project evaluation and rating should arise as a part of the normal project planning process.

Estimated Total Annual Respondents: 155.

Estimated Annual Total Responses: 55,720.

Estimated Annual Burden Hours on Respondents: 2,870,695.

Frequency: Annually.

Kusum Dhyani,

Director, Office of Management Planning.

[FR Doc. 2025–19150 Filed 9–30–25; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2025–0996]

Privacy Act of 1974; System of Records

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

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the U.S. Department of Transportation (DOT), Federal Motor Carrier Safety Administration (FMCSA), is renaming, updating, and reissuing an existing System of Records Notice (SORN) currently titled ''DOT/FMCSA–004, National Consumer Complaint Database (NCCDB).'' The SORN will be retitled ''DOT/FMCSA–004, FMCSA Complaint Center Records.'' FMCSA is modernizing the system and expanding the program to enhance the Agency's ability to collect, monitor, and respond to complaints about Agency programs; establish reasonable procedures to provide timely responses; and share complaint information with external stakeholders and the public, as necessary and applicable.

DATES: Submit comments on or before October 31, 2025. The Department may publish an amended Systems of Records Notice considering any comments received. This modified system will be effective on October 1, 2025, and the routine uses will be effective on October 31, 2025.

ADDRESSES: You may submit comments, identified by docket number DOT–OST–2025–0996 by one of the following methods:

- *Federal e-Rulemaking Portal: https://www.regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Department of Transportation Docket Management, Room W12–140, 1200 New Jersey Ave. SE, Washington, DC 20590.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Ave. SE, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Instructions:* You must include the agency name and docket number DOT–OST–2025–0996. All comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided. You may review the Department of Transportation's complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Privacy Act: Anyone is able to search the electronic form of all comments received in 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.).

Docket: For access to the docket to read background documents or comments received, go to *https://www.regulations.gov* or to the street address listed above. Follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: For questions, please contact Karyn Gorman, Departmental Chief Privacy Officer, Privacy Office, Department of Transportation, Washington, DC 20590; email: *privacy@dot.gov;* phone (202) 366–3140.

SUPPLEMENTARY INFORMATION:

Notice Updates

This Notice includes both substantive and non-substantive changes to the previously published SORN. The substantive changes have been made to the system name, system location, system manager, authority for maintenance of the system, categories of individuals covered by the system, categories of records in the system, routine uses maintained in the system, and policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system, and exemptions. Non-substantive changes have been made to record access procedures and contesting record procedures. Updates include editorial changes to simplify and clarify language and formatting, and to align with Office of Management and Budget (OMB) Circular A–108 and ensure consistency with other SORNs issued by the Department of Transportation.

Background

In accordance with the Privacy Act of 1974, DOT proposes to modify and re-issue an existing system of records titled ''DOT/FMCSA–004, National Consumer Complaint Database (NCCDB)'' and retitle it ''FMCSA Complaint Center Records''. This system collects information related to violations of Federal Motor Carrier Safety Regulations and Commercial Regulations. Records are collected and maintained for monitoring compliance, investigating complaints, and supporting enforcement actions related to motor carriers, brokers, and entities subject to FMCSA's jurisdiction. The following substantive changes have been made to the Notice:

1. *System Name:* This Notice updates the SORN name from ''DOT/FMCSA–004, National Consumer Complaints Database'' to ''DOT/FMCSA–004, FMCSA Complaint Center Records''. The update to the SORN name is to better reflect the scope and nature of the records maintained in the system.
2. *System Location:* This Notice updates the system location to notify the public that the system location has changed. The previous SORN had an outdated address and additional information that no longer applies.
3. *System Manager:* This Notice updates the system manager name to reflect the change in system owner.
4. *Authority:* This Notice updates the authorities of the system to expand and include relevant statutory and regulatory authorities supporting the collection and maintenance of PII in the system.
5. *Categories of Individuals:* This Notice updates categories of individuals to clearly define who is covered by this system of records.
6. *Categories of Records:* This Notice updates the categories of records to better describe the type of complaint records maintained in the system to include Moving Company, Bus Company, Truck Company, Electronic Logging Device (ELD) Provider, Drug and Alcohol Service Agents, Property Broker, Entry Level Driver Training/Training Provider, Hazardous Material Transportation, Intermodal Equipment Provider, Motorist Safety, Occupational Safety and Health Administration, and Registration-Related Fraud and Identity Theft.
7. *Routine Uses:* This Notice updates routine uses to include the Department of Transportation's general routine uses applicable to this system.
8. *Records Storage:* This Notice updates policies and practices for the storage of records to inform the public that records are no longer stored in an automated system maintained by the Volpe Center but are now stored electronically on a FedRAMP-authorized contractor-maintained cloud environment.
9. *Records Retrieval:* This Notice updates the policies and practices for the retrieval of records to inform the public that records may be retrieved by filer name, respondent name, address (filer and respondent), phone number, State name, zip code, Email address, secondary respondent name, motor carrier number, USDOT number, complaint number, complaint date. Records will no longer be retrieved by fax number.
10. *Retention and Disposal:* This Notice updates the policies and

practices for the retention and disposal of records to reflect the applicable National Archives and Records Administration (NARA) records schedule. The previous NARA record schedule no longer applies to the records in the system.

11. *Exemptions:* Notice is updated to reflect that no exemptions are claimed.

The following non-substantive changes have been made to the Notice:

12. *Record Access:* This Notice updates record access procedures to clarify that signatures on requests for records must either be notarized or accompanied by a statement made under penalty of perjury in compliance with 28 U.S.C. 1746.

13. *Contesting records:* The Notices changes language to state ''See Records Access Procedures'' above.

Privacy Act

The Privacy Act (5 U.S.C. 552a) governs the means by which the Federal Government collects, maintains, and uses personally identifiable information (PII) in a System of Records. A ''system of records'' is a group of any records under the control of a Federal agency from which information about individuals is retrieved by name or other personal identifier. The Privacy Act requires each agency to publish in the **Federal Register** a System of Records Notice (SORN) identifying and describing each System of Records the agency maintains, including the purposes for which the agency uses PII in the system, the routine uses for which the agency discloses such information outside the agency, and how individuals to whom a Privacy Act record pertains can exercise their rights under the Privacy Act (*e.g.,* to determine if the system contains information about them and to contest inaccurate information). In accordance with 5 U.S.C. 552a(r), DOT has provided a report of this system of records to the Office of Management and Budget and to Congress.

SYSTEM NAME AND NUMBER:

Department of Transportation, DOT/FMCSA–004, FMCSA Complaint Center Records.

SECURITY CLASSIFICATION:

Controlled Unclassified Information.

SYSTEM LOCATION:

Records are maintained in a FedRAMP-authorized third-party cloud environment. The contracts are maintained by U.S. DOT at 1200 New Jersey Avenue SE, Washington, DC 20590.

SYSTEM MANAGER(S):

FMCSA Office of Registration, 1200 New Jersey Avenue SE, Washington, DC 20590.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

49 U.S.C. 14701 *note;* 49 U.S.C. Subtitle III, Chapter 51 (hazardous materials); Subtitle IV, Part B (commercial jurisdiction); and Subtitle VI, Part B, Chapters 311, 313 and 315 (safety jurisdiction), codified at 49 U.S.C. 13901–13908, 31136, 31134, 31137 and in 49 CFR parts 40, 360, 365, 366, 368, 371, 375, 380, 382, 385, 387, and 390–399.

PURPOSE(S) OF THE SYSTEM:

The purpose of the system is to provide consumers, drivers, and others associated with the motor carrier industry with an online mechanism to report violations of the Federal Motor Carrier Safety Regulations and other regulations within FMCA's jurisdiction for efficient reviewing and prioritization by the Agency for intervention in accordance with applicable program regulations and procedures. The system includes workflow management functionalities for FMCSA staff to evaluate complaints, communicate with filers for additional information, and keep consumers updated on their complaint status. Information collected by the system contributes to safer motor carrier operations on our nation's highways and improved consumer protection by educating consumers about Agency regulatory requirements and consumer protection rights, alerting consumers of those motor carriers with a history of complaints related to transporting household goods, and informing the public with how to avoid being victimized by untrustworthy moving companies. FMCSA, State, and local law enforcement can also use the system information to identify problematic motor carriers for investigatory or enforcement purposes and to promote compliance. Motor carrier companies can use the system information to assist with complaint reconciliation.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system covers individuals who submit complaints or inquiries to the Agency (on their own or others' behalf), individuals on whose behalf complaints or inquiries are submitted by others (such as attorneys, members of Congress, third-party advocates, and/or other governmental organizations); and individuals who are the subjects of complaints.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in the system contain the complaint intake form for one of the following complaint categories: (1) Moving Company, (2) Bus Company, (3) Truck Company, (4) Electronic Logging Device Provider, (5) Drug and Alcohol Service Agents, (6) Property Broker, (7) Entry Level Driver Training/Training Provider, (8) Hazardous Materials Transportation, (9) Intermodal Equipment Provider, (10) Motorist Safety, (11) Occupational Safety and Health Administration, (12) Registration-Related Fraud and Identity Theft.

The filer provides the following information for each complaint, regardless of complaint type: First and Last Name of the Complaint Filer, email address, telephone number, mailing address, Privacy Preference (Filer indicates whether they consent to FMCSA sharing complaint information with the entity that is the subject of the complaint, and whether to have their contact information released or redacted), USDOT Number and/or legal name of the entity who committed the alleged violation, employment status, complaint and allegation type, date of the alleged incident, narrative description of the incident, supporting documentation, certification statement, location of the incident (applicable to motorist-related complaints), origin and destination city and state (the route the filer was on when the incident occurred), applicable to bus-related complaint and the transportation of household goods.

Uploaded documented evidence and/or additional complaint information may include correspondence or other information received; information from the entity or individual referring to the inquiry or complaint; records created of verbal communications by or with complainants or other individuals; information regarding third-party advocates or others who submit complaints or inquiries on another's behalf; information identifying the entity that is the subject of the complaint or inquiry or its employees; communication with or by the entity that is the subject of the complaint or inquiry or its employees; information about how complaints or inquiries were responded to or referred, including any resolution; and records used to respond to or refer complaints or inquiries, including other information systems maintained by the Agency.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from individuals and entities filing complaints and inquiries, which may

include other federal or state governmental authorities and entities or individuals that are the subjects of complaints and inquiries.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DOT as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

System Specific Routine Uses:

1. To Motor Carrier Safety Assistance Program (MCSAP) State Partner agencies for use during safety investigations of motor carriers and to review and analyze complaints submitted against a motor carrier or broker that allege a violation of the FMCSRs.

2. To Household Goods (HHG) State Enforcement partner agencies for use during household goods reviews and investigations of motor carriers and brokers, to review and analyze complaints submitted against a motor carrier or broker that allege a violation of the FMCSRs.

Department General Routine Uses:

3. In the event that a system of records maintained by DOT to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

4a. Routine Use for Disclosure for Use in Litigation. It shall be a routine use of the records in this system of records to disclose them to the Department of Justice or other Federal agency conducting litigation when— (a) DOT, or any agency thereof, or (b) Any employee of DOT or any agency thereof, in his/her official capacity, or (c) Any employee of DOT or any agency thereof, in his/her individual capacity where the Department of Justice has agreed to represent the employee, or (d) The United States or any agency thereof, where DOT determines that litigation is likely to affect the United States, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or other Federal agency conducting the litigation is deemed by DOT to be relevant and necessary in the litigation, provided, however, that in each case, DOT determines that disclosure of the records in the litigation is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

4b. Routine Use for Agency Disclosure in Other Proceedings. It shall be a routine use of records in this system to disclose them in proceedings before any court or adjudicative or administrative body before which DOT or any agency thereof, appears, when— (a) DOT, or any agency thereof, or (b) Any employee of DOT or any agency thereof in his/her official capacity, or (c) Any employee of DOT or any agency thereof in his/her individual capacity where DOT has agreed to represent the employee, or (d) The United States or any agency thereof, where DOT determines that the proceeding is likely to affect the United States, is a party to the proceeding or has an interest in such proceeding, and DOT determines that use of such records is relevant and necessary in the proceeding, provided, however, that in each case, DOT determines that disclosure of the records in the proceeding is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

5. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In such cases, however, the Congressional office does not have greater rights to records than the individual. Thus, the disclosure may be withheld from delivery to the individual where the file contains investigative or actual information or other materials which are being used, or are expected to be used, to support prosecution or fines against the individual for violations of a statute, or of regulations of the Department based on statutory authority. No such limitations apply to records requested for Congressional oversight or legislative purposes; release is authorized under 49 CFR 10.35(9).

6. One or more records from a system of records may be disclosed routinely to the National Archives and Records Administration (NARA) in records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

7. DOT may make available to another agency or instrumentality of any government jurisdiction, including State and local governments, listings of names from any system of records in DOT for use in law enforcement activities, either civil or criminal, or to expose fraudulent claims, regardless of the stated purpose for the collection of the information in the system of records. These enforcement activities are generally referred to as matching programs because two lists of names are checked for match using automated assistance. This routine use is advisory in nature and does not offer unrestricted access to systems of records for such law enforcement and related antifraud activities. Each request will be considered on the basis of its purpose, merits, cost effectiveness and alternatives using Instructions on reporting computer matching programs to the Office of Management and Budget, OMB, Congress, and the public, published by the Director, OMB, dated September 20, 1989.

8a. DOT may disclose records from this system, as a routine use, to appropriate agencies, entities, and persons when (1) DOT suspects or has confirmed that there has been a breach of the system of records; (2) DOT has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, DOT (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DOT's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

8b. DOT may disclose records from this system, as a routine use, to another Federal agency or Federal entity, when DOT determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

9. DOT may disclose records from this system, as a routine use, to the Office of Government Information Services for the purpose of (a) resolving disputes between FOIA requesters and Federal agencies and (b) reviewing agencies' policies, procedures, and compliance in order to recommend policy changes to Congress and the President.

10. DOT may disclose records from the system, as a routine use, to contractors and their agents, experts, consultants, and others performing or

working on a contract, service, cooperative agreement, or other assignment for DOT, when necessary to accomplish an agency function related to this system of records.

11. DOT may disclose records from this system, as a routine use, to an agency, organization, or individual for the purpose of performing audit or oversight operations related to this system of records, but only such records as are necessary and relevant to the audit or oversight activity. This routine use does not apply to intra-agency sharing authorized under Section (b)(1) of the Privacy Act.

12. DOT may disclose from this system, as a routine use, records consisting of, or relating to, terrorism information (6 U.S.C. 485(a)(5)), homeland security information (6 U.S.C. 482(f)(1)), or Law enforcement information (Guideline 2 Report attached to White House Memorandum, ''Information Sharing Environment'', November 22, 2006) to a Federal, State, local, tribal, territorial, foreign government and/or multinational agency, either in response to its request or upon the initiative of the Component, for purposes of sharing such information as is necessary and relevant for the agencies to detect, prevent, disrupt, preempt, and mitigate the effects of terrorist activities against the territory, people, and interests of the United States of America, as contemplated by the Intelligence Reform and Terrorism Prevention Act of 2004 (Pub. L. 108–458) and Executive Order 13388 (October 25, 2005).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records in the system are stored electronically on a contractor-maintained cloud storage service.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Complaint records can be retrieved by the filer's name, respondent name, complaint/inquiry case number, address, phone number, email address, or a combination of the information listed in the categories of records, secondary respondent name, motor carrier number, USDOT number, and complaint date.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records in the system are maintained in accordance with the following NARA's records retention and schedules: NI–557–05–13, Item 1. Complaint records including telephone messages, electronic mail or forms, telefaxed messages, letters, are retained temporarily and destroyed or deleted 36 months after the information has been converted into an electronic medium, backed up, and verified. Master data files of the FMCSA Complaint Center are temporary records and deleted 6 years after the end of the calendar year in which a case is closed or when no longer needed for reference whichever is sooner.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable DOT IT systems security and access policies. Appropriate controls have been imposed to minimize the risk of compromising the information that is being stored and ensuring confidentiality of communications using tools such as encryption, authentication, auditing, and compartmentalizing databases. The FMCSA Complaint Center data is encrypted at rest and in transit. Access to the records in this system is limited to those authorized individuals who have a need to know the information in furtherance of the performance of their official duties, and who have appropriate clearances or permissions. All personnel with access to data are screened through background investigations commensurate with the level of access required to perform their duties.

RECORD ACCESS PROCEDURES:

Individuals seeking access to and notification of any record contained in this system of records or seeking to contest its content may submit a request in writing to the System Manager to the address provided under ''System Manager and Address'' above.

When an individual seeks records about himself or herself from this system of records or any other Departmental system of records, the request must conform with the Privacy Act regulations set forth in 49 CFR part 10. The individual's request must verify their identity by providing their full name, current address, and date and place of birth. The individual must sign the request, and the individual's signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. No specific form is required.

In addition, the individual should:

- Explain why the individual believes the Department would have information on them;
- Identify which component(s) of the Department the individual believes may have the information about them;
- Specify when the individual believes the records would have been created;
- and provide any other information that will help FMCSA.

If an individual's request is seeking records pertaining to another living individual, the first individual must include a statement from the second individual certifying his/her agreement for the first individual to access his/her records. Without the above information, the component(s) may not be able to conduct an effective search, and the individual's request may be denied due to a lack of specificity or compliance with the consent requirements of the Privacy Act statute and regulations.

CONTESTING RECORD PROCEDURES:

See ''Records Access Procedures'' above.

NOTIFICATION PROCEDURES:

See ''Record Access Procedures'' above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

DOT/FMCSA 004—National Consumer Complaint Database (NCCDB) (75 FR 27051 (May 13, 2010)); DOT/FMCSA 04—Safety Violation and Consumer Complaint Safety Hotline Database (69 FR 63190 (Oct. 29, 2004)).

Issued in Washington, DC.

Karyn Gorman,

Chief Privacy Officer.

[FR Doc. 2025–19125 Filed 9–30–25; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Proposed Collection of Information: Notice of Reclamation—Electronic Funds Transfer, Federal Recurring Payment

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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. Currently the Bureau of the Fiscal

Service within the Department of the Treasury is soliciting comments concerning the Notice of Reclamation—Electronic Funds Transfer, Federal Recurring Payment.

DATES: Written comments should be received on or before December 1, 2025 to be assured of consideration.

ADDRESSES: Direct all written comments and requests for additional information to Bureau of the Fiscal Service, Bruce A. Sharp, Room #4006–A, PO Box 1328, Parkersburg, WV 26106–1328, or *bruce.sharp@fiscal.treasury.gov.*

SUPPLEMENTARY INFORMATION:

Title: Notice of Reclamation—Electronic Funds Transfer, Federal Recurring Payment.

OMB Number: 1530–0003.

Form Number: FS Form 133.

Abstract: FS Form 133 is utilized to notify financial institutions of an obligation to repay payments erroneously issued to a deceased Federal benefit payment recipient. The information collected from the financial institutions is used by Treasury to close out the request from a program agency to collect an EFT payment from the financial institution to which a beneficiary was not entitled.

Current Actions: Extension of a currently approved collection.

Type of Review: Regular.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 223,128.

Estimated Time per Respondent: 8 minutes.

Estimated Total Annual Burden Hours: 29,750.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: 1. Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; 2. the accuracy of the agency's estimate of the burden of the collection of information; 3. ways to enhance the quality, utility, and clarity of the information to be collected; 4. ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and 5. estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 26, 2025.

Bruce A. Sharp,

Bureau PRA Clearance Officer.

[FR Doc. 2025–19084 Filed 9–30–25; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Proposed Collection of Information: FHA New Account Request, Transition Request, and Transfer Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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. Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning the collections of information required to comply with the terms and conditions of FHA New Account Request, Transition Request, and Transfer Request.

DATES: Written comments should be received on or before December 1, 2025 to be assured of consideration.

ADDRESSES: Direct all written comments and requests for additional information to Bureau of the Fiscal Service, Bruce A. Sharp, Room #4006–A, PO Box 1328, Parkersburg, WV 26106–1328, or *bruce.sharp@fiscal.treasury.gov.*

SUPPLEMENTARY INFORMATION:

Title: FHA New Account Request, Transition Request, and Transfer Request.

OMB Number: 1530–0054.

Form Numbers and Titles: FS Form 5354—FHA Transaction Request FS Form 5366—FHA New Account Request FS Form 5367—FHA Debenture Transfer Request.

Abstract: The information is used to (1) establish a book-entry account; (2) change information on a book-entry account; and (3) transfer ownership of a book-entry account on the HUD system, maintained by the Federal Reserve Bank of Philadelphia.

Current Actions: Extension of a currently approved collection.

Type of Review: Regular.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 300.

Estimated Time per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 50.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: 1. Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; 2. the accuracy of the agency's estimate of the burden of the collection of information; 3. ways to enhance the quality, utility, and clarity of the information to be collected; 4. ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and 5. estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 26, 2025.

Bruce A. Sharp,

Bureau PRA Clearance Officer.

[FR Doc. 2025–19085 Filed 9–30–25; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Proposed Collection of Information: Accounts Receivable Forms for Debt Repayment

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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. Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning the Accounts Receivable Forms for Debt Repayment.

DATES: Written comments should be received on or before December 1, 2025 to be assured of consideration.

ADDRESSES: Direct all written comments and requests for additional information to Bureau of the Fiscal Service, Bruce A. Sharp, Room #4006–A, PO Box 1328, Parkersburg, WV 26106–1328, or *bruce.sharp@fiscal.treasury.gov.*

SUPPLEMENTARY INFORMATION:

Title: Accounts Receivable Forms for Debt Repayment.

OMB Number: 1530–0075.

Form Number(s): FS Form 000122: Request for Recurring Electronic Payments.

FS Form 000123: Financial Statement of Debtor.

Abstract: The principal purpose for gathering this information is to evaluate a debtor's ability to pay their debt and to obtain the debtor's ACH payment information so recurring electronic payments can be set up to pay their debt.

Current Actions: Extension of a currently approved collection.

Type of Review: Regular.

Affected Public: Individuals.

Estimated Number of Respondents: 60 Total (FS Form 000122: 20 responses; FS Form 000123: 40 responses).

Estimated Time per Respondent: (FS Form 000122: 15 minutes; FS Form 000123: 45 minutes).

Estimated Total Annual Burden Hours: 35 hours.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: 1. Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; 2. the accuracy of the agency's estimate of the burden of the collection of information; 3. ways to enhance the quality, utility, and clarity of the information to be collected; 4. ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and 5. estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 26, 2025.

Bruce A. Sharp,

Bureau PRA Clearance Officer.

[FR Doc. 2025–19086 Filed 9–30–25; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

United States Mint

Notification of Citizens Coinage Advisory Committee Public Meeting

ACTION: Notice of meeting.

Pursuant to United States Code, Title 31, section 5135(b)(8)(C), the United States Mint announces the Citizens Coinage Advisory Committee (CCAC) public meeting scheduled for October 21, 2025.

Date: October 21, 2025.

Time: 1:00 p.m.–3:00 p.m. (Eastern Time).

Location: Remote via Videoconference.

Subject: Approval of the Fiscal Year 2025 CCAC Annual Report; review and discussion of the candidate designs for the 2027 American Liberty Coin and Medal.

Interested members of the public may watch the meeting via live stream on the United States Mint's YouTube Channel at *https://www.youtube.com/user/usmint.* To watch the meeting live, members of the public may click on the ''October 21, 2025'' icons under the Live Tab on the specific day.

The public should call the CCAC HOTLINE at (202) 354–7502 for the latest updates on meeting time and access information.

The CCAC advises the Secretary of the Treasury on any theme or design proposals relating to circulating coinage, bullion coinage, Congressional Gold Medals, and national and other medals; advises the Secretary of the Treasury with regard to the events, persons, or places to be commemorated by the issuance of commemorative coins in each of the five calendar years succeeding the year in which a commemorative coin designation is made; and makes recommendations with respect to the mintage level for any commemorative coin recommended.

For members of the public interested in watching online, this is a reminder that the remote access is for observation purposes only. Members of the public may submit matters for the CCAC's consideration by email to *info@ccac.gov.*

For Accommodation Request: If you require an accommodation to watch the CCAC meeting, please contact the Office of Equal Employment Opportunity by October 14, 2025. You may submit an email request to *Reasonable.Accommodations@usmint.treas.gov* or call 202–354–7260 or 1–888–646–8369 (TTY).

FOR FURTHER INFORMATION CONTACT: Jennifer Warren, United States Mint Liaison to the CCAC; 801 9th Street NW; Washington, DC 20220; or call 202–354–7208.

(Authority: 31 U.S.C. 5135(b)(8)(C))

Eric Anderson,

Executive Secretary, United States Mint.

[FR Doc. 2025–19088 Filed 9–30–25; 8:45 am]

BILLING CODE 4810–37–P

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Federal Register

Vol. 90, No. 188

Wednesday, October 1, 2025

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FEDERAL REGISTER PAGES AND DATE, OCTOBER

47229–47502 1

CFR PARTS AFFECTED DURING OCTOBER

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.

7 CFR

Proposed Rules:
905 47240
925 47243
956 47245
984 47248

12 CFR

Proposed Rules:
Ch. XV 47251

14 CFR

Proposed Rules:
39 47251

17 CFR

Proposed Rules:
229 47254
230 47254
239 47254
240 47254
249 47254

21 CFR

73 47229

31 CFR

Ch. V 47230
562 47229
587 47230

Proposed Rules:
Subtitle A 47251
Subtitle B 47251

33 CFR

117 47232
165 47234

38 CFR

Proposed Rules:
4 47266

40 CFR

180 47235

Proposed Rules:
63 47268

49 CFR

Proposed Rules:
40 47286

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 September 9, 2025

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TABLE OF EFFECTIVE DATES AND TIME PERIODS—OCTOBER 2025

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.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	21 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	35 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
October 1	Oct 16	Oct 22	Oct 31	Nov 5	Nov 17	Dec 1	Dec 30
October 2	Oct 17	Oct 23	Nov 3	Nov 6	Nov 17	Dec 1	Dec 31
October 3	Oct 20	Oct 24	Nov 3	Nov 7	Nov 17	Dec 2	Jan 2
October 6	Oct 21	Oct 27	Nov 5	Nov 10	Nov 20	Dec 5	Jan 5
October 7	Oct 22	Oct 28	Nov 6	Nov 12	Nov 21	Dec 8	Jan 5
October 8	Oct 23	Oct 29	Nov 7	Nov 12	Nov 24	Dec 8	Jan 6
October 9	Oct 24	Oct 30	Nov 10	Nov 13	Nov 24	Dec 8	Jan 7
October 10	Oct 27	Oct 31	Nov 10	Nov 14	Nov 24	Dec 9	Jan 8
October 14	Oct 29	Nov 4	Nov 13	Nov 18	Nov 28	Dec 15	Jan 12
October 15	Oct 30	Nov 5	Nov 14	Nov 19	Dec 1	Dec 15	Jan 13
October 16	Oct 31	Nov 6	Nov 17	Nov 20	Dec 1	Dec 15	Jan 14
October 17	Nov 3	Nov 7	Nov 17	Nov 21	Dec 1	Dec 16	Jan 15
October 20	Nov 4	Nov 10	Nov 19	Nov 24	Dec 4	Dec 19	Jan 20
October 21	Nov 5	Nov 12	Nov 20	Nov 25	Dec 5	Dec 22	Jan 20
October 22	Nov 6	Nov 12	Nov 21	Nov 26	Dec 8	Dec 22	Jan 20
October 23	Nov 7	Nov 13	Nov 24	Nov 28	Dec 8	Dec 22	Jan 21
October 24	Nov 10	Nov 14	Nov 24	Nov 28	Dec 8	Dec 23	Jan 22
October 27	Nov 12	Nov 17	Nov 26	Dec 1	Dec 11	Dec 26	Jan 26
October 28	Nov 12	Nov 18	Nov 28	Dec 2	Dec 12	Dec 29	Jan 26
October 29	Nov 13	Nov 19	Nov 28	Dec 3	Dec 15	Dec 29	Jan 27
October 30	Nov 14	Nov 20	Dec 1	Dec 4	Dec 15	Dec 29	Jan 28
October 31	Nov 17	Nov 21	Dec 1	Dec 5	Dec 15	Dec 30	Jan 29