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DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 3560

[Docket No. RHS–26–MFH–0067]

Multi-Family Housing Simple Transfer Pilot Program

AGENCY: Rural Housing Service, USDA.

ACTION: Extension of pilot program.

SUMMARY: The Rural Housing Service (RHS) has extended its Simple Transfer Pilot Program until December 31, 2027. This initiative streamlines transfers for certain USDA Section 514 Farm Labor Housing and 515 Rural Rental Housing properties. The program simplifies extensive application requirements, previously applied to all property ownership changes, for less complex transactions. This aims to reduce costs and improve processing times. RHS will evaluate the program's effectiveness, with successful changes potentially incorporated into permanent regulations to encourage property preservation and portfolio revitalization.

DATES: *Pilot Duration:* The effective date of the Simple Transfer Pilot Program is extended to December 31, 2027, at which time the RHS may extend the pilot program (with or without modifications) or terminate it depending on the workload, budget and resources needed to administer the program, feedback from the public, and the effectiveness of the program.

FOR FURTHER INFORMATION CONTACT: For general information about the pilot program, contact Jessica Long, Asset Management Division at jessica.long@usda.gov or at 270–392–4526.

Owners that are interested in participating in the pilot program should contact the project's assigned servicing specialist in the Field Operations Division. The assigned specialist can be found on the Agency's website at <https://www.sc.egov.usda.gov/data/MFH.html>.

Select the file under the heading Multifamily Housing 514 & 515 Property Assignments. The servicing specialist is listed in the column labeled "Assigned To" and their email is in the column "Assigned To Email."

SUPPLEMENTARY INFORMATION:

Authority

Title V, Section 506(b) of the Housing Act of 1949, as amended; 42 U.S.C. 1476(b).

Background

RHS is committed to helping improve the economy and quality of life in rural areas by offering a variety of programs such as loans, grants, and loan guarantees to help create jobs, expand economic development, and provide critical infrastructure investments. RHS also provides technical assistance, loans, and grants by partnering with agricultural producers, cooperatives, Indian tribes, non-profits, and other local, state, and federal agencies.

The Multi-family Housing Program (MFH), an RHS program, assists rural property owners through loans, loan guarantees, and grants that enable owners to develop and rehabilitate properties for low-income, elderly, and disabled individuals and families as well as domestic farm laborers. MFH works with the owners of its direct and farm labor housing loan properties to subsidize rents for low-income tenants who cannot afford to pay their full rent. These programs assist qualified applicants that cannot obtain commercial credit on terms that will allow them to charge rents that are affordable to low-income tenants.

Summary of Updates to the Pilot Program

1. The pilot program is extended by two years until December 31, 2027.
2. The Agency is adding exception criteria for the restrictive use requirement.

Transfer Types: Simple and Standard Transfers

MFH utilizes a variety of tools to revitalize and preserve the physical and financial health of more than 12,000 properties currently in USDA's rural rental portfolio. The Agency may authorize limited demonstration programs to test new approaches to offering housing under the statutory authority granted to the Secretary, as set

forth in 42 U.S.C. 1476(b) and 7 CFR 3560.53(t). Such demonstration programs may authorize procedures and requirements that differ from those set forth in statute or regulation. However, any program requirements that are not expressly exempted, whether statutory or regulatory, remain in effect.

There are two primary types of ownership changes that require approval by MFH which are (1) a change in the borrower entity's organizational structure or (2) a transfer of ownership to a new entity. Organizational changes that include changes in a borrower's current ownership entity structure are addressed in 42 U.S.C. 1485(h) and 7 CFR 3560.405. Transfers, which are sales of projects to new owners that continue to operate the projects in the 515 program, are detailed in 42 U.S.C. 1485(h) and 7 CFR 3560.406.

MFH has identified the need to simplify the transfer of ownership for certain types of transactions. The current process places the same submission requirements on applicants regardless of the complexity of the transaction, resulting in undue burdens for relatively uncomplicated transfers, thereby reducing potential transfer and preservation activity in the portfolio. To address this issue, MFH has implemented the Simple Transfer Pilot Program which offers three additional transfer options as a way to encourage preservation and revitalize its portfolio. MFH expects that by reducing application requirements for certain types of transfers, the result will be lower transaction-related costs for applicants and improved processing times. At the end of the pilot program, MFH will evaluate the findings with consideration towards, if successful, future regulatory changes that could be codified into 7 CFR part 3560 and applied program wide.

Discussion of the New Transfer Pilot Program

(1) *Simple Transfer Pilot Program:* For a simple transfer, under certain conditions the Agency will process an application for an ownership change without requiring full rehabilitation financing and/or reserve account funding typically needed to approve a standard transfer. Simple transfers include restrictions on new debt, equity payouts, and other limitations that are not included for standard transfers.

The Agency must determine that the new owner can operate the property successfully and that the ownership change will benefit the government and tenants even if there are remaining rehabilitation needs post-transfer. The property must meet the required conditions to be processed as a simple transfer. The Asset Management Division (AMD) will process simple transfers.

(2) *Standard Transfer*: All transfers that do not meet the requirements for a simple transfer are considered standard transfers. Standard transfers often include third-party financing, such as Low-Income Housing Tax Credits (LIHTC), and may include one property or multiple properties in a portfolio. Standard transfers follow the guidance in 7 CFR 3560.406. The Production and Preservation Division (P2) will continue to process standard transfers.

Implementation of the Simple Transfer Pilot Program

Eligible properties include Section 514 Farm Labor Housing and Section 515 Rural Rental Housing properties. Eligibility for the pilot program will be based on property conditions and the ability and willingness of the buyer and seller to meet required simple transfer conditions. Buyers must meet the eligibility criteria in 7 CFR 3560.406. Applicants must be able to clearly demonstrate that the property can operate successfully under new ownership. Applicants must abide by the regulatory requirements set forth in 7 CFR part 3560 and the requirements set forth in applicable statutes, except for the exceptions made available through this pilot program, as detailed in this Notice.

Under the pilot program, three simple transfer options are available to address different property circumstances, which are outlined below:

Option 1: Simple Transfer With Expedited Ownership Change Required

Option 1 is the most streamlined transfer process. It is available in circumstances where the Agency determines that an expedited ownership change is in the best interest of the Government, property, and tenants.

(1) Requirements:

(i) Property is in acceptable physical condition as determined by the Agency based on information submitted by the applicant, available in Agency files, or available from third parties, AND

(ii) Conditions exist that require an expedited transfer, including but not limited to: deceased borrower or general partner, hardship, insolvency, receivership, imminent loan maturity,

or sale to nonprofit under prepayment, AND

(iii) No additional debt will be incurred by the Buyer or secured by the property as part of the transfer, AND

(iv) New owner (nonprofit or for-profit) will provide a plan for the long-term viability of the property, which may include recapitalization/rehabilitation or resetting of reserves. The Agency must determine that the proposed viability plan demonstrates the continued physical and financial viability of the property.

(2) Pilot Program Modification to current Standard Transfer Requirements in 7 CFR 3560:

(i) No Capital Needs Assessment (CNA) is required with the transfer application (the CNA requirement in 7 CFR 3560.406(d)(5) is exempted for transfers qualifying for Option 1).

(ii) No new valuation of the property is required with the transfer application (the requirement in 3560.406(d)(3)(i) and (ii) that the security value of the housing project be determined at the time of transfer is exempted for transfers qualifying for Option 1).

(iii) The maturity date and amortization period of the loan will not be changed or extended unless the Agency determines that an extension of the term is in the best interests of the Government, property and tenants.

(iv) No equity payout can be included as part of the transaction. Equity payout to transferor shall not be paid for by project funds and shall not be secured by the property. If agreed to by both parties, equity may be paid outside of the transaction.

(v) The project must meet minimum reserve account requirements as determined by the Agency. The Agency may require a post-transfer analysis to reset annual reserve deposits as a condition of the approved viability plan, which could include completion of a property conditions survey, a CNA, or another analysis acceptable to the Agency.

(vi) As part of this extension, the pilot program will also include an exception to the restrictive use requirement in 7 CFR 3560.406(g). These exceptions are intended to streamline transfers in situations where affordability restrictions are already preserved through family continuity or estate planning measures, while ensuring compliance with statutory requirements and tenant protections. Each transfer under these provisions must be reviewed by the Agency to confirm eligibility and documented appropriately. The restrictive use exception will only be considered in two specific scenarios:

(a) when a property is transferred to an heir or heirs following the death of the current owner, OR

(b) when a property is transferred for estate planning purposes where ownership and control remain with the existing borrower.

Option 2: Simple Transfer With Rehabilitation

Option 2 is designed for properties that require rehabilitation and/or resetting of the annual deposit to the reserve account.

(1) Requirements:

(i) Property is or will be fully subsidized post-transfer OR rents can be increased without adversely impacting occupancy and without a term extension, AND

(ii) No additional amortizing debt will be incurred by the Buyer or secured by the property as part of the transfer, AND

(iii) One of the following conditions applies:

(a) Based on a CNA, rehabilitation is needed now that cannot be funded by the current reserve account, OR

(b) Property is in acceptable condition, with only minor upfront rehabilitation or repairs needed, as determined by the Agency based on information submitted by the applicant, available in Agency files, or available from third parties. Reserves are sufficient to meet any upfront rehabilitation needs but are inadequate to address future rehabilitation needs.

(2) Pilot Program Modification to current Standard Transfer Requirements in 7 CFR 3560:

(i) No new valuation of the property is required with the transfer application (the requirement in 3560.406(d)(3) that the security value of the housing project be determined at the time of transfer is waived for transfers qualifying for Option 2).

(ii) The Agency may approve a junior lien for deferred financing as provided in 3560.409, except that: (a) deferred financing must at a minimum be coterminous with the Agency's loan(s), and (b) the Agency may set a maximum per unit limit on rehabilitation that can be approved under Option 2.

(iii) The maturity date and amortization period of the loan will not be changed or extended, except that a term extension may be permitted in accordance with CFR 3560.406(j) if required by the deferred lender to preserve affordability for a longer period.

(iv) No equity payout can be included as part of the transaction. Equity payout to transferor shall not be paid for by project funds and shall not be secured by the property. If agreed to by both

parties, equity may be paid outside of the transaction.

Option 3: Simple Transfer With Future Rehabilitation/Recapitalization Plan

Option 3 provides flexibility to nonprofits and government agencies to complete an acquisition of a preservation-worthy property even if resources for rehabilitation of the property are not available at the time of the transfer. An appraisal and CNA are required as part of the transfer application.

(1) Requirements:

(i) Based on a CNA, rehabilitation is needed that cannot be fully funded by the current reserve account or resetting of the existing reserve deposits, AND

(ii) The purchaser is a nonprofit organization or government agency, AND

(iii) The new nonprofit or government agency owner will pursue a strategy to rehabilitate/recapitalize the property with Agency and/or third-party funds within two years of the transfer closing date. The Agency must determine that the recapitalization plan will meet the physical and financial needs of the property the new owner is likely to obtain the Agency and/or third-party funds, and the property can function successfully until rehabilitation/recapitalization is complete.

(2) Pilot Program Modification to current Standard Transfer Requirements in 7 CFR 3560:

(i) The Agency will waive the necessary reserve requirement adjustment under 7 CFR 3560.406(d)(5). The new owner must address the rehabilitation needs identified in the CNA over a period not to exceed two years after the closing date of the transfer. The Agency must approve the new owner's proposed rehabilitation plan and the new owner's plan to obtain funding for the rehabilitation prior to approval of the transfer.

(ii) The Agency will monitor the progress and implementation of the approved plan as part of routine project servicing. The new owner may propose changes to the approved plan; however, RD must authorize in writing any changes before they are implemented.

For all simple transfer options, health, safety, environmental, civil rights, and applicable accessibility requirements must be resolved at the time of transfer. The property must be rated "performing" in the internal risk rating tool unless an exception is approved by the Agency.

In cases where MFH determines that none of the simple transfer options are viable for a project, the property owner should follow the standard transfer

requirements in 7 CFR 3560.406. The Agency may also determine that other servicing actions are more appropriate based on the property's circumstances.

Standard transfer requirements have not changed and are outlined in 7 CFR 3560.406.

A checklist and other information have been developed and are available by: (1) contacting the assigned servicing specialist, which can be found at USDA Service Center Agencies Online Services; or (2) refer to the **FOR FURTHER INFORMATION CONTACT** section in this Notice.

Transfer Processing Steps

A property owner should contact the assigned Field Operations Division (FOD) servicing specialist if interested in a transfer under the pilot program. The servicing specialist will take the lead in intake of the information and in partnership with AMD and lead the concept call with the applicant. After the conversation with the applicant, the package will either be transferred to AMD for processing, or the servicing specialist will notify the applicant in writing of the decision to not proceed with the simple transfer process and the reasons.

Paperwork Reduction Act

The regulatory exceptions for this pilot contain no new reporting or recordkeeping burdens under OMB control number 0575–0179 that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Non-Discrimination Statement

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

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711 (voice and TTY). Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at <https://www.usda.gov/about-usda/general-information/staff-offices/office-assistant-secretary-civil-rights/how-file-program-discrimination-complaint> and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by:

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

(2) *Fax:* (833) 256–1665 or (202) 690–7442; or

(3) *Email:* Program.Intake@usda.gov.

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George Kelly,

Administrator, Rural Housing Service.

[FR Doc. 2026–06951 Filed 4–9–26; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 93

[Docket No. APHIS–2025–0018]

RIN 0579–AE88

Import Regulations for Horses; Pre-Export Examination

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are removing the requirement that horses offered for importation to the United States be accompanied by documentation of pre-export examination occurring within 48 hours of departure from the port of embarkation endorsed by a salaried veterinary medical officer. We have found that logistical barriers prevent affected parties from meeting this requirement at this time. This action removes the requirement, while keeping in place other requirements of the regulations.

DATES: Effective May 11, 2026.

FOR FURTHER INFORMATION CONTACT: Mr. Benjamin Kaczmariski, USDA–APHIS

Regulatory Officer, 5601 Sunnyside Ave., #AP760, Beltsville, MD 20705; (240) 636–2149.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 93 (referred to below as the regulations) prohibit or restrict the importation of certain animals, including horses, to protect U.S. livestock from communicable diseases.

On September 14, 2023, we published in the **Federal Register** a final rule¹ (88 FR 62993–63004) amending the horse import regulations to better align them with international standards and improve flexibility for both the equine industry and the Animal and Plant Health Inspection Service (APHIS). One of the changes we made in that final rule was to require, in § 93.314(a)(5), that horses offered for importation to the United States be accompanied by documentation of pre-export examination occurring within 48 hours of departure from the port of embarkation endorsed by a salaried veterinary medical officer. Since the publication of that final rule, APHIS has found that logistical barriers may prevent affected parties from meeting this requirement as stated.

Accordingly, on June 20, 2025, we published in the **Federal Register** (90 FR 26224–26225, Docket No. APHIS–2025–0018) a proposed rule² to remove the requirement that horses offered for importation to the United States be accompanied by documentation of pre-export examination occurring within 48 hours of departure from the port of embarkation endorsed by a salaried veterinary medical officer. We solicited comments concerning our proposal for 60 days, ending August 19, 2025. We received 12 comments by that date. They were from industry associations, businesses, and private individuals.

The majority of comments supported our proposal, reiterating and elaborating on the concerns we described in the proposed rule. We agree with these commenters that the requirement as written is overly prescriptive and understand that obtaining a pre-export examination within 48 hours of departure from the port of embarkation, particularly with endorsement by a salaried veterinary medical officer of the exporting country, may be logistically challenging.

One commenter disagreed, stating that the pre-examination of horses better protects animals and prevents biological infestation and disease from entering the United States. Another commenter stated that health checks prevent disease spread.

As we explained in the proposed rule, we intended the requirement for a pre-export inspection to serve as one of multiple measures to specifically address the issue of sick and injured horses arriving at a United States port of entry. Only horses found free of communicable disease or exposure thereto at the mandatory port of entry inspection are allowed entry into the United States (§ 93.306). Horses are quarantined at the port of entry until negative results to port of entry tests are obtained and the horses are certified by the port veterinarian to be free from clinical evidence of disease (§ 93.308(a)). While APHIS strives to prevent the arrival of sick horses at the port of entry, the port-of-entry inspection and quarantine protocols that currently exist, and that this rule does not change, mitigate the risk of communicable disease entering the United States, even if a horse exhibiting signs of communicable disease does arrive at the port of entry. We believe the above restrictions, which this rule does not change, address the two commenters' concerns about disease risk.

We also note that additional measures exist in the regulations to reduce the possibility of sick horses arriving at the port of entry. These measures include a mandatory inspection on the premises of origin that certifies the horses are free of evidence of communicable disease and exposure to disease during the 60 days preceding exportation (§ 93.314(a)), as well as case-specific inspections that the Administrator may perform pursuant to § 93.304 and § 93.301(a).

Additionally, as noted in the proposed rule, we strengthened the regulations to address the issue of sick or injured horses arriving at the port of entry in multiple ways, not only by requiring an additional pre-export inspection. For example, we clarified the health certificate requirements in § 93.314 to help us confirm the legitimacy of health certificates, and added additional requirements to help decrease disease risk, such as requiring that a horse not be gelded shortly before importation. We also added shipping container requirements in § 93.302, including measures to ensure that horses are transported safely. These provisions, as well as all other requirements related to the importation of horses into the United States, will

remain in place and unchanged by this rule.

Finally, we note that several commenters stated that horses that were healthy upon embarkation to the United States could become sick or injured during transit for a multitude of reasons, including stall construction, stall density, ventilation, ambient temperature and humidity, water and feed intake, travel duration, and itinerary, and that the arrival of sick or injured horses at ports of arrival could be indicative of stresses during transit rather than a regulatory failure in the shipping country. We agree with these commenters that this is a plausible explanation for the arrival of sick or injured horses at ports of entry into the United States.

One commenter stated that the regulations should be updated to differentiate export, import, and business activities.

We are unsure what specific changes the commenter is suggesting. However, activities other than the pre-export examination of equines are outside the scope of this rulemaking.

One commenter asked us to clarify that certificates issued within seven days of departure remain valid if no health changes occur and to allow APHIS-recognized private veterinarians to conduct inspections.

This is outside the scope of this rulemaking.

One commenter asked us to include documentation addressing the potential greenhouse gas impacts of this rule, as changes to procedural timing or port of entry options may shift emissions profiles of aircraft used to transport horses, and adjustments to pre-export examination requirements may require investments in new facilities or expanded operations abroad.

Meanwhile, another commenter pointed out that this rule could alleviate delays caused by staffing limitations and restricted operations, resulting in a more streamlined transportation process. We are not changing port of entry options, and we are merely removing the requirement for an additional inspection. Thus, this rule would not create a need for new facilities or expanded operations, or have any direct effect on travel duration that would increase greenhouse gas emissions.

At the time the proposed rule was issued, we determined that this action was categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement under the National Environmental Policy Act (42 U.S.C. 4231 *et seq.*) and Agency

¹ To view the proposed rule, final rule, supporting documents, and public comments, go to: <https://www.regulations.gov/document/APHIS-2016-0033-0031>.

² To view the proposed rule and public comments, go to: <https://www.regulations.gov/document/APHIS-2025-0018-0001>.

implementing regulations as written at that time. Based on the comments received, we have no reason to believe this categorical exclusion was in error.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, without change.

Executive Order 12866, Executive Order 14192, and Regulatory Flexibility Act

This rule does not meet the criteria of a “significant regulatory action” under Executive Order 12866, as amended by Executive Orders 14215 and 13563. Therefore, the Office of Management and Budget (OMB) has not reviewed this rule under those orders. This regulation is also not a “regulatory action,” as the meaning of that term is set forth in Executive Order 14192 and implementing guidance.

Under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) (as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996; 5 U.S.C. 601 *et seq.*), agencies must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). No regulatory flexibility analysis is required, however, if the head of an agency or an appropriate designee certifies that the rule will not have a significant economic impact on a substantial number of small entities. APHIS has concluded and hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities; therefore, an analysis is not included. This rescission rule will only have minor and beneficial impacts on small entities engaged in the importation of equines by removing a requirement that has proven logistically difficult to implement consistently. This rescission rule will have a beneficial effect on these small entities, lowering costs related to paperwork and otherwise improving regulatory compliance with the remaining provisions of the regulations.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

Paperwork Reduction Act

This final rule contains no new reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Further, this rule will reduce the reporting and recordkeeping requirements in 9 CFR 93.314.

List of Subjects in 9 CFR Part 93

Animal diseases, Imports, Livestock, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, we are amending 9 CFR part 93, subpart C, as follows:

PART 93—IMPORTATION OF CERTAIN ANIMALS, BIRDS, FISH, AND POULTRY, AND CERTAIN ANIMAL, BIRD, AND POULTRY PRODUCTS; REQUIREMENTS FOR MEANS OF CONVEYANCE AND SHIPPING CONTAINERS

■ 1. The authority citation for part 93 continues to read as follows:

Authority: 7 U.S.C. 1622 and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

§ 93.314 [Amended]

■ 2. Amend § 93.314 by removing paragraph (a)(5), and redesignating paragraphs (a)(6) and (a)(7) as paragraphs (a)(5) and (a)(6), respectively.

Done in Washington, DC, this 31st day of March 2026.

Kelly Moore,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2026–06955 Filed 4–9–26; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 1, 4, and 30

[Docket ID OCC–2025–0142]

RIN 1557–AF34

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 302 and 364

RIN 3064–AG12

Prohibition on the Use of Reputation Risk by Regulators

AGENCY: Office of the Comptroller of the Currency, Treasury, and Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation are adopting a final rule to codify the elimination of reputation risk from their supervisory programs. Among other things, the rule prohibits the agencies from criticizing or taking adverse action against an institution on the basis of reputation risk. The rule also prohibits the agencies from requiring, instructing, or encouraging an institution to close an account, to refrain from providing an account, product, or service, or to modify or terminate any product or service on the basis of a person or entity’s political, social, cultural, or religious views or beliefs, constitutionally protected speech, or solely on the basis of politically disfavored but lawful business activities perceived to present reputation risk. The rule further forbids the agencies from taking any supervisory action or other adverse action against an institution, a group of institutions, or the institution-affiliated parties of any institution that is designed to punish or discourage an individual or group from engaging in any lawful political, social, cultural, or religious activities, constitutionally protected speech, or, for political reasons, lawful business activities that the agencies or its personnel disagree with or disfavor.

DATES: The final rule is effective June 9, 2026.

FOR FURTHER INFORMATION CONTACT:

OCC: Jonathan Fink, Director, Bank Advisory, Joanne Phillips, Counsel, or Collin Berger, Attorney, Chief Counsel’s Office, (202) 649–5490, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219. If

you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

FDIC: Legal Division: Sheikha Kapoor, Assistant General Counsel, (202) 898–3960; James Watts, Counsel, (202) 898–6678.

SUPPLEMENTARY INFORMATION:

I. Introduction

On October 30, 2025, the Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC) (collectively, the agencies) published in the **Federal Register** a notice of proposed rulemaking¹ to remove the use of reputation risk from their supervisory programs. Among other things, the proposed rule would also have prohibited the agencies from requiring, instructing, or encouraging an institution to close an account, to refrain from providing an account, product, or service, or to modify or terminate any product or service on the basis of a person or entity's political, social, cultural, or religious views or beliefs, constitutionally protected speech, or solely on the basis of politically disfavored but lawful business activities perceived to present reputation risk. The proposed rule further would have forbidden the agencies from taking any supervisory action or other adverse action against an institution, a group of institutions, or the institution-affiliated parties of any institution that is designed to punish or discourage an individual or group from engaging in any lawful political, social, cultural, or religious activities, constitutionally protected speech, or, for political reasons, lawful business activities that the agencies or its personnel disagree with or disfavor. Following review of the comments received on the proposal, the agencies are finalizing the proposed rule, with minor modifications. The agencies have updated the final rule's definition of "reputation risk" to include an express reference to the operational condition of the institution. The agencies have also modified the prohibition on taking supervisory action or other adverse action designed to punish or discourage lawful business activities that the "supervisor" disagrees with or disfavors. The agencies have updated this provision to use language broader than "supervisor" to clarify that bias from any individual at the agency is not a permissible basis for agency action.

Under 12 U.S.C. 1(a), the OCC is charged with assuring the safety and soundness of and compliance with laws and regulations, fair access to financial services, and fair treatment of customers by the institutions and other persons subject to its jurisdiction. Similarly, the FDIC has statutory authority to administer the affairs of the Corporation, which includes a framework for banking supervision. Further, the FDIC's Board of Directors has the authority to prescribe rules and regulations as it may deem necessary to carry out the provisions of the Federal Deposit Insurance Act, and the OCC is authorized to prescribe rules and regulations to carry out the responsibilities of the office.

Based on these authorities, the subjectivity of reputation risk, the inefficacy of reputation risk at identifying risks to safety and soundness or other statutory mandates, and the potential for regulatory overreach and abuse, the agencies have removed reputation risk from their supervisory frameworks and are codifying this change in relevant regulations.

II. Background

The agencies believe that banking regulators' use of the concept of reputation risk as a basis for supervisory criticisms increases subjectivity in banking supervision without adding material value from a safety and soundness perspective. The agencies believe that most activities that could negatively impact an institution's reputation do so through traditional risk channels (e.g., credit risk, market risk, and operational risk, among others) on which supervisors already focus and already have sufficient authority to address. At the same time, supervising for reputation risk as a standalone risk adds substantial subjectivity to bank supervision and can be abused. It also diverts bank and agency resources from more salient risks without adding material value from a safety and soundness perspective or ensuring greater compliance with the law. To improve the efficiency and effectiveness of their supervisory programs, the agencies have removed reputation risk from their supervisory frameworks and are proposing to codify this change in relevant regulations. This change would also respond to concerns expressed in Executive Order 14331, *Guaranteeing Fair Banking for All Americans*,² that the use of reputation risk can be a pretext for restricting law-abiding individuals' and businesses' access to

financial services on the basis of political or religious beliefs or lawful business activities.

The agencies' supervisory experience has shown that the use of reputation risk in the supervisory process does not increase the safety and soundness of supervised institutions because supervisors have little ability to predict *ex ante* whether or how certain activities or customer relationships present reputation risks that could threaten the safety and soundness of an institution.³ In contrast, risks like credit risk and liquidity risk are more concrete and measurable and allow supervisors to more objectively assess a banking institution's financial condition. Assessments of these risks reflect perceptions of a bank's financial condition consistent with objective principles. Conversely, an independent consideration of reputation risk by supervisors has not resulted in consistent or predictable assessments of material financial risk. Instead, by focusing on reputation risk, supervisors attempt to understand and anticipate public opinion regarding issues and events and then to attempt to directly connect this public opinion regarding issues and events to an institution's condition in ways that have proven nearly impossible to assess or quantify with accuracy. The agencies' attempts to identify reputation risks and their potential effects on institutions have not resulted in increased safety for supervised institutions as supervisors have not been able to accurately predict

³ In carrying out its responsibility, the OCC has refined its examination program based on more than 160 years of experience supervising financial institutions and monitoring developments in the financial industry. In the late 1980s and the 1990s, the OCC and other financial regulators shifted toward supervision frameworks that were organized by particular risks. In 1995, the OCC launched an examination program it called "supervision by risk" that led to the current risk-based supervision approach to examinations. In the supervision by risk program, the OCC focused on nine categories of risk: credit risk, interest rate risk, liquidity risk, price risk, foreign exchange risk, transaction risk, compliance risk, strategic risk, and reputation risk. The program later morphed into the OCC's current risk-based framework, which focuses on eight risk categories, with transaction risk renamed as operational risk and foreign exchange risk eliminated as a stand-alone risk. This risk-based supervision program focuses on evaluating risk, identifying existing and emerging problems, and ensuring that bank management takes corrective action to address problems before a bank's safety and soundness is compromised. Similarly, as regulators shifted toward risk-based supervision in the 1990s, the FDIC added references to reputation risk to manuals and guidance, and supervisors cited reputation risk in formal and informal enforcement actions in subsequent years. Generally, the FDIC's supervision framework has evaluated a variety of risks, such as liquidity risk, interest rate risk, operational risk, and reputational risk.

¹ See "Prohibition on Use of Reputation Risk by Regulators," 90 FR 48825 (October 30, 2025).

² 90 FR 38925 (Aug. 12, 2025).

the public's reaction to business decisions made by institutions.

In other words, there is no clear evidence that supervisory interference in banks' activities or relationships in the interest of protecting the banks' reputations has protected banks from losses or improved banks' performance.

In addition to not enhancing safety and soundness, focusing on reputation risk can distract institutions and the agencies from devoting resources to managing core financial risks—such as credit risk, liquidity risk, and interest rate risk—that are quantifiable and have been shown to present significant threats to institutions. Monitoring requires dedicated resources. For example, in order to confront such risks, institutions frequently purchase expensive risk-monitoring models that must be maintained, implement detailed loan review programs, hire expensive outside advisers, and provide time-intensive training for staff. Parallel to these actions by institutions, the agencies have limited resources and a responsibility to use these resources in an efficient and productive manner in furtherance of their statutory responsibilities. In the judgment of the agencies, examining for reputation risk diverts resources that could be better spent on other risks that have been shown to present significant, tangible threats to institutions and that are more easily quantified and addressed through regulatory intervention.

Moreover, the agencies' use of reputation risk in reaching supervisory conclusions introduces subjectivity and unpredictability into the agencies' judgments. Agency supervision more effectively fosters safe and sound banking when supervised institutions have a reasonable expectation of how the agencies would evaluate an activity. The agencies have not been able to clearly explain how banks should measure the reputation risk from different activities, business partners, or clients, nor have the agencies been able to clearly articulate the criteria for which activities, business partners, or clients are deemed to present reputation risk.⁴ Without clear standards, the agencies' supervision for reputation risk has been inconsistent and has at times reflected individual perspectives of agency staff rather than data-driven conclusions. This can result in agency staff implicitly or explicitly encouraging institutions to restrict access to banking services on the basis of staff's personal views of a group's or individual's

political, social, cultural, or religious views or beliefs, constitutionally protected speech, or politically disfavored but lawful business activities. Different stakeholders may have different perspectives on how such activities or relationships impact an institution's reputation, if at all, which creates unpredictability and inconsistency for regulated entities. Additionally, the subjective nature of supervisory decisions about reputation risk introduces the potential for political or other biases to enter into the supervisory process. Thus, supervisory judgments about reputation risk can create subjective regulatory interference in day-to-day business decisions of banks that should be based on neutral market factors. This practice can also result in distortions to industries and the U.S. economy, as the agencies use reputation risk to choose winners and losers among market participants and industries. Given the difficulty of measuring reputation risk in an accurate and precise way, it is inappropriate for the agencies' supervisors to examine supervised institutions against this risk.

More importantly, when a supervised institution alters its behavior to comply with supervisory expectations relating to reputation risk management, such as by closing an account or choosing not to enter into or continue a business relationship with a customer or industry that it would otherwise maintain, it is forgoing an opportunity to maintain or build a profitable business relationship that may otherwise be consistent with sound risk management practices. Accordingly, the agencies' past practice of encouraging supervised institutions to alter their behavior due to reputation risk may have adversely impacted institutions' earnings, capital positions, and safety and soundness. In this way, the agencies' prior focus on reputation risk may have caused supervised institutions to be less safe and sound than had they been permitted to engage in lawful business activities without these limitations resulting from supervisory expectations surrounding reputation risk.

In addition, examining for reputation risk can result in agency personnel or leadership implicitly or explicitly encouraging institutions to restrict access to banking services on the basis of agency personnel's personal views of a group's or individual's political, social, cultural, or religious views or beliefs, constitutionally protected speech, or politically disfavored but lawful business activities. Denying lawful businesses access to financial services can further have negative effects on the economy by hindering the

growth of these lawful businesses and consequently interfering with the job creation and the economic activity their operations could generate.

Moreover, even if reputation risk could be quantified, the agencies lack evidence that reputation risk, in the absence of identified financial or operational risks, is a factor that can hurt an institution's safety and soundness. Although there are examples of risks such as credit risk and liquidity risk being the primary driver of an institution's unsafe or unsound condition, the agencies have not seen evidence that reputation risk can be the primary driver of an institution being in unsafe or unsound condition. When reputational issues are identified as a cause of harm that has impacted a supervised institution's financial condition, there are typically other more significant factors, such as those relating to the institution's capital, asset quality, liquidity, earnings, or interest rate sensitivity, that are the primary drivers of the institution's weakened financial condition. The OCC's analysis shows that the agency will not lose information useful to anticipate regulated institutions' failure by ceasing to produce reputation risk ratings in the Risk Assessment System (RAS) ratings system, as the RAS reputation risk ratings do not forecast failure after accounting for the CAMELS composite rating and components. Instead, only RAS ratings that assess fundamental financial risks predict failure risk once CAMELS ratings are accounted for.

In addition, there is no evidence that ceasing to impose Matters Requiring Attention (MRAs) that focus on reputation risk will harm the agencies' ability to anticipate and resolve failure risk. The agencies' analysis shows that MRAs that either mention reputation risk in the MRA description or include reputation risk as either a primary or secondary risk have no ability to predict bank failures.

The OCC's supervision is required by law to focus on the safety and soundness of its institutions and compliance with laws and regulations as well as, as applicable, fair access to financial services and fair treatment of customers.⁵ The FDIC is responsible for the supervision and examination of State nonmember banks, including for safety and soundness principles.⁶ In furtherance of these objectives, the agencies' supervision should focus on

⁵ 12 U.S.C. 1.

⁶ See 12 U.S.C. 1811 *et seq.* The FDIC also insures the deposits of insured depository institutions and manages receiverships of failed depository institutions.

⁴ Supervised institutions have similarly been unable to explain this in their own risk management programs.

concrete risks and objective criteria directly related to applicable statutory requirements. In the agencies' experience, using reputation risk in its supervisory process does not further this mission.

III. Overview of the Notices of Proposed Rulemaking and General Summary of Comments

The proposed rule sought to codify the removal of reputation risk from the OCC and FDIC's supervisory programs. The proposed rule would have prohibited the agencies from criticizing, formally or informally, or taking adverse action against an institution on the basis of reputation risk. In addition, under the proposal, the agencies would be prohibited from requiring, instructing, or encouraging an institution or its employees to refrain from contracting with or to terminate or modify a contract with a third party, including an institution-affiliated party, on the basis of reputation risk. The proposed rule also stated that the agencies could not require, instruct, or encourage an institution or its employees to refrain from doing business with or to terminate or modify a business relationship with a third party, including an institution-affiliated party, on the basis of reputation risk. The proposed rule would have also prevented the agencies from requiring, instructing, or encouraging an institution to enter into a contract or business relationship with a third party on the basis of reputation risk. The proposed rule would have further prohibited the agencies from requiring, instructing, or encouraging an institution or an employee of an institution to terminate a contract with, discontinue doing business with, or modify the terms under which it will do business with a person or entity on the basis of the person's or entity's political, social, cultural, or religious views or beliefs, constitutionally protected speech, or solely on the basis of the third party's involvement in politically disfavored but lawful business activities perceived to present reputation risk.

The proposed rule was solely focused on the functions and activities of the OCC and the FDIC. The proposed rule did not include prohibitions, restrictions, or requirements on the self-directed activities of supervised institutions or institution-affiliated parties.

The proposed rule provided definitions of several terms used in the rule, including "adverse action," "doing business with," "institution," "institution-affiliated party," and "reputation risk."

The prohibitions of the proposed rule would have applied to actions taken on the basis of reputation risk; political, social, cultural, or religious views and beliefs; constitutionally protected speech; or solely based on bias against politically disfavored but lawful business activities perceived to present reputation risk. The proposed rule would not have prohibited criticism, supervisory feedback, or other actions to address traditional risk channels related to safety and soundness and compliance with applicable laws, including credit risk, market risk, and operational risk (including cybersecurity, information security, and illicit finance), provided that such criticism, supervisory feedback or other action addressing these other risks was not a pretext designed to covertly continue supervision for reputation risk.

Under the proposed rule, the OCC planned to make seven conforming amendments to the OCC's regulations to eliminate references to reputation risk. These conforming amendments would be made in (1) the list of risks a national bank shall consider, as appropriate, as set out in 12 CFR part 1 of the OCC regulations; and (2) the safety and soundness standards set forth in 12 CFR part 30 of the OCC regulations, including the OCC guidelines. The OCC regulations at 12 CFR part 30 would include six conforming amendments.⁷

Under the proposed rule, the FDIC planned to make one conforming amendment to the FDIC's regulations relating to reputation risk. This amendment would be made in the safety and soundness standards set forth in 12 CFR part 364 of the FDIC's regulations.⁸ Under the proposed rule, the FDIC would eliminate the reference to reputation risk in the regulation.

The agencies received comments on many areas of the proposed rule. The commenters represented government entities, congresspeople, industry trade groups, nonprofits, financial institutions, other types of businesses, and individuals. The agencies received a mix of comments both supporting and opposing the proposed rule. Many commenters made suggestions for alternatives to the rule or for ways to strengthen or alter the rule.

IV. Overview of Final Rule

The agencies have decided to adopt the proposed rule with minor modifications.

⁷ See 91 FR 16156 (Apr. 1, 2026) (rescission of appendix E of 12 CFR part 30 effective May 1, 2026).

⁸ 12 CFR part 364.

A. Comments Regarding the Need for and Adoption of the Rule

Although the agencies received comments both supporting and opposing the proposed rule, the majority of comment letters expressed support. Many commenters urged the agencies to adopt the proposed rule because they perceived reputation risk to be ill-suited as a supervisory tool. These commenters expressed concern that reputation risk is subjective and hard to measure in a predictable or quantitative fashion. These observations mirrored the agencies' experience with the shortcomings of reputation risk as a supervisory tool, as discussed above in the "Background" section. The commenters explained that this subjectivity interfered with both banks and other regulators for FDIC-insured banks, such as State banking agencies, being able to anticipate Federal regulators' perspectives and concerns. These commenters also noted that regulators' focus on reputation risk, and the consequent need for financial institutions to focus on anticipating regulators' concerns regarding reputation risk, distract from more material risks or better use of resources. The agencies agree with these observations by commenters on the harms of including reputation risk in the supervisory program.

In contrast, other commenters opposed the proposed rule and stated that examination for reputation risk is necessary to support bank safety and soundness. In contrast to the commenters who stated that reputation risk cannot be measured quantitatively or objectively, one commenter stated that it could be measured accurately. However, this commenter did not recommend an actionable method that the agencies could adopt for such a measurement, and the regulators are not aware of an objective and reliable method for measuring reputation risk.

Some of these commenters stated that damage to a bank's reputation can cause substantial financial harm to a bank. As support for this assertion, some commenters cited the spring 2023 bank failures, which they claimed happened due to reputational harms to the financial institutions involved. However, those failures were caused by, among other contributing factors, a lack of public confidence in the financial condition of the institutions; the agencies have not identified non-financial reputation risk as among them. The final rule is adopting from the proposed rule a definition of reputation risk that specifically excludes issues that could negatively impact public

perception for reasons “clearly and directly related to the financial condition of the institution.” Thus, the concerns that caused the public to cease doing business with the institutions affected by the spring 2023 bank failures were not the types of concerns that would fall under the definition of reputation risk in the final rule and for which the agencies would be prevented from supervising. Indeed, the Spring 2023 failures were examples of the types of material financial risks on which regulators and institutions need to focus and from which they can be distracted by more nebulous and not-financially-related reputation risk concerns.

Some commenters argued that removing supervision for reputation risk downplays the importance of customer loyalty and trust. However, the agencies have not observed that supervision for reputation risk helps support customer loyalty to financial institutions, an area that banks compete on. Indeed, as another commenter explained, policing for reputation risk concerns can actually harm an institution’s customer loyalty. This commenter explained how financial institutions could harm their reputations by closing accounts on the basis of religious or political bias and thus how attempts to mitigate reputation risk can actually harm financial institutions. The commenter provided an example of negative publicity that a bank purportedly experienced after closing the commenter’s account allegedly for religious reasons.

In the agencies’ experience, supervising for reputation risk requires the agencies to determine which sides of potentially contentious political, social, and religious issues will be favored by the customers of the regulated institutions. Attempting to ensure “customer loyalty” for regulated institutions by preventing regulated institutions from providing services for businesses, individuals, or activities that may offend customers requires the agencies to accurately predict public sentiment regarding controversial issues. The agencies have not shown the ability to accurately do this in a consistent and reliable manner, and efforts to predict public opinion have distracted both regulators and the regulated from focusing on risks they can understand and predict.

Commenters were divided on whether supervision for reputation risk harms the integrity of the banking system and banking regulation. One commenter stated that removing supervision for reputation risk would harm the integrity of the banking system, the political institutions, U.S. elections, and

ultimately national security. However, as another commenter noted, the agencies’ efforts to take sides in ongoing public debates can harm the stability of the banking system because whichever side the regulators decide against and denounce as causing reputational harm to financial institutions will lose faith and trust in the regulators, thus harming the credibility that U.S. financial regulatory structure relies upon. For the reasons explained by this commenter, the agencies believe that the harm to their public legitimacy that will come from entering into contentious public debates outside of their statutory responsibilities is greater than the potential for not supervising for reputation risk to cause harm, risk which the agencies believe to be highly unlikely for the reasons described above.

Another commenter stated that the proposed rule strips away an important means of recognizing discrimination and extremism in financial institutions. This commenter argued that reputation risk has been a regulatory tool that allowed early intervention in developing patterns of discriminatory or predatory banking practices by banks. Another commenter, similarly, was concerned that removing examination for reputation risk would cause financial institutions to lose their ability to detect emerging threats such as certain fraud schemes. Other commenters were likewise concerned that removing supervision for reputation risk would remove deterrence from banks engaging in predatory practices such as fraudulent account scandals or from providing services for people who have committed crimes. Similarly, another commenter argued that the agencies should consider that removing reputation risk could lead to increased incidence of illegal and risky activities that might be flagged by reputation risk monitoring. In the same vein, one commenter opined that removing examination for reputation risk would increase unethical behavior by banks. This same commenter further stated that the agencies must consider that removing reputation risk could lead to worsening service for customers. However, the final rule does not repeal or alter any of the existing laws or regulations prohibiting discriminatory or predatory banking practices, and there is no evidence suggesting it could lead to worsening customer service. Moreover, issues stemming from a lack of customer service fall outside of what is being considered to be a reputation risk, as defined in the final regulation. Illegal discrimination and predatory

practices will continue to be forbidden, and the agencies will continue to expect their regulated institutions to comply with all applicable laws addressing these issues. Moreover, the proposed rule does not alter the legal requirements and supervisory expectations around the detection and prevention of fraud. The removal of reputation risk from the agencies’ supervisory programs will not impact the agencies’ continued examination for compliance with these types of laws, but rather will allow the agencies to better allocate its resources during examinations.

B. Comments Regarding Harms From Regulators Pressuring Banks To Stop Serving Certain Industries Due to Perceived Reputation Risks

Some commenters argued that economic harm to both individuals and to the broader economy resulted from debanking customers due to perceived reputation risk. Some of these comments were from individuals or trade organizations whose members had been debanked despite the benefits that they believed their industry or business offered to the economy. These commenters argued that their members were engaged in lawful business operations, complied with extensive regulations as applicable, and employed many Americans. Other commenters noted that financial institutions benefit from greater engagement with all industries in the U.S. economy and that such financial institutions are financially harmed by being prevented from doing business with certain sectors due to reputational concerns. These observations about the harms from regulators pressuring banks to stop serving certain industries under the guise of protecting against reputation risk are generally consistent with the agencies’ understanding of supervision for reputation risk. The agencies agree with these observations about these harms and that the agencies should not be requiring, instructing, or encouraging an institution to close an account, to refrain from providing an account, product, or service, or to modify or terminate any product or service on the basis of a perceived reputation risk.

One commenter expressed concern about the “economic distortion” created by the use of reputation risk and by the regulators picking economic winners and losers. Another commenter similarly noted that debanking due to reputation risk can also open the door to what the commenter described as an “economic heckler’s veto” by any economically powerful entity, such as a customer or investor. This commenter

argued that allowing an economically powerful entity to pressure an institution to not provide services to certain businesses by claiming that such would create reputation risk could, in practice, give outsized weight to those who already have economic or financial power.

In support of banks' discretion, one commenter stated that businesses such as those involving digital assets or fossil fuels are not members of a protected class and therefore are not entitled to guaranteed access to the banking system. Similarly, another commenter stated that the government should not be favoring certain sectors by preventing financial institutions from debanking them. However, the rule both as proposed and as adopted here only constrains agency action and does not compel or restrict any actions by financial institutions.

As noted, the agencies agree with the concerns about economic distortions caused by regulators favoring or disfavoring certain legal businesses over other legal businesses. It is not the role of financial regulators to pick winners and losers among lawful businesses or to attempt to suppress lawful businesses.

C. Legal and Constitutional-Related Concerns Regarding the Agencies' Use of Reputation Risk

Some commenters contended that the use of reputation risk as a supervisory tool violates multiple parts of the U.S. Constitution. For example, some commenters expressed the concern that reputation risk has been used to chill free speech. One commenter also argued that the use of reputation risk is in violation of the Fifth Amendment of the Constitution because it is unconstitutionally vague. Other commenters argued that the use of reputation risk infringes on Americans' Second Amendment right to bear arms by causing debanking in the firearms industry.

The agencies believe that, regardless of the constitutionality of using reputation risk, removing it will reduce the subjectivity of the supervisory program and thus improve the oversight of financial institutions. Thus, agencies do not need to determine whether there would be further issues regarding constitutionality. Therefore, the agencies see removing reputation risk from the supervisory program as a prudent measure to address the potential for such transgressions.

Commenters also alleged that the use of reputation risk violated the Administrative Procedure Act (APA). Specifically, these commenters argued

that the agencies' prior use of reputation risk violated the APA requirement that agency actions not be arbitrary or capricious, that substantive rules be promulgated through notice-and-comment procedures, and that agencies act within their statutory authority. The agencies believe that, regardless of consistency with APA requirements, removing reputation risk will be of benefit by providing less opportunity for subjectivity in the future. Thus, this concern is another reason that the agencies have decided to adopt the final rule.

D. Suggestions for Alternatives To Removing Reputation Risk From the Supervisory Program

Several commenters suggested that the agencies reform the use of reputation risk in its supervisory program rather than remove the concept entirely. These commenters argued that the agencies could establish clearer standards and metrics for measuring reputation risk to make it more objective. However, these commenters did not propose methods for accomplishing this that would be actionable and effective, and, in the agencies' experience, such standards and metrics do not exist in a form that is accurate and consistent. Moreover, even if reputation risk could be monitored through clearer standards or metrics, as explained above, agency experience has not shown a clear and consistent connection between reputation risk and actual financial harm to regulated institutions. Therefore, even if clearer standards or metrics could be established, the resources necessary to formulate such clearer metrics would still not be well spent because it is not clear that the purported risk being measured actually impacts financial institutions' safety and soundness.

E. Comments Regarding Evidence of Debanking

Several commenters argued that the agencies had not presented sufficient evidence that debanking occurred that was caused by regulators' concerns regarding reputation risk. In contrast, other commenters alleged that they or their members had been debanked due to political biases that were labeled as reputation risk. The agencies believe that the potential for reputation risk to be misused in this manner supports removal from the agencies' supervisory program.⁹

⁹ See, e.g., Staff of H. Comm. on Oversight & Gov't Reform, 113th Cong., "The Department of Justice's 'Operation Choke Point': Illegally Choking Off

F. Comments Alleging That the Agencies Failed To Consider Certain Aspects of the Rule

One commenter argued that the agencies had not presented enough evidence that ceasing to examine for reputation risk would lead to better supervisory outcomes. To the contrary, as the agencies explained above in the "Background" section, while there are examples of risks like credit risk and liquidity risk being the primary driver of an institution's unsafe or unsound condition, the agencies have not seen evidence that reputation risk can be the primary driver of an institution being in unsafe or unsound condition. Even in cases when reputational issues are identified as a cause of harm that has impacted a supervised institution's financial condition, there are typically other more significant factors, such as those relating to the institution's capital, asset quality, liquidity, earnings, or interest rate sensitivity, that are the primary drivers of the institution's weakened financial condition.

Commenters also alleged that the rule failed to consider the loss to the Deposit Insurance Fund from not examining for reputation risk. As the agencies have explained, given the lack of evidence linking perceived reputation risks to material financial harm at regulated entities, the agencies do not expect an increase in bank failures due to the removal of reputation risk from the supervisory program. Another commenter argued that the agencies should consider that removing reputation risk could lead to increased incidence of illegal and risky activities that might be flagged by reputation risk monitoring. Removing reputation risk from the supervisory program will make

Legitimate Businesses?" (Comm. Print 2014), <https://oversight.house.gov/wp-content/uploads/2014/05/Staff-Report-Operation-Choke-Point1.pdf>; Staff of H. Comm. on Fin. Servs., 119th Cong., "Operation Choke Point 2.0: Biden's Debanking of Digital Assets" (Comm. Print 2025), https://financialservices.house.gov/uploadfiles/2025-11-30-fsc_debanking_report_final_1.pdf; Staff of Minority of S. Comm. on Banking, Hous., & Urb. Affs., 119th Cong., "Supplemental Memorandum: Analysis of CFPB Consumer Complaints Related to Debanking," (Comm. Print 2025) (analysis to supplement February 5, 2025, committee hearing on "Investigating the Real Impacts of Debanking in America"), https://www.banking.senate.gov/imo/media/doc/debanking_complaints_analysis.pdf; Exec. Order No. 14331, 90 FR 38925 (Aug. 7, 2025) ("Bank regulators have used supervisory scrutiny and other influence over regulated banks to direct or otherwise encourage politicized or unlawful debanking activities. 'Operation Chokepoint,' for example, was a well-documented and systemic means by which Federal regulators pushed banks to minimize their involvement with individuals and companies engaged in lawful activities and industries disfavored by regulators based on factors other than individualized, objective, risk-based standards.").

available more resources for supervision of illegal or abusive practices. This same commenter further stated that the agencies must consider that removing reputation risk could lead to worsening service for customers. However, issues stemming from a lack of customer service fall outside of what is considered to be reputation risk as defined in the final regulation. A commenter further alleged that there would be capital flight to lenders in other jurisdictions with adequate supervision of reputation risk. The commenter presented no evidence to support his assertion that this would occur. Since the agencies ceased examining for reputation risk in early 2025, they have seen no such flight of capital.

G. Suggestions for Expanding the Rule

Some commenters suggested expanding the rule in various ways to control the behavior of regulated entities. The comments included suggestions to prohibit banks from choosing, without regulator pressure, to debank customers based on reputational concerns or disagreement with protected political views or speech. However, other commenters opposed this idea, and some commenters requested clarifying language be added that banks still retain discretion regarding whom they do business with. These suggestions are all outside the scope of this rulemaking, which is solely focused on the actions of the agencies and not on controlling or addressing the actions of supervised entities or other private parties.

In a similar vein, one commenter recommended that the rule include a requirement that national banks and Federal savings associations must report to the agencies information regarding all deposit account terminations and that the rule should require the agencies to make this information publicly available annually in a report covering deposit account termination data for each reporting bank and savings association along with aggregate statistics on deposit account terminations. Similarly, other commenters suggested that all debanked customers who had an account closed should be able to access information from their financial institution to understand the reason for the closure and to have a means for redress if there was an error. Another commenter recommended that banks should be required to provide written notice when terminating or materially modifying customer relationships, including a statement of the reasons for such actions, unless otherwise prohibited by law enforcement. Another

suggestion raised by commenters was that the agencies should encourage institutions to identify customers whose accounts were closed or services denied solely on reputation grounds and to offer those customers a path to reinstatement, subject to standard, risk-based underwriting. However, this rulemaking is solely focused on the actions of the agencies, not on the actions of institutions regulated by the agencies, so these comments and all other suggestions for expanding the rule to monitor, control, or prohibit private entity action are all outside the scope of this rulemaking. Other comments that provided suggestions for improving or clarifying agency supervisory practices or altering methods for supervisory communication beyond the removal of reputation risk are likewise outside the scope of this rulemaking.

One commenter requested clarification that institutions would still be expected to guard against issues that could affect their reputations, such as fraud. Supervised institutions have legal and supervisory requirements to be vigilant against fraud, and these requirements are not affected by this rule.¹⁰ The expectation that banks continue to follow all legal requirements for their operations and their treatment of customers is not altered. Moreover, concerns regarding fraud directly impact the operational and financial condition of the institution and can directly cause consumer harm. Thus, the rule excludes public concerns regarding these issues from the definition of reputation risk.

Another suggestion raised by commenters was that the agencies should establish or publicize complaint channels enabling individuals and businesses to report suspected reputation risk-based denials or closures at supervised institutions. The OCC maintains a website, <https://helpwithmybank.gov/>, through which members of the public can file a report if they believe they have been unfairly debanked or discriminated against by their bank due to their political or religious beliefs or lawful business activities. The FDIC maintains a similar website at https://ask.fdic.gov/fdicinformationandsupportcenter/s/?language=en_US, where members of the public can file complaints about financial institutions.

One commenter requested that the agencies clarify that the proposed rule would not prevent examiners from engaging in constructive conversations about business strategy, market

conditions, competitive pressures, or customer relationship management, provided such discussions do not cross the line into criticism or adverse action based on reputation risk or prohibited considerations. The agencies confirm that it is not the intention of the rule to hinder this type of communication.

H. Discussion of Specific Sections of the Final Rule and Comments Thereon

1. Definitions

i. Definition of Adverse Action

“Adverse action,” as defined by the rule, includes the provision of negative feedback, including feedback in a report of examination, a memorandum of understanding, verbal feedback, or an enforcement action. Furthermore, “action” encompasses any action of any agency employee, including any communication characterized as informal, preliminary, or not approved by agency officials or senior staff. A downgrade (or contribution to a downgrade) of any supervisory rating, including a rating assigned under the Uniform Financial Institutions Rating System or comparable rating system, also constitutes an “adverse action.” In addition, a downgrade (or contribution to a downgrade) of a rating under the Uniform Interagency Consumer Compliance Rating System or the Uniform Rating System for Information Technology, or any other rating system, also constitutes an “adverse action.” Further, a denial of a filing or licensing application or an imposition of a capital requirement above the minimum ratios constitutes an “adverse action” under the rule, as does any burdensome requirements placed on an approval, the introduction of additional approval requirements, or any other heightened requirements on an activity or change.

The agencies are also including in the rule a general “catch-all” for any other actions that could negatively impact an institution outside of traditional supervisory channels. This catch-all is meant to include actions such as supervisory decisions on applications for waivers outside of the normal licensing or filing channels, applications to engage in certain business activities for which supervisory permission is required, or other regulatory decisions affecting institutions. Intent is the defining characteristic for whether an agency action would fall into this catch-all provision. As illustrations of agency actions that are subject to this prohibition, the prohibition prevents the agencies from, for example: disapproving a proposed member of a board of directors on the basis of an

¹⁰ See 12 CFR 21.11, 12 CFR 353.1, and 31 CFR 1020.320.

unsubstantiated pretense where the true reason is reputation risk, denying a waiver of bank director citizenship and residency requirements for the purpose of inducing an institution to address perceived reputation risk somewhere in the institution's operations, or disapproving a change of control notice because an institution lacks internal reputation risk controls. Agency actions subject to this prohibition also include negative feedback that is verbal, a condition attached to an approval, the introduction of new approval requirements, and any other heightened requirements that are intended to force the bank to address perceived reputation risk.

The agencies received comments both supporting and opposing the proposed definition of "adverse action." Although some commenters supported the proposed definition, one commenter stated that agencies should be less focused on the "intent" of the action in the catch-all provision because "intent" might be hard to prove. However, the agencies believe that including "intent" is helpful to avoid capturing agency actions that might unintentionally negatively impact a certain industry but is not intended to have that effect. For instance, an institution may be criticized for having a large concentration of loans in a specific business sector without proper risk management of the concentration risk presented. Such criticism might unintentionally dissuade the institution from making further loans to that business sector, but such is not the intent of the criticism, and such criticism can be important to the safety and soundness of the institution. As evidence of "intent" the agencies will look to both the effect of the action as well as the justification for the action. For instance, unsubstantiated or poorly substantiated claims or justification for actions are evidence of possible ulterior motivations for actions that have a negative effect on a religious group or lawful business. Inconsistent application of standards or adverse actions between similarly situated parties, especially without an explanation for the discrepancy, can also be evidence of an intent to impermissibly punish or discourage an individual or group from engaging in lawful political, social, cultural, or religious activities, constitutionally protected speech, or lawful business activity. Moreover, an agency action that completely or effectively prevents the affected group, individual, or business from accessing financial services or severely hinders the group, individual,

or businesses' ability to operate can be evidence of impermissible agency intent as financial and compliance risks are not likely to be so uniformly high as to require such a result.

Thus, the agencies are adopting the definition of "adverse action" as proposed.

ii. Definition of Doing Business With

The term "doing business with" in the proposed rule is intended to be construed broadly and to include business relationships both with clients of the institution and with third-party service providers. It is also intended to include the relationship of a bank with organizations or individuals that the bank is providing with charitable services, including as part of a community benefits agreement or as part of a Community Reinvestment Act plan. This term is intended to include both existing business relationships and prospective business relations. No comments were received on this definition.

iii. Definition of Institution-Affiliated Party

The term "institution-affiliated party" has the same meaning as in section 3 of the Federal Deposit Insurance Act.¹¹ No comments were received on this definition.

iv. Definition of Reputation Risk

Several commenters recommended that the proposed definition of reputation risk be altered to remove the phrase "for reasons not clearly and directly related to the financial condition of the institution." However, the agencies believe this phrase is necessary to maintain the ability of the agencies to address public concerns that directly relate to an institution's financial condition and solvency because those concerns can lead to runs. Unlike public concerns about an institution doing business with politically controversial people or entities, concerns about an institution's financial condition have been shown repeatedly to lead to a direct negative impact on the institution that can cause failure.

One commenter stated that reputation risk is always directly financially material and thus the phrase in the definition of reputation risk that it is "not intended to capture risks posed by public perceptions of the institution's current or future financial condition because such perceptions relate to risks other than reputation risk" is self-

contradictory. However, as explained by the agencies above in the "Background" section, the agencies' supervisory experience has found that reputation risk, as defined in the rule, is not financially material to institutions.

The agencies received comments that were divided on whether the definition of "reputation risk" should include the term "operational" in the phrase "for reasons not clearly and directly related to the financial condition of the institution." One commenter believed that the term "operational" could be used to evade the intention of the rule to allow some consideration of reputation risk. However, another commenter noted that including this term would be consistent with other provisions of the rule that explicitly preserve the agencies' authority to supervise for operational risk.

The agencies have decided to add "operational" into the final rule such that the definition of "reputation risk" will be "any risk, regardless of how the risk is labeled by the institution or regulators, that an action or activity, or combination of actions or activities, or lack of actions or activities, of an institution could negatively impact public perception of the institution for reasons not clearly and directly related to the financial or operational condition of the institution." The agencies agree that operational risk is a significant concern for institutions. Public perception that an institution could be susceptible to a breakdown in the provision of services due to operational issues such as a cyberattack or a natural disaster could have a direct impact on customer's willingness to do business with an institution and thus on the institution's financial solvency.

2. Prohibitions on the Use of Reputation Risk in the Supervisory Process

Section (a) of the rule prohibits the agencies from criticizing, formally or informally, or taking adverse action against an institution on the basis of reputation risk. Section (b) prohibits the agencies from requiring, instructing, or encouraging an institution or its employees to refrain from contracting with or to terminate or modify a contract with a third party, including an institution-affiliated party, on the basis of reputation risk. The agencies also cannot require, instruct, or encourage an institution or its employees to refrain from doing business with or to terminate or modify a business relationship with a third party, including an institution-affiliated party, on the basis of reputation risk. Section (c) of the rule further prevents the agencies from requiring, instructing, or

¹¹ Public Law 81-797, 64 Stat. 873 (codified at 12 U.S.C. 1813(u)).

encouraging an institution or an employee of an institution to enter into a contract or business relationship with a third party on the basis of reputation risk or to terminate a contract with, discontinue doing business with, or modify the terms under which it will do business with a person or entity on the basis of the person's or entity's political, social, cultural, or religious views or beliefs, constitutionally protected speech, or solely on the basis of the third party's involvement in politically disfavored but lawful business activities perceived to present reputation risk. Finally, section (f) of the rule provides that the agencies will not take any supervisory action or other adverse action against an institution, a group of institutions, or the institution-affiliated parties of any institution that is designed to punish or discourage an individual or group from engaging in any lawful political, social, cultural, or religious activities, constitutionally protected speech, or, for political reasons, lawful business activities that the supervisor disagrees with or disfavors.

These prohibitions do not affect requirements intended to prohibit or reject transactions or accounts associated with Office of Foreign Assets Control-sanctioned persons, entities, or jurisdictions. Such prohibitions and rejections are not based specifically on "the person's or entity's political, social, cultural, or religious views or beliefs, constitutionally protected speech, or politically disfavored but lawful business activities perceived to present reputation risk." The prohibition also does not affect the agencies' authority to enforce the requirements of the provisions of United States Code title 31, chapter 53, subchapter II regarding reporting on monetary transactions.¹² However, due to the broad nature of Bank Secrecy Act (BSA)¹³ and anti-money laundering (AML) supervision, there is a risk that BSA/AML focused supervisory actions could indirectly address reputation risk. The rule prohibits supervisors from using BSA and anti-money laundering concerns as a pretext for reputation risk. In addition, although the agencies may continue to consider the statutory factors required with respect to certain applications,¹⁴

the rule prohibits supervisors from using these provisions as a pretext for reputation risk when making determinations regarding such applications.

The agencies received multiple comments on these sections. First, on section (c), commenters were divided on whether the "solely" should be removed from the prohibition that the agencies will not require, instruct, or encourage an institution or its employees to terminate a contract with, discontinue doing business with, sign a contract with, initiate doing business with, modify the terms under which it will do business with a person or entity, "solely on the basis of the person's or entity's involvement in politically disfavored but lawful business activities perceived to present reputation risk."

Some commenters felt the word "solely" should be maintained because otherwise banks could face regulatory uncertainty even when legitimate risk factors are the primary basis for the decision. Other commenters were concerned that "solely" should not be included because it could be read to imply that reputation risk could be considered, just not as a stand-alone risk.

The agencies included the word "solely" in this phrase to provide the ability for regulators to discourage activities that may implicate safety and soundness through traditional risk channels but also involve a legitimate business activity that might be politically disfavored. Given that the agencies still believe it is important to maintain this flexibility, the final rule is adopting the language in this provision as proposed and maintaining the word "solely." The agencies will consider whether an agency action that appears to have some impermissible reputation risk considerations underlying it but purports to be based largely on permissible concerns violates the anti-evasion provisions in the rule.

Multiple commenters had concerns regarding the language at the end of section (f), which states that the agencies will not "take any supervisory action or other adverse action against an institution, a group of institutions, or the institution-affiliated parties of any institution that is designed to punish or discourage an individual or group from engaging in any lawful political, social, cultural, or religious activities, constitutionally protected speech, or, for political reasons, lawful business activities that the supervisor disagrees

with or disfavors." Some commenters requested that this prohibition be expanded to cover all agency personnel, not just supervisors. Similarly, another commenter suggested that the prohibition should be extended to prohibit any attempt to discourage lawful political or religious activity regardless of what the supervisor thinks about the activity.

The agencies did not intend this provision to be read so narrowly as to only cover the views of supervisory staff as compared to the views of other members of the agencies. Thus, the agencies are changing the wording in the final rule to cover lawful political, social, cultural, or religious activities, constitutionally protected speech, or, for political reasons, lawful business activities that are disfavored by the agency or any of its personnel. This wording is to clarify that it does not matter whether the bias comes from the head of the agency or from an individual examiner, the bias is not a permissible basis for agency action.

Commenters also stated that it was unclear whether references to views and beliefs would extend to actions based on those views or beliefs. Some commenters recommended extending the prohibition to cover actions as well as the views or beliefs themselves. The agencies intend for the prohibition to extend to lawful activities based on political, social, religious, and cultural views or beliefs that do not affect creditworthiness or other permissible risk factors such as market risk. Although agency actions designed solely to discourage or punish a given view or belief are impermissible, the agencies are not prevented from considering actions that relate to permissible risk factors solely because those actions stem, in whole or in part, from a political, social, cultural, or religious view or belief.

Another commenter recommended that the prohibition in section (f) against adverse action should not only cover adverse actions that are designed to punish or discourage individuals from engaging in certain beliefs or businesses, but also adverse actions that actually have that effect regardless of the intent of the action. However, the agencies are concerned that adopting such language would prevent the agencies' ability to address important risks that are directly related to the financial condition of the institution if the remediation measures necessary for addressing such risks would unintentionally impact certain businesses or individuals with certain beliefs. Thus, the agencies are not adopting this suggestion.

¹² 15 U.S.C. 5311 *et seq.*

¹³ *Id.*

¹⁴ See, e.g., 12 U.S.C. 1816 (requiring the FDIC to consider, among other things, the "general character and fitness of the management of the depository institution" in an application for deposit insurance); 12 U.S.C. 1817(j)(2)(B) (requiring the agencies to "conduct an investigation of the competence, experience, integrity, and financial ability of each person named" as a proposed

acquirer of an institution following a notice of a proposed change in control of a depository institution).

I. Other Modifications in the Rule

Regulations codified in 12 CFR part 41 of the OCC regulations and 12 CFR part 334 of the FDIC's regulations refer to reputation risk concerning certain identity theft prevention programs required by the Fair and Accurate Credit Transactions Act of 2003. However, by statute, guidelines and regulations for these programs must occur jointly across certain Federal agencies, so no conforming amendment is suggested for 12 CFR parts 41 or 334. The OCC and FDIC are considering making changes to 12 CFR parts 41 and 334, respectively, in a separate, joint rulemaking in the future. Until that separate, joint rulemaking occurs, the agencies expect to exercise their discretion in enforcing 12 CFR parts 41 and 334 by using agency resources to assess compliance without regard to reputation risk.

V. Impact Analysis

A. OCC Expected Effects

1. Introduction

The OCC and the FDIC are issuing a final rule to eliminate reputation risk from their supervisory programs. The rule would prohibit the agencies from using reputation risk in their risk assessments of institutions that they supervise and from influencing the relationship between the regulated institutions and their customers based on a customer's political, social, cultural, or religious views or beliefs or solely lawful business activities perceived to present a reputational risk.

2. Regulatory Baselines and Conclusions

The OCC assumes that the removal of reputation risk resulted from the final rule analyzed here rather than OCC Bulletin 2025–4. In the OCC's assessment, the OCC accounted for the full effect of the removal of reputation risk from supervision, rather than

attributing the removal of reputation risk to OCC Bulletin 2025–4. The analysis does so because the statements in OCC Bulletin 2025–4 are not legally binding and therefore only the final rule legally removes reputation risk from bank supervision.

3. Background

As previously discussed, to improve the efficiency and effectiveness of their supervisory programs, the agencies are proposing revising their supervisory frameworks to remove reputation risk. The rule would prohibit the OCC from criticizing or taking adverse actions (broadly defined) against an institution on the basis of reputation risk.

4. Parties Affected by the Proposal

The OCC currently supervises 997 national banks, Federal savings associations, trust companies and Federal branches and agencies of foreign banks (collectively, "banks").¹⁵ Because all OCC-regulated banks and institutions were subject to reputation risk assessments, the rule would affect all 997 institutions supervised. Because the rule aims to remove the influence of the agencies' reputation risk assessments on institutions' customer relationships, the OCC concludes that the rule could potentially affect all OCC regulated institutions' current and future customers.

5. Costs and Benefits: Cost Savings to Regulated Institutions

i. Cost Savings From Decreased Regulatory Compliance Burden

The OCC expects that the rule will result in cost savings to regulated institutions from a reduced compliance burden. The rule reduces regulatory burden because the OCC will no longer engage in examinations that assess, in part, issues explicitly related to reputation risk, nor will the OCC take

adverse supervisory actions against supervised institutions related to reputation risk.

To assess institutions' cost savings from the final rule, the OCC looked to its supervisory experience regarding expected cost savings from the removal of reputation risk from supervision. Based on this feedback, the OCC assessed that cost savings will depend on how much regulated institutions' costs decrease from no longer being required to explicitly respond to reputation risk concerns from regulators.

OCC supervisory experience also indicated that because supervisory actions that the OCC typically took that mentioned reputation risk, such as MRAs, almost always involved other risk issues as well, the overall number of MRAs may not decrease. The OCC's analysis found that most MRAs that listed reputation risk as the primary or secondary concern also listed other risk categories as concerns as well.¹⁶ Nonetheless, the OCC expected that there should be some cost savings for institutions as they no longer need to address the reputation risk concern components of an MRA.

Based on an analysis of the number of MRAs that mentioned reputation risk as a primary or secondary concern over the past 10 years, the OCC finds that roughly 17 percent of MRAs per year mention reputation risk as primary or secondary concern (Table 1). Based on the frequency of past MRAs that mentioned reputation risk as a concern, the OCC expects that, if MRAs would have continued to mention reputation risk as a concern at a similar rate in the absence of the final rule, that OCC institutions will experience substantial cost savings from no longer having to address reputation risk as part of an MRA may be substantial.

TABLE 1—PERCENTAGE OF MRA LISTED AS REPUTATION RISK, BY PRIMARY OR SECONDARY CONCERN

Year	Percentage of MRAs listing reputation risk as a primary concern	Percentage of MRAs listing reputation risk as a secondary concern	Percentage of MRAs not listing reputation as a concern
2016	0.65	2.14	97.21
2017	1.50	23.96	74.54
2018	1.68	20.44	77.87
2019	2.02	18.71	79.27
2020	1.88	19.91	78.21
2021	1.43	19.07	79.50
2022	1.10	19.60	79.30
2023	1.21	17.73	81.06
2024	0.65	14.68	84.67
2025	0.00	2.19	97.81

¹⁵ Based on data accessed using FINDRS on March 11, 2025.

¹⁶ The OCC notes that there has recently been a decrease in the overall number of MRAs that institutions currently face and are expected to face

in the future. The OCC assesses that this decrease in current and future MRAs is due to reductions in MRAs due to other factors than this final rule.

TABLE 1—PERCENTAGE OF MRA LISTED AS REPUTATION RISK, BY PRIMARY OR SECONDARY CONCERN—Continued

Year	Percentage of MRAs listing reputation risk as a primary concern	Percentage of MRAs listing reputation risk as a secondary concern	Percentage of MRAs not listing reputation as a concern
2026	0.00	0.00	100.00
Total	1.25	15.97	82.77

ii. Benefits From Increased Business Opportunities

The impact of the rule on regulated institutions will depend on the extent to which reputation risk concerns from regulators may have impacted regulated institutions' behavior in response to regulatory expectations of institutions in managing reputation risk. Based on supervisory experience, the OCC expected that regulated institutions may have internally perceived supervisory expectations regarding reputation risk as a factor in their business decisions. That is, institutions may have let perceptions regarding regulatory assessments of reputation risks influence their decisions as to whether they would engage in or continue customer relationships. As a consequence, institutions may have refrained from entering into or continuing profitable business relationships with law-abiding customers that they may have maintained in the absence of implicit supervisory expectations.

For example, the final rule cites several congressional reports that suggest that there were isolated episodes where Federal regulators allegedly pressured institutions to cease providing services to legal businesses, based on "reputational risk" concerns that these businesses presumably posed to these institutions.

In addition, a study by Sachdeva et al.,¹⁷ shows that reputation risk concerns emphasized by regulators at a small number of targeted institutions over a short period of time may have decreased lending to and/or terminated relationships with affected firms that were deemed controversial by regulators and law enforcement. The study's results, however, also suggest that the firms were not irreparably harmed as these firms were able to obtain substitute credit through other non-targeted banks under similar terms. However, the OCC interprets the study's results as implying that borrowers incurred costs that resulted from having to find alternative financing. The OCC

also interprets the study's results as implying that it is possible that harm to customers would have been greater if a larger fraction of banks had been pressured to decrease lending or terminate relationships with affected firms as this would have reduced the supply of alternative financing that would have been available to the affected firms.

The OCC concludes the rule may benefit institutions and their customers by eliminating perceived constraints on institutions' decisions that could have arisen from institutions' perception of regulators' expectations regarding reputation risks in the absence of the rule.

iii. Benefits From Less Subjective Supervision

One additional benefit from the removal of reputation risk is greater consistency and objectivity of supervisory decisions. This, in turn, would increase the predictability for regulated institutions to understand and manage regulators' supervisory expectations.

In its analysis, the OCC quantitatively compared the subjectivity of OCC supervisory text that mentions the word reputation to supervisory texts that do not mention the word reputation. The OCC used standard natural language processing algorithms¹⁸ to calculate a subjectivity score for individual OCC supervisory texts. The analysis calculated the subjectivity score for each individual text document, and the scores range from 0 to 1 with scores closer to 1 being indicative of more subjective text. For supervisory event text, the analysis calculated an average subjectivity score of 0.41 for text that mentions reputation and an average score of 0.28 for supervisory event text that does not mention reputation. For the MRA text data, the analysis calculated average subjectivity scores of 0.43 and 0.33 from text that mentions and does not mention reputation, respectively.

Taken together, the average subjectivity scores and the score histograms are consistent with the hypothesis that reputation risk related supervision could have been more subjective. Therefore, to the extent that past supervisory text reflects what supervision would have been in the absence of the rule, the analysis suggests that the rule could benefit regulated institutions by making supervision less subjective and more objectively and consistently applied.

iv. Perceptions That Eliminating the Use of Reputation Risk Information for Risk Monitoring Could Threaten the Safety and Soundness of the National Banking System

To address concerns that the removal of reputation risk from supervision threatens the safety and soundness of the banking system or that the OCC may lose information on reputation risks that is needed to identify risks to the safety and soundness of the banking system, the OCC used historical data observed prior to the regulatory baseline to create estimated forecast models that predict bank failures based on the OCC Risk Assessment System (RAS) reputation risk rating while controlling for both other regulatory risk ratings and for observed risk factors from institutions' FFIEC 031 Call Report data filings.

The analysis shows that reputation risk ratings do not forecast bank failures when one controls for data on OCC's CAMELS regulatory ratings. Because reputation risk RAS ratings do not appear to have any significant predictive power for bank failures in this analysis, the OCC believes that this analysis at least somewhat alleviates concerns that an end to reputation risk assessments will cause an increase in bank failure risk or that the OCC will lose information useful to anticipate failure risks. However, the OCC acknowledges that no empirical analysis could completely assuage such concerns.

In addition, the OCC notes that in its analysis, there was not any evidence that MRAs that focus on or mention reputation risk forecast institutions' failures.

¹⁷ Kunal Sachdeva, André F. Silva, Pablo Slutzky, Billy Y. Xu, "Defunding controversial industries: Can targeted credit rationing choke firms?" *Journal of Financial Economics*, Volume 172 (2025).

¹⁸ Specifically, the OCC used the Python TextBlob package which calculates a subjectivity score based on the text provided.

B. FDIC Expected Effects

This analysis utilizes all regulations and guidance applicable to FDIC-supervised insured depository institutions (IDIs), as well as information on the financial condition of IDIs as of the quarter ending September 30, 2025, as the baseline to which the effects of the final rule are estimated.

As discussed previously, the final rule will prohibit the FDIC from criticizing, formally or informally, or taking adverse action against an institution on the basis of reputation risk. The final rule will also prohibit the FDIC from requiring, instructing, or encouraging an institution to discontinue doing business with, initiate doing business with, modify the terms under which it will do business with a person or entity, or take any action or refrain from taking any action on the basis of the person's or entity's political, social, cultural, or religious views or beliefs, constitutionally protected speech, or solely on the basis of the person's or entity's involvement in politically disfavored but lawful business activities perceived to present reputation risk.

Finally, the final rule will forbid the FDIC from taking any supervisory action or other adverse action against an institution, a group of institutions, or the institution-affiliated parties of any institution that is designed to punish or discourage an individual or group from engaging in any lawful political, social, cultural, or religious activities, constitutionally protected speech, or, for political reasons, lawful business activities that the FDIC or its personnel disagree with or disfavor.

As of the quarter ending September 30, 2025, the FDIC supervised 2,778 IDIs.¹⁹ The final rule will indirectly benefit FDIC-supervised IDIs or associated persons to the extent they would have been the subject of an adverse action or prohibition against certain business relationships by the agencies on the basis of reputation risk; political, social, cultural, or religious views and beliefs; constitutionally protected speech; or politically disfavored but lawful business activities perceived to present reputation risk. This benefit will result from the FDIC-supervised IDI or associated person avoiding costs associated with such adverse actions or prohibitions. The final rule may also improve the efficiency and effectiveness of the FDIC's supervisory programs, which may indirectly benefit covered FDIC-supervised IDIs. Finally, FDIC-

supervised IDIs may incur some voluntary costs associated with making changes to their compliance policies and procedures.

The FDIC does not have the information necessary to quantify the number of instances, or the associated costs, where an FDIC-supervised IDI or associated person was subject to a covered adverse action or prohibition against certain business relationships. Nor does the FDIC have the information necessary to quantify the number of FDIC-supervised IDIs that might make changes to their compliance policies and procedures. The FDIC believes that the aggregate economic effect of any such indirect benefits or costs is unlikely to be substantive.

As mentioned previously, the FDIC is making two changes from the proposed rule. First, the FDIC is making a minor clarifying change in response to comments regarding the meaning of the word "supervisor" in 12 CFR 302.100(f). Second, the FDIC is revising the definition of "reputation risk" in 12 CFR 302.100(g) to include a specific reference to operational risk. The FDIC does not expect that these changes will have material economic effects. Both revisions would clarify the text of the regulation and reduce possible confusion.

One commenter suggested that IDIs would need to undertake substantial revisions to internal policies, training, and procedures, among other things, as a result of the final rule. However, the final rule applies only to the activities of the FDIC and does not require IDIs to undertake any action.

C. Alternatives Considered

The agencies considered adopting the proposed rule without changes. However, the agencies made two minor changes. As discussed above, these changes clarify the text of the regulation to express the FDIC's original intent when drafting the proposed rule and thus would have greater net benefits relative to the proposed rule.

The agencies also considered the suggestions made by commenters that included alternatives to the final rule. For a complete discussion of such comments, see section IV. *Overview of Final Rule*. For the reasons articulated in the aforementioned section (and above), the agencies believe the final rule is preferred over the alternatives.

VI. Administrative Law Matters

A. Paperwork Reduction Act

The Paperwork Reduction Act of 1995²⁰ (PRA) states that no agency may

conduct or sponsor, nor is the respondent required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The agencies have reviewed this rule and determined that it does not create any information collection or revise any existing collection of information. Accordingly, no PRA submissions to OMB will be made with respect to this rule.

B. Regulatory Flexibility Act Analysis

OCC:

In general, the Regulatory Flexibility Act (RFA)²¹ requires an agency, in connection with a rule, to prepare a regulatory flexibility analysis describing the impact of the rule on small entities (defined by the U.S. Small Business Administration (SBA) for purposes of the RFA to include commercial banks and savings institutions with total assets of \$850 million or less and trust companies with total assets of \$47 million or less). However, under section 605(b) of the RFA, this analysis is not required if an agency certifies that the rule would not have a significant economic impact on a substantial number of small entities and publishes its certification and a short explanatory statement in the **Federal Register** along with its rule.

The OCC currently supervises approximately 609 small entities, all of which may be indirectly impacted by the rule.²² In general, the OCC classifies the economic impact on an individual small entity as significant if the total estimated impact in one year is greater than 5 percent of the small entity's total annual salaries and benefits or greater than 2.5 percent of the small entity's total non-interest expense. Furthermore, the OCC considers 5 percent or more of OCC-supervised small entities to be a substantial number. Thus, at present, 30 OCC-supervised small entities would constitute a substantial number.

While the OCC expects that the rule could result in substantial cost savings for all OCC-regulated institutions in the aggregate, the OCC does not expect that

²¹ 5 U.S.C. 601 *et seq.*

²² The OCC bases its estimate of the number of small entities on the SBA's size thresholds for commercial banks and savings institutions, and trust companies, which are \$850 million and \$47 million, respectively. Consistent with the General Principles of Affiliation, 13 CFR 121.103(a), The OCC counts the assets of affiliated financial institutions when determining if it should classify an OCC-supervised institution as a small entity. The OCC uses December 31, 2024, to determine size because a "financial institution's assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year." See footnote 8 of the SBA's *Table of Size Standards*.

¹⁹ Call Report data, September 30, 2025.

²⁰ 44 U.S.C. 3501–3521.

the rule will have a significant impact on more than 30 OCC-supervised small entities. To evaluate the impact of the rule on small entities, the OCC assessed whether the cost savings would be greater than 5 percent of the small entity's total annual salaries and benefits or greater than 2.5 percent of the small entity's total non-interest expense for 30 or more small entities.

Analysis of internal OCC MRA data indicates that there were fewer than 30 MRAs that had indicated reputation risk was a primary risk. Because fewer than 30 MRAs per year list reputation risk as a primary concern, we conclude that the removal of reputation risk from supervision would not be likely to result in significant MRA-related cost savings for more than 30 small entities per year. Furthermore, any cost savings for the MRAs listed as a secondary concern would be likely de minimis for 30 or more small entities.

Finally, because we do not expect that there will be scope for significant cost savings from the removal of reputation risk for reasons unrelated to MRAs, we conclude that the rule would not have a significant impact on a substantial number of small entities for the purposes of the RFA.

FDIC:

The Regulatory Flexibility Act (RFA) generally requires an agency, in connection with a final rule, to prepare and make available for public comment a final regulatory flexibility analysis that describes the impact of the final rule on small entities.²³ However, a final regulatory flexibility analysis is not required if the agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities. The Small Business Administration (SBA) has defined "small entities" to include banking organizations with total assets of less than or equal to \$850 million.²⁴ Generally, the FDIC considers a significant economic impact to be a quantified effect in excess of 5 percent of total annual salaries and benefits or 2.5 percent of total noninterest

expenses. The FDIC believes that effects in excess of one or more of these thresholds typically represent significant economic impacts for FDIC-supervised institutions.

A commenter asserted of the proposed rule that, if adopted, it would likely cause small institutions to make substantial revisions to their policies, documentation, training, and vendor management.

However, for the avoidance of doubt, the FDIC reiterates that the final rule applies only to the activities of the FDIC. The final rule does not impose any obligations on FDIC-supervised institutions, and institutions would not need to take any action in response to this rule. Institutions' internal policies and controls, training, and other elements that may refer to reputation risk are not directly affected by the final rule. As such, the final rule does not have any direct economic impact on FDIC-supervised small entities.

Based on the foregoing, the FDIC certifies that the final rule will not have a significant economic impact on a substantial number of FDIC-supervised small entities.

C. Plain Language

Section 722 of the Gramm-Leach Bliley Act²⁵ requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The agencies invited comment on the use of plain language and have sought to present the final rule in a simple and straightforward manner.

D. Unfunded Mandates Reform Act of 1995

Consistent with the Unfunded Mandates Reform Act (UMRA), the review considers whether the mandates imposed by the rule may result in an expenditure of \$100 million or more by State, local, and tribal governments, or by the private sector, in any one year, adjusted annually for inflation (currently \$187 million).

The OCC estimates that the proposal would not require additional expenditure from OCC-regulated entities nor will it require expenditures of \$100 million or more by State, local, and tribal governments, or by other segments of the private sector. Thus, the OCC believes the rule is not a significant rule for the purposes of the UMRA. Accordingly, the OCC has not prepared the written statement described in section 202 of the UMRA.

E. Riegle Community Development and Regulatory Improvement Act of 1994

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act (RCDRIA) of 1994,²⁶ in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, the OCC and FDIC must consider, consistent with principles of safety and soundness and the public interest (1) any administrative burdens that the final rule would place on depository institutions, including small depository institutions and customers of depository institutions and (2) the benefits of the final rule. This rulemaking would not impose any reporting, disclosure, or other requirements on insured depository institutions. Therefore, section 302(a) does not apply to this final rule.

F. Congressional Review Act

Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act) defines a "major rule" as a rule that the Administrator of the OMB's Office of Information and Regulatory Affairs (OIRA) finds has resulted in or is likely to result in:

1. An annual effect on the economy of \$100 million or more;
2. A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
3. Significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic and export markets.²⁷

The OMB has determined that the final rule is not a major rule for purposes of the Congressional Review Act.

G. Executive Orders 12866 and 14192

1. Executive Order 12866

Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as a regulatory action that is likely to result in a rule that may:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affects in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or

²³ 5 U.S.C. 601 *et seq.*

²⁴ The SBA defines a small banking organization as having \$850 million or less in assets, where an organization's "assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year." See 13 CFR 121.201 (as amended by 87 FR 69118, effective December 19, 2022). In its determination, the "SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates." See 13 CFR 121.103. Following these regulations, the FDIC uses an insured depository institution's affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the insured depository institution is "small" for the purposes of RFA.

²⁵ Public Law 106–102, section 722, 113 Stat. 1338, 1471 (1999); 12 U.S.C. 4809.

²⁶ 12 U.S.C. 4802(a).

²⁷ 5 U.S.C. 804(2).

State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

OIRA has determined that this final rule is a significant action under Executive Order 12866.

2. Executive Order 14192

Executive Order 14192, titled "Unleashing Prosperity Through Deregulation," was issued on January 31, 2025. Section 3(a) of Executive Order 14192 requires an agency, unless prohibited by law, to identify at least ten existing regulations to be repealed when the agency publicly proposes for notice and comment or otherwise promulgates a new regulation. In furtherance of this standard, section 3(c) of Executive Order 14192 requires that the new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least ten prior regulations. This rule is considered a deregulatory action under Executive Order 14192.

List of Subjects

12 CFR Part 1

Banks, banking, National banks, Reporting and recordkeeping requirements, Securities.

12 CFR Part 4

Administrative practice and procedure, Freedom of information, Individuals with disabilities, Minority businesses, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Women.

12 CFR Part 30

Administrative practice and procedure, National banks, Reporting and recordkeeping requirements.

12 CFR Part 302

Administrative practice and procedure, Banks, Banking.

12 CFR Part 364

Banks, Banking, Information.

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Chapter I

Authority and Issuance

For the reasons set forth in the preamble, and under the authority of 12 U.S.C. 93a, chapter I of title 12 of the Code of Federal Regulations is amended as follows:

PART 1—INVESTMENT SECURITIES

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

Authority: 12 U.S.C. 1 *et seq.*, 24 (Seventh), and 93a.

§ 1.5 [Amended]

■ 2. In § 1.5, amend paragraph (a) by removing the phrase "compliance, strategic, and reputation risks" and adding in its place the phrase "compliance, and strategic risks".

PART 4—ORGANIZATION AND FUNCTIONS, AVAILABILITY AND RELEASE OF INFORMATION, CONTRACTING OUTREACH PROGRAM, POST-EMPLOYMENT RESTRICTIONS FOR SENIOR EXAMINERS

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

Authority: 5 U.S.C. 301, 552; 12 U.S.C. 1, 93a, 161, 481, 482, 484(a), 1442, 1462a, 1463, 1464 1817(a), 1818, 1820, 1821, 1831m, 1831p–1, 1831o, 1833e, 1867, 1951 *et seq.*, 2601 *et seq.*, 2801 *et seq.*, 2901 *et seq.*, 3101 *et seq.*, 3401 *et seq.*, 5321, 5412, 5414; 15 U.S.C. 77uu(b), 78q(c)(3); 18 U.S.C. 641, 1905, 1906; 29 U.S.C. 1204; 31 U.S.C. 5318(g)(2), 9701; 42 U.S.C. 3601; 44 U.S.C. 3506, 3510; E.O. 12600 (3 CFR, 1987 Comp., p. 235).

■ 4. Add subpart G, consisting of § 4.91, to read as follows:

Subpart G—Enforcement and Supervision Standards Sec. 91 Prohibition on use of reputation risk.

Subpart G—Enforcement and Supervision Standards

§ 4.91 Prohibition on use of reputation risk.

(a) The OCC will not criticize, formally or informally, or take adverse action against an institution on the basis of reputation risk.

(b) The OCC will not require, instruct, or encourage an institution, or any employee of an institution, to:

(1) Refrain from contracting or doing business with a third party, including an institution-affiliated party, on the basis of reputation risk;

(2) Terminate a contract or discontinue doing business with a third party, including an institution-affiliated party, on the basis of reputation risk;

(3) Sign a contract or initiate doing business with a third-party, including an institution-affiliated party, on the basis of reputation risk; or

(4) Modify the terms or conditions under which it contracts or does business with a third party, including an institution-affiliated party, on the basis of reputation risk.

(c) The OCC will not require, instruct, or encourage an institution, or any employee of an institution, to terminate a contract with, discontinue doing business with, sign a contract with, initiate doing business with, modify the terms under which it will do business with a person or entity, or take any action or refrain from taking any action on the basis of the person's or entity's political, social, cultural, or religious views or beliefs, constitutionally protected speech, or solely on the basis of the person's or entity's involvement in politically disfavored but lawful business activities perceived to present reputation risk.

(d) The prohibitions in paragraphs (a) through (c) of this section only apply to actions taken on the bases described in paragraphs (a) through (c) of this section, and the prohibition in paragraph (c) of this section shall not apply with respect to persons, entities, or jurisdictions sanctioned by the Office of Foreign Assets Control.

(e) Nothing in this section shall restrict the OCC's authority to implement, administer, and enforce the provisions of subchapter II of chapter 53 of title 31, United States Code.

(f) The OCC will not take any supervisory action or other adverse action against an institution, a group of institutions, or the institution-affiliated parties of any institution that is designed to punish or discourage an individual or group from engaging in any lawful political, social, cultural, or religious activities, constitutionally protected speech, or, for political reasons, lawful business activities that the OCC or any of its personnel disagree with or disfavor.

(g) The following definitions apply in this section:

Adverse action includes:

(i) Any negative feedback delivered by or on behalf of the OCC to the supervised institution, including in a report of examination or a formal or informal enforcement action;

(ii) A downgrade, or contribution to a downgrade, of any supervisory rating, including, but not limited to:

(A) Any rating under the Uniform Financial Institutions Rating System (or any comparable rating system);

(B) Any rating under the Uniform Interagency Consumer Compliance Rating System;

(C) Any rating under the Uniform Rating System for Information Technology; and

(D) Any rating under any other rating system;

(iii) A denial of a licensing application;

(iv) Inclusion of a condition on any licensing application or other approval;

(v) Imposition of additional approval requirements;

(vi) Any other heightened requirements on an activity or change;

(vii) Any adjustment of the institution's capital requirement; and

(viii) Any action that negatively impacts the institution, or an institution-affiliated party, or treats the institution differently than similarly situated peers.

Doing business with means:

(i) The bank providing any product or service, including account services;

(ii) The bank contracting with a third party for the third party to provide a product or service;

(iii) The bank providing discounted or free products or services to customers or third parties, including charitable activities;

(iv) The bank entering into, maintaining, modifying, or terminating an employment relationship; or

(v) Any other similar business activity that involves a bank client or a third party.

Institution means an entity for which the OCC makes or will make supervisory or licensing determinations either solely or jointly.

Institution-affiliated party means the same as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(u)).

Reputation risk means any risk, regardless of how the risk is labeled by the institution or regulators, that an action or activity, or combination of actions or activities, or lack of actions or activities, of an institution could negatively impact public perception of the institution for reasons not clearly and directly related to the financial or operational condition of the institution.

PART 30—SAFETY AND SOUNDNESS STANDARDS

■ 5. The authority citation for part 30 continues to read as follows:

Authority: 12 U.S.C. 1, 93a, 371, 1462a, 1463, 1464, 1467a, 1818, 1828, 1831p–1, 1881–1884, 3102(b) and 5412(b)(2)(B); 15 U.S.C. 1681s, 1681w, 6801, and 6805(b)(1).

Appendix B to Part 30 [Amended]

■ 6. Amend appendix B to part 30 in supplement A, section III, by:

■ a. Removing the third sentence; and

■ b. Removing the word “Effective” and adding in its place “Timely and effective”.

Appendix C to Part 30 [Amended]

■ 7. Amend appendix C to part 30 by:

■ a. In section I:

■ i. In paragraph (i), removing “reputation,”; and

■ ii. In paragraph (vi), removing the last sentence; and

■ b. In section II, paragraph (B)(1), removing “reputation,”.

Appendix D to Part 30 [Amended]

■ 8. Amend appendix D to part 30, section II, paragraph (B), by removing the phrase “compliance risk, strategic risk, and reputation risk” and adding in its place the phrase “compliance risk, and strategic risk”.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Chapter III

Authority and Issuance

For the reasons set forth in the preamble, the FDIC proposes to amend parts 302 and 364 of chapter III of title 12 of the *Code of Federal Regulations* as follows:

PART 302—REGULATIONS GOVERNING BANK SUPERVISION

■ 9. The authority citation for part 302 continues to read as follows:

Authority: 5 U.S.C. 552; 12 U.S.C. 1818, 1819(a) (Seventh and Tenth), 1831p–1.

■ 10. Revise the heading for part 302 as set forth above.

■ 11. Add a heading for subpart A, consisting of §§ 302.1, 302.2, and 302.3, to read as follows:

Subpart A—Use of Supervisory Guidance

■ 12. Add subpart B, consisting of § 302.100, to read as follows:

Subpart B—Prohibition on Use of Reputation Risk by Regulators

§ 302.100 Prohibitions.

(a) The FDIC will not criticize, formally or informally, or take adverse action against an institution on the basis of reputation risk.

(b) The FDIC will not require, instruct, or encourage an institution, or any employee of an institution, to:

(1) Refrain from contracting or doing business with a third party, including

an institution-affiliated party, on the basis of reputation risk;

(2) Terminate a contract or discontinue doing business with a third party, including an institution-affiliated party, on the basis of reputation risk;

(3) Sign a contract or initiate doing business with a third-party, including an institution-affiliated party, on the basis of reputation risk; or

(4) Modify the terms or conditions under which it contracts or does business with a third party, including an institution-affiliated party, on the basis of reputation risk.

(c) The FDIC will not require, instruct, or encourage an institution, or any employee of an institution, to terminate a contract with, discontinue doing business with, sign a contract with, initiate doing business with, modify the terms under which it will do business with a person or entity, or take any action or refrain from taking any action on the basis of the person's or entity's political, social, cultural, or religious views or beliefs, constitutionally protected speech, or solely on the basis of the person's or entity's involvement in politically disfavored but lawful business activities perceived to present reputation risk.

(d) The prohibitions in paragraphs (a) through (c) of this section only apply to actions taken on the bases described in paragraphs (a) through (c) of this section, and the prohibition in paragraph (c) of this section shall not apply with respect to persons, entities, or jurisdictions sanctioned by the Office of Foreign Assets Control.

(e) Nothing in this section shall restrict the FDIC's authority to implement, administer, and enforce the provisions of subchapter II of chapter 53 of title 31, United States Code.

(f) The FDIC will not take any supervisory action or other adverse action against an institution, a group of institutions, or the institution-affiliated parties of any institution that is designed to punish or discourage an individual or group from engaging in any lawful political, social, cultural, or religious activities, constitutionally protected speech, or, for political reasons, lawful business activities that the FDIC or any of its personnel disagrees with or disfavors.

(g) Definitions.

Adverse action includes:

(i) Any negative feedback delivered by or on behalf of the FDIC to the supervised institution, including in a report of examination or a formal or informal enforcement action;

(ii) A downgrade, or contribution to a downgrade, of any supervisory rating, including, but not limited to:

(A) Any rating under the Uniform Financial Institutions Rating System (or any comparable rating system);

(B) Any rating under the Uniform Interagency Consumer Compliance Rating System;

(C) Any rating under the Uniform Rating System for Information Technology;

(D) Any rating under any other rating system;

(iii) A denial of a filing pursuant to Part 303 of the FDIC's regulations;

(iv) Inclusion of a condition on a deposit insurance application or other approval;

(v) Imposition of additional approval requirements;

(vi) Any other heightened requirements on an activity or change;

(vii) Any adjustment of the institution's capital requirement; and

(viii) Any action that negatively impacts the institution, or an institution-affiliated party, or treats the institution differently than similarly situated peers.

Doing business with means:

(i) The bank providing any product or service, including account services;

(ii) The bank contracting with a third party for the third party to provide a product or service;

(iii) The bank providing discounted or free products or services to customers or third parties, including charitable activities;

(iv) The bank entering into, maintaining, modifying, or terminating an employment relationship; or

(v) Any other similar business activity that involves a bank client or a third party.

Institution means an entity for which the FDIC makes or will make supervisory determinations or other decisions, either solely or jointly.

Institution-affiliated party means the same as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(u)).

Reputation risk means any risk, regardless of how the risk is labeled by the institution or regulators, that an action or activity, or combination of actions or activities, or lack of actions or activities, of an institution could negatively impact public perception of the institution for reasons not clearly and directly related to the financial or operational condition of the institution.

PART 364—STANDARDS FOR SAFETY AND SOUNDNESS

■ 13. The authority citation for part 364 continues to read as follows:

Authority: 12 U.S.C. 1818 and 1819 (Tenth), 1831p–1; 15 U.S.C. 1681b, 1681s, 1681w, 6801(b), 6805(b)(1).

Appendix B to Part 364 [Amended]

■ 14. Amend appendix B to part 364 in supplement A, section III, by:

- a. Removing the third sentence; and
- b. Removing the word “Effective” and adding in its place “Timely and effective”.

Jonathan V. Gould,

Comptroller of the Currency.

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on April 7, 2026.

Jennifer M. Jones,

Deputy Executive Secretary.

[FR Doc. 2026–06947 Filed 4–9–26; 8:45 am]

BILLING CODE 4810–33–P; 6714–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2025–0155; FRL–13295–01–OCSPP]

Polyethylhexyl Glycidyl Ether Polyethylene Oxide Copolymer in Pesticide Formulations; Exemption From the Requirement for a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of polyethylhexyl glycidyl ether polyethylene oxide copolymer (CAS Reg. No. 82780–16–3) when used as an inert ingredient (wetting agent or surfactant) on growing crops and raw agricultural commodities pre- and post-harvest limited to no more than 10% by weight of the pesticide formulation. Spring Regulatory Sciences on behalf of Ashland Specialty Ingredients G.P. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting establishment of an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of polyethylhexyl glycidyl ether polyethylene oxide copolymer, when used in accordance with the terms of the exemption.

DATES: This regulation is effective April 10, 2026. Objections and requests for hearings must be received on or before June 9, 2026 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of this document).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2025–0155, is

available online 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, 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: RDfRNtices@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).

If you have any questions regarding the applicability of this proposed action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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(c)(2)(A)(i) allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is “safe.” FFDCA section 408(c)(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. Pursuant to FFDCA section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account

the factors set forth in FFDCA section 408(b)(2)(C), which require 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. . . .” Additionally, FFDCA section 408(b)(2)(D) requires that the Agency consider, among other things, “available information concerning the cumulative effects of a particular pesticide’s residues” and “other substances that have a common mechanism of toxicity.”

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

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. If you fail to file an objection to the final rule within the time period specified in the final rule, you will have waived the right to raise any issues resolved in the final rule. 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 the docket ID number EPA–HQ–OPP–2025–0155 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 June 9, 2026.

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 “Order Urging Electronic Filing and Service,” dated December 3, 2025, which can be found at <https://www.epa.gov/system/files/documents/2025-12/2025-12-03-order-urging-electronic-filing-and-service.pdf>. Although EPA’s regulations require submission via U.S. Mail or hand delivery, EPA intends to treat submissions filed via electronic means as properly filed submissions; therefore, 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/oal/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. Petition for Exemption

In the **Federal Register** of July 3, 2025 (90 FR 29516, FRL–12474–05–OCSP), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the filing of a pesticide petition (PP IN–11878) by Ashland Specialty Ingredients G.P., 8145 Blazer Drive, Wilmington, DE 19808. The petition requested that 40 CFR be amended by establishing an exemption from the requirement of a tolerance for residues of polyethylhexyl glycidyl ether polyethylene oxide copolymer (CAS Reg. No. 82780–16–3) when used as an inert ingredient (wetting agent or surfactant) in pesticide formulations applied to growing crops or raw agricultural commodities pre- and post-harvest under 40 CFR 180.910 at no more than 10% by weight of the pesticide formulation. That document referenced a summary of the petition prepared by Spring Regulatory Sciences on behalf of Ashland Specialty Ingredients G.P., the petitioner, which is available in the docket. There were no comments received in response to the notice of filing.

III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term “inert” is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the

requirement of a tolerance based on the low toxicity of the individual inert ingredients.

IV. Final Tolerance Action

A. EPA’s Safety Determination

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be clearly demonstrated that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no harm to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with FFDCA section 408(c)(2)(A), and the factors specified in FFDCA section 408(c)(2)(B), 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 polyethylhexyl glycidyl ether polyethylene oxide copolymer including exposure resulting from the exemption established by this action. EPA’s assessment of exposures and risks associated with polyethylhexyl glycidyl ether polyethylene oxide copolymer follows.

B. Toxicological Profile

EPA has evaluated the available toxicity data and considered their 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. Specific information on the studies received and the nature of the adverse effects caused by polyethylhexyl glycidyl ether polyethylene oxide copolymer as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies are discussed in this unit.

The toxicological database of polyethylhexyl glycidyl ether polyethylene oxide copolymer is supported by data regarding ethylhexylglycerin. Polyethylhexyl glycidyl ether polyethylene oxide copolymer may hydrolyze to ethylhexylglycerin. Therefore, EPA has determined that it is appropriate to bridge ethylhexylglycerin data to assess polyethylhexyl glycidyl ether polyethylene oxide copolymer.

Polyethylhexyl glycidyl ether polyethylene oxide copolymer exhibits low levels of acute toxicity via the oral, dermal, and inhalation routes of exposure. Polyethylhexyl glycidyl ether polyethylene oxide copolymer is not anticipated to be an eye irritant or a skin sensitizer at low concentrations. It is not anticipated to be a dermal irritant. Reduced fertility index in females was observed in the available one-generation reproduction toxicity study with the surrogate ethylhexylglycerin at high doses only (800 mg/kg/day). There is no evidence of offspring susceptibility in the available developmental toxicity study or in the one-generation reproductive toxicity study with ethylhexylglycerin. Concern for carcinogenicity is low, based on negative results in mutagenicity and genotoxicity studies in rats and lack of relevant structural alerts for carcinogenicity.

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 dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (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/pesticide-science-and-assessing-pesticide-risks/overview-risk-assessment-pesticide-program>.

An acute dietary endpoint was not selected because no effect attributable to a single dose was identified in the database. The one generation reproduction toxicity study in rats was selected for the chronic dietary exposure scenario as well as short- and intermediate-term incidental oral, dermal and inhalation exposure scenarios. The NOAEL of 200 mg/kg/day and LOAEL of 800 mg/kg/day, based on decreased fertility index in female rats, are selected for risk assessment. The study is appropriate for the duration of exposure, protective of all subchronic effects, protective of the general population, and are protective of the most sensitive lifestage (children). The standard inter- and intra-species uncertainty factors of 10x are applied (Total uncertainty factor = 100x). A dermal absorption factor of 55% is applied. The default factor of 100% is applied for the inhalation absorption rate.

D. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to polyethylhexyl glycidyl ether polyethylene oxide copolymer, EPA considered exposure under the proposed exemption from the requirement of a tolerance. EPA assessed dietary exposures from polyethylhexyl glycidyl ether polyethylene oxide copolymer in food as follows:

In conducting the dietary exposure assessment using the Dietary Exposure Evaluation Model DEEM-FCIDTM, Version 4.02, EPA used food consumption information from the U.S. Department of Agriculture's (USDA's) 2005–2010 National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA). As to residue levels in food, no residue data were submitted for polyethylhexyl glycidyl ether polyethylene oxide copolymer. In the absence of specific residue data, EPA has developed an approach which uses surrogate information to derive upper bound exposure estimates for the subject inert ingredient. Upper bound exposure estimates are based on the highest tolerance for a given commodity from a list of high use insecticides, herbicides, and fungicides. A complete description of the general approach taken to assess inert ingredient risks in the absence of residue data is contained in the

memorandum entitled “Update to D361707: Dietary Exposure and Risk Assessments for the Inerts.” (12/21/2021) and can be found at <http://www.regulations.gov> in docket ID number EPA-HQ-OPP-2018-0090.

In the dietary exposure assessments, the Agency assumed that the residue level of the inert ingredient would be no higher than the highest tolerance for a given commodity. Implicit in this assumption is that there would be similar rates of degradation (if any) between the active and inert ingredients and that the concentration of the inert ingredient in the scenarios leading to these highest levels of tolerances would be no higher than the concentration of the active ingredient. The Agency believes the assumptions used to estimate dietary exposures lead to an extremely conservative assessment of dietary risk due to a series of compounded conservatisms. First, assuming that the level of residue for an inert ingredient is equal to the level of residue for the active ingredient will overstate exposure. The concentrations of active ingredients in agricultural products are generally at least 50 percent of the product and often can be much higher. Further, pesticide products rarely have a single inert ingredient; rather there is generally a combination of different inert ingredients used which additionally reduces the concentration of any single inert ingredient in the pesticide product in relation to that of the active ingredient. In the case of polyethylhexyl glycidyl ether polyethylene oxide copolymer, EPA made a specific adjustment to the dietary exposure assessment to account for the use limitations of the amount of polyethylhexyl glycidyl ether polyethylene oxide copolymer that may be in pesticide formulations (limited to no more than 10% by weight) present at the maximum limitation rather than at equal quantities with the active ingredient.

For the purpose of the screening level dietary risk assessment, a conservative drinking water concentration value of 100 parts per billion (ppb) based on screening level modeling was used to assess the contribution to drinking water for the chronic dietary risk assessments for polyethylhexyl glycidyl ether polyethylene oxide copolymer.

2. *From non-dietary exposure.* The term “residential exposure” is used in this document to refer to non-occupational, non-dietary exposure (e.g., textiles (clothing and diapers), carpets, swimming pools, and hard surface disinfection on walls, floors, tables).

Although there is a non-pesticidal use for polyethylhexyl glycidyl ether polyethylene oxide copolymer, no reliable exposure information is available to EPA on that use. Polyethylhexyl glycidyl ether polyethylene oxide copolymer may also be used as an inert ingredient in pesticide products that are registered for specific uses that may result in residential exposure, such as pesticides used in and around the home. Therefore, screening level residential handler and post-application risk assessments have been performed for common residential exposure scenarios, using assumptions detailed in the 2012 Residential Standard Operating Procedures (available at <https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/standard-operating-procedures-residential-pesticide>).

3. *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.”

EPA has not found polyethylhexyl glycidyl ether polyethylene oxide copolymer to share a common mechanism of toxicity with any other substances, and polyethylhexyl glycidyl ether polyethylene oxide copolymer does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance exemption, therefore, EPA has assumed that polyethylhexyl glycidyl ether polyethylene oxide copolymer does not have a common mechanism of toxicity with other substances. For information regarding EPA’s efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA’s website at <https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/cumulative-assessment-risk-pesticides>.

E. Additional Safety Factor for the Protection of Infants and Children

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.

Based on the evaluation of available toxicity studies, there is low concern for pre- and postnatal susceptibility from exposure to polyethylhexyl glycidyl ether polyethylene oxide copolymer. The FQPA safety factor has been reduced to 1X because: (1) the toxicity database is adequate to characterize potential pre- and postnatal risk; (2) no developmental effects were observed in the one-generation reproduction or developmental toxicity studies in rats; (3) the established PoD (200 mg/kg/day) will be protective of the decreased fertility index seen in female rats at 800 mg/kg/day in the one-generation reproduction toxicity study in rats; (4) no evidence of neurotoxicity was observed in the database; and (5) the assumptions for the exposure assessment are conservative and unlikely to underestimate risk.

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.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, polyethylhexyl glycidyl ether polyethylene oxide copolymer is not expected to pose an acute risk.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to polyethylhexyl glycidyl ether polyethylene oxide copolymer from food and water will utilize 2.8% and 10.3% of the cPAD for the U.S. population and children 1–2 years old (the most highly exposed populations). A chronic aggregate risk assessment considers exposure

estimates from chronic dietary consumption of food and drinking water. Therefore, the chronic aggregate risk is equal to the chronic dietary risk, and it is not of concern.

3. *Short-term risks.* Short-term aggregate exposure takes into account short-term residential exposures plus chronic exposures to food and water (considered to be a background exposure level).

Polyethylhexyl glycidyl ether polyethylene oxide copolymer may be used as an inert ingredient in pesticide products that are 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 polyethylhexyl glycidyl ether polyethylene oxide copolymer.

Using the exposure assumptions described in this unit for short-term exposure, EPA has concluded the combined short-term food, water, and residential exposures result in an aggregate margin of exposure (MOE) of 365 for adults. Adult residential exposure combines high end dermal and inhalation handler exposure from aerosol spray/trigger pump with a high-end post application dermal exposure from contact with treated lawns. The combined short-term aggregated food, water, and residential pesticide exposures result in an aggregate MOE of 211 for children. Children’s residential exposure includes total exposures associated with contact with treated lawns (dermal and hand-to-mouth exposures). Because EPA’s level of concern for polyethylhexyl glycidyl ether polyethylene oxide copolymer is an MOE of 100 or below, these MOEs are not of concern.

4. Intermediate-term risks.

Intermediate-term aggregate exposures take into account intermediate-term residential exposures plus chronic exposures to food and water (considered to be a background exposure level). As the same endpoints were selected for short-term and intermediate-term exposures, intermediate-term aggregate risk is equal to the short-term aggregate risk and it is not of concern.

G. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is not establishing a numerical tolerance for residues of polyethylhexyl glycidyl ether polyethylene oxide copolymer in or on any food commodities. EPA is establishing a limitation on the amount of polyethylhexyl glycidyl ether polyethylene oxide copolymer that may

be used in pesticide formulations applied pre- and post-harvest. This limitation will be enforced through the pesticide registration process under the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), 7 U.S.C. 136 *et seq.* EPA will not register any pesticide formulation for food use that exceeds 10% by weight polyethylhexyl glycidyl ether polyethylene oxide copolymer in the final pesticide formulations to be applied pre- and post-harvest.

G. Conclusions

Therefore, an exemption from the requirement of a tolerance is established for residues of polyethylhexyl glycidyl ether polyethylene oxide copolymer (CAS Reg. No. 82780–16–3) when used as an inert ingredient (wetting agent or surfactant) in pesticide formulations applied to growing crops and raw agricultural commodities pre- and post-harvest under 40 CFR 180.910 limited to no more than 10% by weight of the pesticide formulation.

V. 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

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 or tolerance exemption 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)

This action is not subject to the RFA, 5 U.S.C. 601 *et seq.* The RFA applies only to rules subject to notice and

comment rulemaking requirements under the Administrative Procedure Act (APA), 5 U.S.C. 553, or any other statute. This rule is not subject to the APA but is subject to FFDCA section 408(d), which does not require notice and comment rulemaking to take this action in response to a petition.

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 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 it is not a significant regulatory action under section 3(f)(1) of Executive Order 12866 (see Unit VI.A.), and because EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. 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 the applicable 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: April 6, 2026.

Charles Smith,

Director, Registration Division, Office of Pesticide Programs.

For the reasons stated in the preamble, the EPA amends 40 CFR chapter I 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 § 180.910, amend table 1 by adding, in alphabetical order, an entry for "Polyethylhexyl glycidyl ether polyethylene oxide copolymer" to read as follows:

§ 180.910 Inert ingredients used pre- and post-harvest; exemptions from the requirement of a tolerance.

* * * * *

TABLE 1 TO 180.910

Inert ingredients	Limits	Uses
* Polyethylhexyl Glycidyl Ether, Polyethylene Oxide Copolymer (CAS Reg. No. 82780–16–3).	* 10% by weight ..	* Wetting agent or surfactant.
* 	* 	*

[FR Doc. 2026–06953 Filed 4–9–26; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2025–0287; FRL–13303–01–OCSPP]

Hexanedioic acid, polymer with sodium 2-[(2-aminoethyl)amino]ethanesulfonate (1:1), 1,6-diisocyanatohexane, 2,2-dimethyl-1,3-propanediol, 1,2-ethanediamine and 1,6-hexanediol in Pesticide Formulations; Exemption from the Requirement for a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of hexanedioic acid, polymer with sodium 2-[(2-aminoethyl)amino]ethanesulfonate (1:1), 1,6-diisocyanatohexane, 2,2-dimethyl-1,3-propanediol, 1,2-ethanediamine and 1,6-hexanediol (CAS Reg. No. 67815–81–0); when used as an inert ingredient in a pesticide chemical formulation. ChemReg Compliance Solutions LLC on behalf of Covestro LLC submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of hexanedioic acid, polymer with sodium 2-[(2-aminoethyl)amino]ethanesulfonate (1:1), 1,6-diisocyanatohexane, 2,2-dimethyl-1,3-propanediol, 1,2-ethanediamine and 1,6-hexanediol on food or feed commodities when used in accordance with these exemptions.

DATES: This regulation is effective April 10, 2026. Objections and requests for hearings must be received on or before June 9, 2026 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of this document).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2025–0287, is available online 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, 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: RDfRNNotices@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:

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

If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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(c)(2)(A)(i) allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is “safe.” FFDCA section 408(c)(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. Pursuant to FFDCA section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in FFDCA section 408(b)(2)(C), which require 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” Additionally, FFDCA section 408(b)(2)(D) requires that the Agency consider, among other things, “available information concerning the cumulative effects of a particular pesticide’s residues” and “other substances that have a common mechanism of toxicity.”

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

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. If you fail to file an objection to the final rule within the time period specified in the final rule, you will have waived the right to raise any issues resolved in the final rule. 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 the docket ID number EPA–HQ–OPP–2025–0287 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 June 9, 2026.

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 “Order Urging Electronic Filing and Service,” dated December 3, 2025, which can be found at <https://www.epa.gov/system/files/documents/2025-12/2025-12-03-order-urging-electronic-filing-and-service.pdf>. Although EPA’s regulations require submission via U.S. Mail or hand delivery, EPA intends to treat submissions filed via electronic means as properly filed submissions; therefore, 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/oal/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. Petition for Exemption

In the **Federal Register** of July 3, 2025 (90 FR 29516) (FRL–12474–05–OCSP), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the receipt of a pesticide petition (PP IN–12106) filed by ChemReg Compliance Solutions LLC on behalf of Covestro LLC, 1 Covestro Circle, Pittsburgh, PA 15205. The petition requested that 40 CFR 180.960 be amended by establishing an exemption from the requirement of a tolerance for residues of hexanedioic acid, polymer with sodium 2-[(2-aminoethyl)amino]ethanesulfonate (1:1), 1,6-diisocyanatohexane, 2,2-dimethyl-1,3-propanediol, 1,2-ethanediamine and 1,6-hexanediol; CAS Reg. No. 67815–81–0. That document included a summary of the petition prepared by ChemReg Compliance Solutions LLC on behalf of Covestro LLC, the petitioner, which is available in the docket. The Agency received 1 comment. The

commenter expressed general opposition to the production and use of chemical substances but did not address the specific inert ingredient or the tolerance exemption at issue in this rulemaking action.

III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term “inert” is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

IV. Aggregate Risk Assessment and Determination of Safety

A. EPA’s Safety Determination

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be shown that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with FFDCA section 408(b)(2)(D), 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 hexanedioic acid, polymer with sodium 2-[(2-aminoethyl)amino]ethanesulfonate (1:1), 1,6-diisocyanatohexane, 2,2-

dimethyl-1,3-propanediol, 1,2-ethanediamine and 1,6-hexanediol including exposure resulting from the exemption established by this action. EPA’s assessment of exposures and risks associated with hexanedioic acid, polymer with sodium 2-[(2-aminoethyl)amino]ethanesulfonate (1:1), 1,6-diisocyanatohexane, 2,2-dimethyl-1,3-propanediol, 1,2-ethanediamine and 1,6-hexanediol follows.

B. Low Risk Polymer Criteria

In the case of certain chemical substances that are defined as polymers, the Agency has established a set of criteria to identify categories of polymers expected to present minimal or no risk. The definition of a polymer is given in 40 CFR 723.250(b) and the exclusion criteria for identifying these low-risk polymers are described in 40 CFR 723.250(d). Hexanedioic acid, polymer with sodium 2-[(2-aminoethyl)amino]ethanesulfonate (1:1), 1,6-diisocyanatohexane, 2,2-dimethyl-1,3-propanediol, 1,2-ethanediamine and 1,6-hexanediol conforms to the definition of a polymer given in 40 CFR 723.250(b) and meets the following criteria that are used to identify low-risk polymers.

1. The polymer is a cationic polymer or it is reasonably anticipated to become a cationic polymer in natural aquatic environments; however, the combined (total) functional group equivalent weight of cationic groups in the polymer is equal to or greater than 5,000.

2. The polymer does contain as an integral part of its composition at least two of the atomic elements carbon, hydrogen, nitrogen, oxygen, silicon, and sulfur.

3. The polymer does not contain as an integral part of its composition, except as impurities, any element other than those listed in 40 CFR 723.250(d)(2)(ii).

4. The polymer is neither designed nor can it be reasonably anticipated to substantially degrade, decompose, or depolymerize. An available biodegradation study supports that hexanedioic acid, polymer with sodium 2-[(2-aminoethyl)amino]ethanesulfonate (1:1), 1,6-diisocyanatohexane, 2,2-dimethyl-1,3-propanediol, 1,2-ethanediamine and 1,6-hexanediol is not readily biodegradable (MRID52591902, MRID52591903).

5. The polymer is manufactured or imported from monomers and/or reactants that are already included on the TSCA Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.

6. The polymer is not a water absorbing polymer with a number

average molecular weight (MW) greater than or equal to 10,000 Daltons.

7. The polymer does not contain certain perfluoroalkyl moieties consisting of a CF₃- or longer chain length as listed in 40 CFR 723.250(d)(6). Additionally, the polymer also meets as required the following exemption criteria: specified in 40 CFR 723.250(e):

The polymer's number average MW of 64,900 Daltons is greater than or equal to 10,000 Daltons. The polymer contains less than 2% oligomeric material below MW 500 and less than 5% oligomeric material below MW 1,000.

Thus, hexanedioic acid, polymer with sodium 2-[(2-aminoethyl)amino]ethanesulfonate (1:1), 1,6-diisocyanatohexane, 2,2-dimethyl-1,3-propanediol, 1,2-ethanediamine and 1,6-hexanediol meets the criteria for a polymer to be considered low risk under 40 CFR 723.250. Additionally, the polymer has low acute toxicity via the oral and inhalation routes, it is not a skin or eye irritant, it is not a skin sensitizer or a mutagen, and no adverse effects were observed in short-term oral and inhalation toxicity studies in rats. Based on its conformance to the criteria in this unit, and the low toxicity in available studies, no mammalian toxicity is anticipated from dietary, inhalation, or dermal exposure to hexanedioic acid, polymer with sodium 2-[(2-aminoethyl)amino]ethanesulfonate (1:1), 1,6-diisocyanatohexane, 2,2-dimethyl-1,3-propanediol, 1,2-ethanediamine and 1,6-hexanediol when used as an inert ingredient in pesticide products.

B. Exposure Assessment

For the purposes of assessing potential exposure under this exemption, EPA considered that hexanedioic acid, polymer with sodium 2-[(2-aminoethyl)amino]ethanesulfonate (1:1), 1,6-diisocyanatohexane, 2,2-dimethyl-1,3-propanediol, 1,2-ethanediamine and 1,6-hexanediol could be present in all raw and processed agricultural commodities and drinking water, and that non-occupational non-dietary exposure was possible. The number average MW of hexanedioic acid, polymer with sodium 2-[(2-aminoethyl)amino]ethanesulfonate (1:1), 1,6-diisocyanatohexane, 2,2-dimethyl-1,3-propanediol, 1,2-ethanediamine and 1,6-hexanediol is 64,900 Daltons. Generally, a polymer of this size would be poorly absorbed through the intact gastrointestinal tract or through intact human skin. Since hexanedioic acid, polymer with sodium 2-[(2-aminoethyl)amino]ethanesulfonate (1:1), 1,6-diisocyanatohexane, 2,2-dimethyl-1,3-propanediol, 1,2-

ethanediamine and 1,6-hexanediol conform to the criteria that identify a low-risk polymer, there are no concerns for risks associated with any potential exposure scenarios that are reasonably foreseeable. The Agency has determined that a tolerance is not necessary to protect the public health.

C. 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."

EPA has not found hexanedioic acid, polymer with sodium 2-[(2-aminoethyl)amino]ethanesulfonate (1:1), 1,6-diisocyanatohexane, 2,2-dimethyl-1,3-propanediol, 1,2-ethanediamine and 1,6-hexanediol to share a common mechanism of toxicity with any other substances, and hexanedioic acid, polymer with sodium 2-[(2-aminoethyl)amino]ethanesulfonate (1:1), 1,6-diisocyanatohexane, 2,2-dimethyl-1,3-propanediol, 1,2-ethanediamine and 1,6-hexanediol does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance exemption, therefore, EPA has assumed that hexanedioic acid, polymer with sodium 2-[(2-aminoethyl)amino]ethanesulfonate (1:1), 1,6-diisocyanatohexane, 2,2-dimethyl-1,3-propanediol, 1,2-ethanediamine and 1,6-hexanediol does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at <https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/cumulative-assessment-risk-pesticides>.

D. Additional Safety Factor for the Protection of Infants and Children

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. Due to the expected low toxicity of hexanedioic acid, polymer with sodium 2-[(2-aminoethyl)amino]ethanesulfonate (1:1),

1,6-diisocyanatohexane, 2,2-dimethyl-1,3-propanediol, 1,2-ethanediamine and 1,6-hexanediol, EPA has not used a safety factor analysis to assess the risk. For the same reasons no additional safety factor is needed for assessing risk to infants and children.

E. Determination of Safety

Based on the conformance to the criteria used to identify a low-risk polymer, and the low toxicity in available studies, EPA concludes that there is a reasonable certainty of no harm to the U.S. population, including infants and children, from aggregate exposure to residues of hexanedioic acid, polymer with sodium 2-[(2-aminoethyl)amino]ethanesulfonate (1:1), 1,6-diisocyanatohexane, 2,2-dimethyl-1,3-propanediol, 1,2-ethanediamine and 1,6-hexanediol.

F. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

G. Conclusion

Accordingly, EPA finds that exempting residues of hexanedioic acid, polymer with sodium 2-[(2-aminoethyl)amino]ethanesulfonate (1:1), 1,6-diisocyanatohexane, 2,2-dimethyl-1,3-propanediol, 1,2-ethanediamine and 1,6-hexanediol from the requirement of a tolerance will be safe.

V. 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

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. 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)

This action is not subject to the RFA, 5 U.S.C. 601 *et seq.* The RFA applies only to rules subject to notice and comment rulemaking requirements under the Administrative Procedure Act (APA), 5 U.S.C. 553, or any other statute. This rule is not subject to the APA but is subject to FFDCA section 408(d), which does not require notice and comment rulemaking to take this action in response to a petition.

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 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 it is not a significant regulatory action under section 3(f)(1) of Executive Order 12866 (See Unit V.A.), and because EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. 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 the applicable 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 does not meet the criteria set forth in 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: April 6, 2026.

Charles Smith,

Director, Registration Division, Office of Pesticide Programs.

For the reasons stated in the preamble, 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 § 180.960, amend table 1 by adding the entry “Hexanedioic acid, polymer with sodium 2-[(2-aminoethyl)amino]ethanesulfonate (1:1), 1,6-diisocyanatohexane, 2,2-dimethyl-1,3-propanediol, 1,2-ethanediamine and 1,6-hexanediol, minimum number average molecular weight 64,900 Daltons” in alphabetical order to read as follows:

§ 180.960 Polymers; exemptions from the requirement of a tolerance.

* * * * *

TABLE 1 TO § 180.960

Polymer						CAS No.
*	*	*	*	*	*	*
Hexanedioic acid, polymer with sodium 2-[(2-aminoethyl)amino]ethanesulfonate (1:1), 1,6-diisocyanatohexane, 2,2-dimethyl-1,3-propanediol, 1,2-ethanediamine and 1,6-hexanediol, minimum number average molecular weight 64,900 Daltons						67815–81–0
*	*	*	*	*	*	*

[FR Doc. 2026–06954 Filed 4–9–26; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 260305–0067; RTID 0648–XF464]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 in the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 630 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allowance of the 2026 total allowable catch (TAC) of pollock for Statistical Area 630 in the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), April 8, 2026, through 1200 hours, A.l.t., September 1, 2026.

FOR FURTHER INFORMATION CONTACT: Abby Jahn, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared and recommended by the North Pacific Fishery Management Council under

authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The A season allowance of the 2026 pollock TAC in Statistical Area 630 of the GOA is 12,314 metric tons (mt) as established by the final 2026 and 2027 harvest specifications for groundfish in the GOA (91 FR 11902, March 11, 2026).

In accordance with §§ 679.20(d)(1)(i) and 679.20(d)(1)(ii)(B), the Regional Administrator, Alaska Region, NMFS (Regional Administrator) has determined that the 2026 A season allowance of pollock TAC in Statistical Area 630 of the GOA will soon be or has been reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 12,114 mt and is setting aside the remaining 200 mt as incidental catch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been or will be reached. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 630 of the GOA to prevent exceeding the A season allowance of pollock TAC in Statistical Area 630 of the GOA.

While this closure is effective the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens

Act. This action is required by 50 CFR part 679, which was issued pursuant to section 304(b) of the Magnuson-Stevens Act, and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data on pollock catch in a timely fashion and would delay the closure of directed fishing in the A season for pollock in Statistical Area 630 in the GOA, which could result in an exceedance of the A season allowance of the pollock TAC in Statistical Area 630. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data on pollock catch only became available as of April 7, 2026.

There is good cause under 5 U.S.C. 553(d)(3) to establish an effective date less than 30 days after date of publication. This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

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

Dated: April 8, 2026.

David R. Blankinship,

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

[FR Doc. 2026–06995 Filed 4–8–26; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 91, No. 69

Friday, April 10, 2026

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 THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 21

[Docket ID OCC–2024–0005]

RIN 1557–AF14

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 326

RIN 3064–AF34

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 748

[Docket ID NCUA–2024–0033]

RIN 3133–AG08

Anti-Money Laundering and Countering the Financing of Terrorism Programs

AGENCY: Office of the Comptroller of the Currency, Treasury; Federal Deposit Insurance Corporation; and the National Credit Union Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency (OCC), Federal Deposit Insurance Corporation (FDIC), and the National Credit Union Administration (NCUA) (collectively, “the Agencies” or “Agency” when referencing the singular) are inviting comment on a proposed rule that would require banks to establish and maintain effective anti-money laundering and countering the financing of terrorism (AML/CFT) programs reasonably designed to identify, assess, and mitigate risks of illicit finance. The amendments are intended to align with changes that are being concurrently proposed by the Financial Crimes Enforcement Network (FinCEN) to implement provisions of the Anti-Money Laundering Act of 2020 (AML Act). Among other changes, this proposed rule would ensure that

institutions establish and maintain effective AML/CFT programs that are intended to better achieve the purposes of the Bank Secrecy Act (BSA), culminating in the development of highly useful information related to illicit financial transactions for law enforcement and national security agencies. Through this rulemaking, the Agencies also intend to modernize and reform Federal supervision of AML/CFT programs by enhancing FinCEN’s role in AML/CFT supervision and enforcement.

DATES: Written comments may be submitted on or before June 9, 2026.

ADDRESSES: Comments should be directed to:

OCC: Commenters are encouraged to submit comments through the Federal eRulemaking Portal. Please use the title “Anti-Money Laundering and Countering the Financing of Terrorism Programs” to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal—Regulations.gov:*

Go to <https://regulations.gov/>. Enter Docket ID “OCC–2024–0005” in the Search Box and click “Search.” Public comments can be submitted via the “Comment” box below the displayed document information or by clicking on the document title and then clicking the “Comment” box on the top-left side of the screen. For help with submitting effective comments, please click on “Commenter’s Checklist.” For assistance with the *Regulations.gov* site, please call 1–866–498–2945 (toll free) Monday–Friday, 9 a.m.–5 p.m. EST, or email regulationshelpdesk@gsa.gov.

- *Mail:* Chief Counsel’s Office, Attention: Comment Processing, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.

- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.

Instructions: You must include “OCC” as the agency name and Docket ID “OCC–2024–0005” in your comment. In general, the OCC will enter all comments received into the docket and publish the comments on the *Regulations.gov* website without change, including any business or personal information provided such as name and address information, email addresses, or phone numbers.

Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

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The docket may be viewed after the close of the comment period in the same manner as during the comment period.

FDIC: The FDIC encourages interested parties to submit written comments. Please include your name, affiliation, address, email address, and telephone number(s) in your comment. You may submit comments to the FDIC, identified by RIN 3064–AF34, by any of the following methods:

- *Agency Website:* <https://www.fdic.gov/resources/regulations/federal-register-publications>. Follow instructions for submitting comments on the FDIC’s website.

- *Mail:* Jennifer M. Jones, Deputy Executive Secretary, Attention: Comments/Legal OES (RIN 3064–AF34), Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

- *Hand Delivered/Courier:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street NW, building (located on F Street NW)

on business days between 7 a.m. and 5 p.m., eastern time.

- *Email: comments@fdic.gov.* Include the RIN 3064–AF34 on the subject line of the message.

- *Public Inspection:* Comments received, including any personal information provided, may be posted without change to <https://www.fdic.gov/resources/regulations/federal-register-publications>. Commenters should submit only information that the commenter wishes to make available publicly. The FDIC may review, redact, or refrain from posting all or any portion of any comment that it may deem to be inappropriate for publication, such as irrelevant or obscene material. The FDIC may post only a single representative example of identical or substantially identical comments, and in such cases will generally identify the number of identical or substantially identical comments represented by the posted example. All comments that have been redacted, as well as those that have not been posted, that contain comments on the merits of this document will be retained in the public comment file and will be considered as required under all applicable laws. All comments may be accessible under the Freedom of Information Act.

NCUA: You may submit comments, identified by RIN 3133–AG08, by any of the following methods (please send comments by one method only):

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. The docket number for this proposed rule is NCUA–2024–0033. Follow the instructions for submitting comments. A plain language summary of the proposed rule is also available on the docket website.

- *Mail:* Address to Melane Conyers-Ausbrooks, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.

- *Hand Delivery/Courier:* Same as mailing address.

- *Public Inspection:* You may view all public comments on the Federal eRulemaking Portal at <https://www.regulations.gov>, as submitted, except for those we cannot post for technical reasons. The NCUA will not edit or remove any identifying or contact information from the public comments submitted. If you are unable to access public comments on the internet, you may contact the NCUA for alternative access by calling (703) 518–6540 or emailing OGCMail@ncua.gov.

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SUPPLEMENTARY INFORMATION:

I. Scope

The proposed rule would amend the Agencies' regulations that prescribe AML/CFT program requirements¹ for banks² supervised by each of the

¹ In Section V.A., the Agencies describe the express incorporation of the countering the financing of terrorism (CFT) requirements as part of a bank's anti-money laundering (AML) program requirements. For consistency throughout this proposed rule, AML program requirements will be described as AML/CFT program requirements.

² The term "bank" is defined in regulations implementing the BSA, 31 CFR 1010.100(d), and includes each agent, agency, branch, or office within the United States of banks, savings associations, credit unions, and foreign banks. For purposes of this proposed rule, the term bank solely refers to institutions whose primary regulator is one of the Agencies. The proposed rule would remove language in 12 CFR 21.21, which contains the OCC's program rule requirements, applicable to state savings associations. This language was adopted as part of the transfer of authorities from the Office of Thrift Supervision. In 2020, the FDIC issued a final rule making 12 CFR part 326 applicable to State savings associations, meaning it

Agencies in a way that aligns with the rule concurrently proposed by FinCEN³ under the BSA.⁴ While FinCEN has delegated its authority to examine banks for compliance with the BSA to the Agencies, the Agencies also have independent authority to prescribe regulations requiring banks to establish and maintain procedures reasonably designed to assure and monitor their compliance with the requirements of subchapter II of chapter 53 of title 31, under 12 U.S.C. 1818(s) and 12 U.S.C. 1786(q) (Sections 8(s) of the Federal Deposit Insurance Act and 206(q) of the Federal Credit Union Act, respectively). The Agencies are proposing to amend their rules concurrently with FinCEN so that their program requirements for banks remain consistent with those imposed by FinCEN. Further, with consistent regulatory text, banks will not be subject to any additional burden or confusion from needing to comply with differing standards between FinCEN and the Agencies. The proposed changes are discussed in more detail below in the section-by-section analysis.

II. Background

A. Anti-Money Laundering Programs Under the Bank Secrecy Act and History of the BSA Compliance Program Rules for the Agencies

Enacted in 1970 and amended several times since, the BSA is designed to combat money laundering, the financing of terrorism, and other illicit finance activity risks (collectively, ML/TF risks).⁵ Congress has authorized the Secretary of the Treasury (Secretary) to administer the BSA. The Secretary has in turn delegated the authority to implement, administer, and enforce

is no longer necessary to cover State savings associations in 12 CFR 21.21.

³ FinCEN is requesting comment on proposed amendments to its AML/CFT program rule for banks at the same time as this proposed rule from the Agencies. FinCEN's bank program rule is located at 31 CFR 1020.210, while each Agency has its own implementing regulation. See 12 CFR 21.21 (OCC); 12 CFR 326.8 (FDIC); and 12 CFR 748.2 (NCUA).

⁴ FinCEN currently defines this term in 31 CFR 1010.100(e). However, FinCEN notes in the preamble to its concurrently issued rule that the proposed rule also would make minor changes to the definitions in FinCEN regulations. These changes include the definition of "Bank Secrecy Act" at 31 CFR 1010.100(e), adding statutory references to the Anti-Money Laundering Act of 2020 (AML Act) and the Corporate Transparency Act, and removing the reference to "collection of statutes commonly referred to as" Certain criminal statutes—namely, 18 U.S.C. 1956, 1957, and 1960—are currently included in the BSA definition at 31 CFR 1010.100(e). Section 6003 of the AML Act, however, does not include these provisions in its BSA definition, and thus FinCEN is not considering them part of the BSA for the purposes of its proposed rule.

⁵ 31 U.S.C. 5311(1).

compliance with the BSA and its associated regulations to the Director of FinCEN (FinCEN Director).⁶

The Money Laundering Control Act of 1986 (MLCA)⁷ amended 12 U.S.C. 1818(s) and 12 U.S.C. 1786(q) (sections 8(s) of the Federal Deposit Insurance Act and 206(q) of the Federal Credit Union Act, respectively) to require the Agencies and the Board of Governors of the Federal Reserve System (Federal Reserve Board) to issue regulations requiring their supervised banks to “establish and maintain procedures reasonably designed to assure and monitor their compliance” with the requirements of the BSA. Consistent with the MLCA, on January 27, 1987, all the then-Federal bank regulatory agencies issued substantially similar regulations requiring their supervised banks to develop procedures for BSA compliance.⁸

Since its original enactment, Congress has continued to address various aspects of AML/CFT compliance, including through expansion of the BSA.⁹ In 1992, the Annunzio-Wylie Anti-Money Laundering Act¹⁰ gave the Secretary authority to prescribe minimum standards for AML programs, including: “(A) the development of internal policies, procedures, and controls, (B) the designation of a compliance officer, (C) an ongoing employee training program, and (D) an independent audit function to test programs”—what are often called the “four pillars” of AML/CFT programs.¹¹

⁶ Treasury Order 180–01 (Jan. 14, 2020), paragraph 3; *see also* 31 U.S.C. 310(b)(2)(I) (providing that the Director of FinCEN shall “[a]dminister the requirements of subchapter II of chapter 53 of this title, chapter 2 of title I of Public Law 91–508, and section 21 of the Federal Deposit Insurance Act, to the extent delegated such authority by the Secretary of the Treasury.”).

⁷ Public Law 99–570, section 5318, 100 Stat. 3207, 3207–29 (1986).

⁸ 52 FR 2858 (Jan. 27, 1987).

⁹ Most recently, Congress enacted the Guiding and Establishing National Innovation for U.S. Stablecoins (GENIUS) Act on July 18, 2025. Public Law 119–27, codified at 12 U.S.C. 5901 *et seq.* The GENIUS Act requires that permitted payment stablecoin issuers (PPSIs) be treated as financial institutions under the BSA, including being required to maintain “an effective anti-money laundering program.” *See* 12 U.S.C. 5903(a)(5)(i). The GENIUS Act also requires the primary Federal payment stablecoin regulators, which are the Agencies and the Federal Reserve Board to issue regulations relating to PPSIs, including Bank Secrecy Act and sanctions compliance standards. These AML/CFT standards for PPSIs will be addressed separately from this rulemaking.

¹⁰ Section 1517 of the Annunzio-Wylie Anti-Money Laundering Act, Public Law 102–550, 106 Stat. 3672 (Oct. 28, 1992) (Annunzio-Wylie).

¹¹ 31 U.S.C. 5318(h)(1), as added by section 1517(b) of Annunzio-Wylie. The Agencies note the proposed rule modifies the current sequencing of AML/CFT program components; however, the Agencies do not intend the change in sequencing

Later, the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act) further amended the BSA to include, among other things, customer identification program (CIP) requirements and the expansion of AML program rules to cover certain other financial industry participants (*e.g.*, credit unions and futures commission merchants).¹² The USA PATRIOT Act also made it mandatory for financial institutions to maintain AML programs that meet minimum prescribed standards.¹³ Through the exercise of its delegated authority, FinCEN is authorized to require each financial institution to establish an AML/CFT program to ensure compliance with the BSA and guard against ML/TF risks.¹⁴ Over time, FinCEN, the Agencies, and the Federal Reserve Board incorporated many of these standards into their respective program rules, and FinCEN implemented additional requirements for certain covered financial institutions into their respective program rules.¹⁵

Although in practice the FinCEN AML program rule and the Agencies’ compliance program rules for banks they supervise operate together, since the USA PATRIOT Act, banks under the Agencies’ supervision have been required to maintain compliance programs under separate legal authorities administered by (i) FinCEN under Title 31 and (ii) the Agencies under sections 8(s) and 206(q). Because the authority for each Agency’s BSA compliance program rule derives from and is required by sections 8(s) and 206(q), each Agency prescribes regulations requiring the banks they supervise to establish and maintain procedures reasonably designed to assure and monitor the compliance of such banks with the requirements of the BSA.

In 2003, FinCEN, the Agencies, the Federal Reserve Board, the Securities and Exchange Commission, and the Commodity Futures Trading Commission jointly issued final rules on CIP requirements,¹⁶ which were mandated by amendments to the BSA under the USA PATRIOT Act requiring

to modify or signify changes in any substantive requirements.

¹² 31 U.S.C. 5312(a)(2)(E) and 31 U.S.C. 5312(c), as added by section 321 of the USA PATRIOT Act, Public Law 107–56, 115 Stat. 272 (Oct. 26, 2001) (USA PATRIOT Act).

¹³ 31 U.S.C. 5318(h), as added by section 352 of the USA PATRIOT Act.

¹⁴ 31 U.S.C. 5318(a)(2), (h)(1), and (h)(2).

¹⁵ *See* FinCEN, Customer Due Diligence Requirements for Financial Institutions, 81 FR 29398 (May 11, 2016).

¹⁶ 68 FR 25090 (May 9, 2003).

financial institutions to implement a CIP as part of their BSA compliance program.¹⁷ The CIP requirements became part of the separate AML program rules for banks administered by FinCEN and each of the Agencies as well as the Federal Reserve Board, although the rules continued to function together by allowing banks to satisfy FinCEN’s rule by complying with their Agency’s rule or, as appropriate, the Federal Reserve Board’s rule.

In 2016, FinCEN amended its AML compliance program rules to incorporate customer due diligence (CDD) requirements, including beneficial ownership information collection requirements for certain covered financial institutions, including banks.¹⁸ Although the Agencies did not promulgate CDD requirements at that time, the Agencies examined supervised banks for compliance with those requirements under the authority of sections 8(s) and 206(q).¹⁹ With the exception of the CDD requirement, FinCEN’s rule was substantially similar to the rules of the Agencies and the Federal Reserve Board’s rules, and banks must currently comply with both FinCEN’s AML bank program rule and the BSA compliance rules of the Agencies and, as appropriate, the Federal Reserve Board.

B. The Anti-Money Laundering Act of 2020

On January 1, 2021, Congress enacted the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, of which the AML Act was a component.²⁰ With the passage of the AML Act, Congress stated that it was seeking to modernize and strengthen the AML/CFT regulatory framework, which “had not seen comprehensive reform or modernization” since the BSA was enacted in the 1970s.²¹ Among other

¹⁷ 31 U.S.C. 5318(I), as added by section 326 of the USA PATRIOT Act.

¹⁸ 81 FR 29398 (May 11, 2016).

¹⁹ Press Release, Joint Statement on Enforcement of Bank Secrecy Act/Anti-Money Laundering Requirements (Aug. 13, 2020), <https://www.occ.gov/news-issuances/bulletins/2020/bulletin-2020-75.html> and <https://www.fdic.gov/news/press-releases/2020/pr20091a.pdf>.

²⁰ William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Public Law 116–283, 134 Stat. 3388 (Jan. 1, 2021).

²¹ Congress noted in its Joint Explanatory Statement (JES) of the Committee of Conference accompanying the FY21 NDAA that: “the current [AML/CFT] regulatory framework is an amalgamation of statutes and regulations that are grounded in the [BSA], which the Congress enacted in 1970. This decades-old regime, which has not seen comprehensive reform and modernization since its inception, is generally built on individual reporting mechanisms (*i.e.*, currency transaction reports (CTRs) and suspicious activity reports (SARs)) and contemplates aging, decades-old

objectives, Congress intended for the AML Act to require “more routine and systemic coordination, communication, and feedback among financial institutions, regulators, and law enforcement to identify suspicious financial activities, better focusing bank resources to the AML task, which will increase the likelihood for better law enforcement outcomes.”²²

Section 6101(b) of the AML Act made several changes to the BSA’s AML/CFT program requirements.

First, section 6101(b) amended the BSA at 31 U.S.C. 5318(h)(2)(B) to state that, “[i]n prescribing the minimum standards for [AML/CFT programs], and in supervising and examining compliance with those standards, the Secretary of the Treasury, and the appropriate Federal functional regulator (as defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)) shall take into account” certain factors.

Second, section 6101(b) requires the Secretary, in consultation with the Attorney General, appropriate Federal functional regulators, relevant State financial regulators, and relevant national security agencies, to establish and make public government-wide AML/CFT priorities (AML/CFT Priorities). After consultation with the Federal functional regulators and relevant State financial regulators, the Secretary must promulgate regulations, as appropriate, to incorporate those priorities into revised program rules, and incorporation of the priorities must be included as a measure on which financial institutions are supervised and examined. FinCEN issued the first AML/CFT Priorities on June 30, 2021.²³

technology, rather than the current, sophisticated AML compliance systems now managed by most financial institutions.” Congress further stated that the AML Act “comprehensively update[s] the BSA for the first time in decades and provide[s] for the establishment of a coherent set of risk-based priorities.” Among other objectives, Congress intended for the AML Act to require “more routine and systemic coordination, communication, and feedback among financial institutions, regulators, and law enforcement to identify suspicious financial activities, better focusing bank resources to the AML task, which will increase the likelihood for better law enforcement outcomes.” H.R. Rep. No. 6395 (2020) at pp. 731–732 (Joint Explanatory Statement of the Committee of Conference).

²² H.R. Rep. No. 6395 (2020) at 732 (Joint Explanatory Statement of the Committee of Conference), <https://docs.house.gov/billsthisweek/20201207/116hrpt617-JointExplanatoryStatement.pdf>.

²³ See AML/CFT Priorities (June 30, 2021). As required by 31 U.S.C. 5318(h)(4)(C), the AML/CFT Priorities are consistent with Treasury’s National Strategy for Combating Terrorist and Other Illicit Financing (May 16, 2024). The AML/CFT Priorities are supported by Treasury’s National Risk Assessments on Money Laundering, Terrorist Financing, and Proliferation Financing (Mar. 2026). Additionally, Treasury is required to consult with

Third, section 6101(b) expands the BSA’s program rule requirement to formally include an express reference to CFT in addition to AML.

Fourth, section 6101(b) provides that the duty to establish, maintain, and enforce an AML/CFT program shall remain the responsibility of, and be performed by, persons in the United States who are accessible to, and subject to oversight and supervision by, the Secretary and the appropriate Federal functional regulator.

C. Prior BSA Modernization Efforts

The proposed rule also builds upon other recent efforts by FinCEN, the Agencies, and the Federal Reserve Board to modernize AML/CFT compliance program requirements for banks, both before and after the passage of the AML Act. These efforts include actions taken to revise the BSA regulatory regime through rulemakings, providing exemptive relief from regulatory requirements consistent with the purposes of the BSA, and clarifying regulatory requirements and supervisory standards through policy documents.

For example, on July 22, 2019, FinCEN, the Agencies, and the Federal Reserve Board issued a joint statement to clarify and explain their existing risk-focused approach to examinations of banks’ BSA/AML compliance program. This statement was intended to increase transparency into the risk-focused approach used by the Agencies and the Federal Reserve Board for planning and performing BSA/AML examinations, which included clarifying that the Agencies and the Federal Reserve Board “generally allocate more resources to higher-risk areas, and fewer resources to lower-risk areas” based on the bank’s unique risk profile.²⁴ FinCEN, the Agencies, and the Federal Reserve Board have also taken steps to highlight that customer relationships present varying levels of ML/TF risk and, in turn, to encourage banks to manage customer relationships and mitigate risks based on customer relationships, rather than decline to provide banking services to entire categories of

customers.²⁵ More recently, the Agencies and the Federal Reserve Board have, with FinCEN’s concurrence, issued an order permitting banks, as part of their CIP obligations, to collect Taxpayer Identification Number information from a third party rather than directly from the bank’s customer, subject to certain conditions.²⁶ FinCEN, the Agencies, and the Federal Reserve Board have also issued Frequently Asked Questions to clarify certain obligations related to filing a suspicious activity report (SAR) to help ensure banks are not needlessly expending resources on efforts that do not provide law enforcement and national security agencies with the critical information they need to detect, combat, and deter criminal activity, as well as to combat misconceptions that banks are required to terminate customer relationships based on the filing of a SAR.²⁷

With respect to prior rulemaking efforts, prior to the enactment of the AML Act, FinCEN published an ANPRM seeking public comment on potential regulatory amendments intended to increase the effectiveness of program rule requirements (Effectiveness ANPRM), which was informed by recommendations of the AML Effectiveness Bank Secrecy Act Advisory Group working group.²⁸ While the Effectiveness ANPRM was issued by FinCEN on a standalone basis, the Agencies and Federal Reserve Board were consultative partners with FinCEN

²⁵ See, e.g., Joint Statement on the Risk-Based Approach to Assessing Customer Relationships and Conducting Customer Due Diligence (July 6, 2022) (“Customer relationships present varying levels of money laundering, terrorist financing, and other illicit financial activity risks. The potential risk to a bank depends on the presence or absence of numerous factors, including facts and circumstances specific to the customer relationship. The Agencies continue to encourage banks to manage customer relationships and mitigate risks based on customer relationships, rather than decline to provide banking services to entire categories of customers.”)

²⁶ OCC, FDIC, NCUA, FinCEN, Agencies Issue Exemption Order to Customer Identification Program Requirements, (Jun. 27, 2025), <https://www.occ.gov/news-issuances/news-releases/2025/nr-ia-2025-60.html>.

²⁷ FinCEN et. al, Answers to Frequently Asked Questions Regarding Suspicious Activity Reporting and Other Anti-Money Laundering Considerations (Jan. 19, 2021) (clarifying, among other things, that there is no BSA regulatory requirement to terminate a customer relationship after the filing of a SAR or any specific number of SARs). See also FinCEN et. al, Frequently Asked Questions Regarding Suspicious Activity Reporting Requirements (Oct. 9, 2025), <https://www.fincen.gov/system/files/2025-10/SAR-FAQs-October-2025.pdf> (clarifying filing requirements related to potential structuring-related activity, documentation requirements related to not filing a SAR on potentially suspicious activity, and certain aspects of continuing activity reporting).

²⁸ FinCEN, Anti-Money Laundering Program Effectiveness, 85 FR 58023 (Sept. 17, 2020).

the Agencies on the National Illicit Finance Strategy, which must include a risk assessment. See Combating Terrorism and Illicit Financing, Public Law 115–44, 131 Stat. 934 (2017). As also required by 31 U.S.C. 5318(h)(4)(B), the Secretary, in consultation with the Attorney General, Federal functional regulators, relevant State financial regulators, and relevant national security agencies, must update the AML/CFT Priorities not less frequently than once every four years.

²⁴ See OCC Bulletin 23019–33, Bank Secrecy Act/Anti-Money Laundering: Joint Statement on the Risk-Focused Approach to BSA/AML Supervision (July 22, 2019).

when developing the proposal. More recently, on July 3, 2024, FinCEN published an NPRM proposing revisions to its AML/CFT program requirements for all financial institutions, including those applicable to banks,²⁹ and on August 9, 2024, the Agencies, along with the Federal Reserve Board, issued an NPRM proposing substantially similar amendments to their respective AML program rules applicable to banks they supervise (the 2024 Program NPRM).³⁰

In proposing this rule in coordination with FinCEN, the Agencies considered applicable statutory requirements and prior feedback on these recent BSA modernization efforts, including comments provided on FinCEN's Effectiveness ANPRM and those received on the 2024 Program NPRMs. While building upon these prior modernization efforts, the proposed rule is distinct and separate from prior BSA modernization rulemaking efforts.³¹

III. Overview of the Proposed Rule

A central objective of the Agencies' BSA modernization efforts is to create an AML/CFT supervisory and regulatory regime that is more effective in achieving the purposes of the BSA and culminating in the development of highly useful information related to illicit financial transactions for law enforcement and national security agencies.³² The proposed rule would further that objective by explicitly defining the requirements for a bank to establish and maintain an effective AML/CFT program. It would also adopt into regulations the AML Act's expectation that AML/CFT programs should be risk-based, including ensuring that banks direct more attention and resources toward higher-risk customers and activities, consistent with the risk profile of the bank, rather than toward lower-risk customers and activities.³³

The proposed rule would also revise the AML/CFT supervisory and examination process for banks by enhancing FinCEN's role in the Agencies' AML/CFT-related supervision

and enforcement process. In support of this objective, the proposed rule would establish a mechanism in which FinCEN—as the statutory administrator of the BSA—has an opportunity to review and provide feedback to the Agencies prior to certain AML/CFT-related enforcement and supervisory actions. This change will promote consistent approaches to AML/CFT supervision, culminating in the development of highly useful information related to illicit financial transactions for both banks and the law enforcement and national security agencies that depend upon those banks' critical BSA reporting. The enforcement requirements only apply to actions by the Agencies.

Proposed Rule

As noted above, the proposed rule would require banks to establish and maintain effective AML/CFT programs and define the requirements for doing so. In order for an AML/CFT program to be effective, the proposed rule would require a bank to establish an AML/CFT program and then maintain the AML/CFT program by implementing, in all material respects, the established AML/CFT program.

As described in more detail in section IV.D a bank would be required to establish a risk-based set of internal policies, procedures, and controls that is reasonably designed to ensure compliance with the BSA and its implementing regulations, 31 CFR chapter X. The risk-based set of internal policies, procedures, and controls must also be reasonably designed to (1) identify, assess, and document the bank's ML/TF risks through risk assessment processes that evaluate the risks of the bank's business activities, review and, as appropriate, incorporate the AML/CFT Priorities, and are updated promptly upon any change that the bank knows or has reason to know significantly changes the bank's ML/TF risks; (2) mitigate the bank's ML/TF risks consistent with the bank's risk assessment processes including by directing more attention and resources toward higher-risk customers and activities, rather than toward lower-risk customers and activities; and (3) conduct ongoing customer due diligence.

The proposed rule would also require a bank to establish an ongoing employee training program and independent AML/CFT program testing as part of its AML/CFT program. Finally, the proposed rule would require a bank to designate an individual responsible for establishing and implementing the AML/CFT program and coordinating

and monitoring day-to-day compliance; that individual would be required to be located in the United States and accessible to, and subject to oversight and supervision by, FinCEN or its designee and the appropriate Agency.

Under the proposed rule, in addition to establishing an AML/CFT program, the bank would be required to maintain that program by implementing, in all material respects, its established AML/CFT program. By structuring the requirement to have an effective AML/CFT program as distinct obligations to establish and maintain (via implementation) an AML/CFT program, the proposed rule is intended to clarify and reinforce the distinction between failures to establish an AML/CFT program and failures to implement a properly established program.

The distinction between establishing a program and maintaining a program by implementing it in all material respects is particularly important under the proposed rule for potential supervisory and enforcement actions. The proposed rule would not limit enforcement or supervisory actions for failures to establish an AML/CFT program. However, once a bank has properly established an AML/CFT program, the proposed rule would raise the threshold for significant supervisory or enforcement actions based solely on implementation deficiencies. Only significant or systemic failures by a bank to implement in all material respects an established program would warrant an "AML/CFT enforcement action" or a "significant AML/CFT supervisory action," as these terms are defined in the proposed rule. In this way, the proposed rule is intended to clarify and reinforce a supervisory and enforcement focus on addressing significant or systemic failures to implement a properly established AML/CFT program, rather than on isolated, technical, or immaterial implementation issues.³⁴

Importantly, under the proposed regulations, having an effective AML/CFT program would be more than a one-time adoption of a risk-based set of internal policies, procedures, and controls. Rather, a bank would be required to keep its risk-based set of internal policies, procedures, and controls—and the risk assessment processes that inform them—current as the bank's risk profile changes. For example, while a bank's risk-based set

²⁹ FinCEN, Anti-Money Laundering and Countering the Financing of Terrorism Requirements, 89 FR 55428 (Jul. 3, 2024).

³⁰ OCC, Federal Reserve Board, FDIC and the NCUA, Anti-Money Laundering and Countering the Financing of Terrorism Requirements, 89 FR 65242 (Aug. 9, 2024).

³¹ For an overview of the content of the Effectiveness ANPRM and the 2024 Program NPRM, and for an overview of comments received on both, refer to FinCEN's proposed revisions to its AML/CFT program requirements, issued concurrently with this NPRM.

³² 31 U.S.C. 5311.

³³ 31 U.S.C. 5318(h)(2).

³⁴ Federal Reserve Board, FDIC, NCUA, OCC, Joint Statement on Enforcement of Bank Secrecy Act/Anti-Money Laundering Requirements, (Aug. 13, 2020), <https://www.federalreserve.gov/frsr/regulations/statement-on-bank-secrecy-act-anti-money-laundering-enforcement.htm>.

of internal policies, procedures, and controls may, at one time, have been reasonably designed, they may no longer be reasonably designed given changes to the bank's risk profile. Similarly, an AML/CFT program would be more than a one-time creation of an employee training program or initiation of an independent testing mechanism: the bank would be required to keep such aspects of the AML/CFT program current as the bank's risk profile changes. Thus, even where a bank has previously established an AML/CFT program in accordance with the proposed rule, a failure to update the program to reflect significant changes in the bank's risk profile may result in the program no longer meeting the program establishment requirements, and the bank may accordingly be subject to supervisory or enforcement action for a failure to establish an effective AML/CFT program.

The proposed rule would also provide FinCEN with a greater role in the Agencies' supervisory process. To better ensure that the Agencies are performing "risk-focused" BSA supervision, the proposed rule would require that the Agencies consult with FinCEN prior to taking an AML/CFT enforcement action or a significant AML/CFT supervisory action. The Agencies would be required to give FinCEN written notice at least 30 days prior to taking such an action. FinCEN would have an opportunity to review the action and the relevant underlying information giving rise to it, and the Agencies would be required to consider any input offered by FinCEN concerning the effectiveness of the bank's AML/CFT program.

By explicitly defining the requirements for a bank to establish and maintain an effective AML/CFT program, and by standardizing the AML/CFT supervision and enforcement process for banks and across the Agencies, the proposed rule is expected to better achieve the purposes of the BSA, culminating in the development of highly useful information related to illicit financial transactions for banks and law enforcement and national security agencies. However, the Agencies do not intend for the proposed rule to provide banks permission to establish an AML/CFT program that might be interpreted as meeting the proposed rule's technical requirements on their face, but do not effectively detect and prevent ML/TF activity. To establish a compliant AML/CFT program under the proposed rule, a bank must, among other things, establish a risk-based set of internal policies, procedures, and controls that is reasonably designed to ensure

compliance with the BSA and 31 CFR chapter X, including through the adoption of risk assessment processes. A critical element of this requirement is that the bank's risk-based set of internal policies, procedures, and controls be "reasonably designed." For example, if a bank's program testing reveals that a new customer type or new activity is high risk, but the bank does not take any action to revise the design of its risk-based set of internal policies, procedures, and controls and therefore treats the customer or activity as presenting low risk, then its program should not be considered reasonably designed. The Agencies believe that banks have a better understanding of their customer bases and businesses and are best positioned to identify and evaluate their ML/TF risks. Therefore, under this proposed rule banks will continue to have significant flexibility and discretion in their decisions and determinations related to risk identification and resource allocation. The Agencies will assess whether: (1) a bank's resource allocation decisions are consistent with a reasonably designed risk assessment processes; and (2) with respect to implementation, specifically, whether the bank knows or should know of resource-related issues involving its risk-based set of internal policies, procedures, and controls that may result in the bank failing to implement its AML/CFT program in all material respects and has failed to address such issues.

Similarly, the Agencies expect a bank to be examined for its implementation of the established AML/CFT program in all material respects. Merely designating an individual responsible for establishing and implementing the AML/CFT program and having that individual establish risk-based internal policies, procedures, and controls, an ongoing employee training program, and an independent AML/CFT program testing program, are not sufficient to satisfy the proposed rule's obligations for a bank to have an effective AML/CFT program. Rather, a bank would be examined for the implementation, in all material aspects, of its established AML/CFT program, including the determination that the bank is, in fact, allocating resources commensurate with its established AML/CFT program, which the proposed rule would require to be consistent with and its reasonably designed risk assessment processes.

IV. Section-by-Section Analysis

This section-by-section analysis describes the specific proposed changes to the Agencies' BSA compliance program rules. Section IV.A addresses

the proposed incorporation of CFT into the program rules. Section IV.B discusses the requirements for an "effective" AML/CFT program to comply with the requirements of the proposed rule. Section IV.C explains what it means to "establish" and "maintain" an effective AML/CFT program. Section IV.D describes the components of program establishment, including (1) a risk-based set of internal policies, procedures, and controls (including risk assessment processes); (2) independent program testing; (3) an individual, located in the United States and accessible to FinCEN and the Agencies, responsible for establishing and maintaining the program, and coordinating and monitoring day-to-day compliance; and (4) ongoing employee training. Section IV.E discusses the requirements that the AML/CFT program be written, accessible, and approved by a bank's Board of Directors, an equivalent governing body within the bank, or appropriate senior management. Section IV.F addresses the Customer Identification Program, Section IV.G addresses the supervision and enforcement section of the proposed rule, and Section IV.H discusses technical changes that the proposal makes to the existing rules to improve clarity and consistency across the program rules. Lastly, Section IV.I discusses disclosure of supervisory information.

A. Inserting the Term "CFT" Into the Program Rules

Section 6101(b)(2)(A) of the AML Act amends 31 U.S.C. 5318(h)(1) to reference "countering the financing of terrorism"³⁵ in addition to "anti-money laundering" when describing the requirement to establish an AML/CFT program. The Agencies propose to update the AML/CFT program rules to reflect this new statutory language. For example, the proposed rule would change the title of the Agencies' program rules from "Bank Secrecy Act compliance" to "Anti-Money Laundering/Countering the Financing of Terrorism Compliance, Supervision, and Enforcement." Similar changes would apply to the titles of relevant parts and subparts.

The inclusion of "CFT" in the BSA compliance program rule would not create new obligations for banks, insofar as the USA PATRIOT Act already requires them to account for risks

³⁵ Countering the financing of terrorism (CFT) includes laws, rules, regulations, or other measures intended to detect and disrupt the solicitation, collection, or provision of funds to support terrorist acts or terrorist organizations, or other violent extremist groups.

related to terrorist financing. Accordingly, the Agencies expect any changes to existing AML/CFT programs from the amendments described in this subsection to be technical and therefore not have any substantive impact on banks' compliance obligations.

B. An "Effective" AML/CFT Program

In prescribing the minimum standards for an AML/CFT program and in supervising and examining compliance with those standards, the AML Act requires the Secretary and the appropriate Federal functional regulator to take into account that effective AML/CFT programs safeguard national security and help law enforcement prevent the flow of illicit funds in the financial system.³⁶ Further, the AML Act contemplates AML/CFT requirements focusing on achieving effective outcomes rather than dictating the processes used to reach those outcomes, an orientation the Agencies intend to reflect in the proposed rule. Consistent with the Agencies' long-standing expectations regarding what effective outcomes entail, the Agencies believe that, as a practical matter, it is not possible for a bank's AML/CFT program to detect and report all potentially illicit transactions that flow through the institution.³⁷ Similarly, a bank's AML/CFT program can be effective without preventing every minor instance of a bank falling prey to illicit finance misuse. Accordingly, the proposed rule would set out that, from a supervisory and enforcement perspective, an AML/CFT program is "effective" and complies with the Agencies' regulatory requirements promulgated under 12 U.S.C. 1818(s) or 12 U.S.C. 1786(q), as applicable, so long as it is established and maintained in accordance with applicable requirements.

The proposed rule would provide that a bank has an "effective" program if it (1) is established in accordance with the proposed rule's establishment requirements; and (2) is maintained, meaning that a properly established AML/CFT program is implemented in all material respects.

One of the AML Act's key purposes is to "encourage technological innovation and the adoption of new technology by financial institutions to more effectively counter money laundering and

financing of terrorism."³⁸ Consistent with this purpose, the Agencies encourage banks to evaluate whether new technology or innovative approaches in other resources might help to combat financial crime more effectively. Innovative approaches could involve machine learning, generative artificial intelligence (GenAI), digital identity, blockchain monitoring and analytics, or application programming interfaces (APIs).

The Agencies recognize that adopting new technologies for BSA compliance may not be suitable for all banks, particularly smaller ones, and the proposed rule therefore does not reference or require the use of any particular technology. A bank may find it beneficial to consider whether its AML/CFT program appropriately uses the bank's existing resources, including technology and data. However, consistent with longstanding guidance, the Agencies encourage banks to engage in responsible AML/CFT innovation.³⁹ Banks that responsibly incorporate innovative technologies into their AML/CFT programs will not incur on that basis any additional risk of being subject to a significant supervisory action or enforcement action solely based on the use of innovative technologies.

C. Establishing and Maintaining an AML/CFT Program

The requirement that a bank establish and maintain an AML/CFT program is not new, although over time various formulations of this requirement have developed in statutes and regulations.⁴⁰

The proposed rule would harmonize and delineate the regulatory requirements that must be met for banks to have an effective AML/CFT program. That is, the proposed rule would create a two-pronged framework under which a bank's AML/CFT program would be

deemed to be effective if the bank establishes and maintains its program. Under the proposed rule, a bank maintains its properly established AML/CFT program by implementing it in all material respects.

1. Establishing Versus Maintaining an AML/CFT Program

For a bank to have an effective AML/CFT program, the proposed rule would require a bank to establish an AML/CFT program and then maintain the AML/CFT program by implementing, in all material respects, the established AML/CFT program. The proposed rule describes the requirements for an effective AML/CFT program to be established and maintained. The AML/CFT program minimum components constituting program establishment, and described in further detail in Section V.D below, are: (1) a risk-based set of internal policies, procedures, and controls (including risk assessment processes); (2) independent program testing; (3) an individual, located in the United States and accessible to FinCEN and the appropriate Agency, responsible for establishing and maintaining the program, and coordinating and monitoring day-to-day compliance; and (4) ongoing employee training.

"Establishing" an AML/CFT program involves designing an AML/CFT program that incorporates all of the required components. "Maintaining," by contrast, addresses whether the bank is implementing that program in practice. The regulation uses the term "implement" to describe this second prong. The distinction between establishing a program and maintaining a program by implementation matters because the proposed rule ties the availability of AML/CFT enforcement and significant supervisory actions based on the program rule for an established bank program to a significant or systemic failure to "implement" the properly established AML/CFT program. The distinction between establishing and "maintaining" an AML/CFT program is intended to make transparent how the individual elements of the proposed rule work together.

Separating program establishment from program maintenance therefore provides needed clarity regarding whether a supervisory concern relates to deficiencies stemming from the program's design, on the one hand, or failures in the program's operation, on the other. This two-prong framework would help promote consistent articulation of supervisory expectations and prevent conflating criticisms of program design—the remediation of

³⁶ William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Public Law 116–283, 134 Stat. 4547 at section 6002(3) (Jan. 1, 2021).

³⁹ Federal Reserve Board, FDIC, FinCEN, NCUA, OCC, Joint Statement on Innovative Efforts to Combat Money Laundering and Terrorist Financing, (Dec. 3, 2018), <https://www.fincen.gov/system/files/2018-12/joint%20Statement%20on%20Innovation%20Statement%20%28Final%2011-30-18%29%20508.pdf>.

⁴⁰ For instance, the provision of the BSA which requires financial institutions to have AML/CFT program rules states that "each financial institution shall *establish*" (emphasis added) such programs, including certain requirements as specified. See 31 U.S.C. 5318(h)(1). The corresponding Federal statute requiring each appropriate Federal banking agency to prescribe regulations requiring their supervised institutions to have BSA compliance programs states that these banks must "establish and maintain procedures reasonably designed to assure and monitor the compliance" with the requirements of the BSA. 12 U.S.C. 1818(s)(1).

³⁶ See 31 U.S.C. 5318(h)(2)(B)(iii).

³⁷ Federal Financial Institution Examination Council, BSA/AML Assessing Compliance with BSA Regulatory Requirements — Suspicious Activity Reporting, <https://bsaaml.ffiec.gov/manual/AssessingComplianceWithBSARegulatoryRequirements/04>.

which would likely be different in kind—with criticisms of day-to-day implementation. The proposed distinction does not change the substantive obligations for the bank.

As noted previously, the Agencies intend for the requirements of this proposed rule to not be limited to a one-time adoption of the elements required for program establishment, such as a risk-based set of internal policies, procedures, and controls. Rather, the Agencies intend a bank's establishment of its AML/CFT program to require the bank's risk-based set of internal policies, procedures, and controls—and the risk assessment processes that inform them—to remain current as the bank's risk profile changes. For example, if a bank begins providing a new product or service—or changes how it provides an existing product or service, such as operating in a new geographic location—under this proposed rule, a bank would need to incorporate its new product or service as part of its risk assessment processes. The proposed rule would require a bank to make a risk determination and, as appropriate, redesign its risk-based set of internal policies, procedures, and controls to account for the risks that it did not previously encounter prior to offering the new product or service, or operating in the new geographic location. Thus, under the proposed rule, even where a bank has previously established an AML/CFT program in accordance with the proposed rule, a failure to update the program to reflect significant changes in the bank's risk profile may result in the program no longer satisfying the proposed rule's requirements regarding establishment.

2. Implementation of an AML/CFT Program

Once a bank has properly “established” an AML/CFT program, the bank must “maintain” the program by implementing it, in all material respects. Minor deficiencies of an AML/CFT program would not necessarily mean that a bank has failed to implement the program.

Although there are a variety of ways that a bank may not be implementing its program “in all material respects,” in the Agencies' experience, commonly observed examples may include, but would not be limited to: (1) internal policies, procedures, and controls are not being performed or not being performed on a consistent, regular, and timely basis (e.g., consistently ignored warnings or red flags that a program was seriously deficient) due to the nature or extent of required resources becoming inadequate; (2) gaps in the risk

assessment processes that result in the bank's program internal policies, procedures, and controls missing or inadequately covering higher ML/TF risks (e.g., systems used to monitor for potentially suspicious activity failing to capture material volumes or types of transactions); or (3) deficiencies or weaknesses in the risk assessment processes that have a material impact on the bank's mitigation of ML/TF risks through its risk-based set of internal policies, procedures, and controls, including due to data-related issues involving relevant processes and systems.

Similarly, the Agencies expect that a bank could become aware of such implementation-related concerns through a variety of mechanisms, including but not limited to: (1) independent testing of the AML/CFT program; (2) examiner observations, suggestions, or other informal comments about the AML/CFT program; (3) management information systems and related reports or other outputs (e.g., key performance indicators or key risk indicators, such as monitoring for potentially material backlogs in relevant AML/CFT processes), and (4) issues identified by personnel involved in the operation of the bank's AML/CFT program.

D. Program Establishment

As noted earlier, pursuant to 31 U.S.C. 5318(h), the Agencies' AML/CFT program requirements for banks currently require certain minimum elements, including: (1) a risk-based set of internal policies, procedures, and controls; (2) an independent audit function to test programs; (3) a designated compliance officer; and (4) an ongoing employee training program. The majority of the proposed rule's AML/CFT program components are substantially similar to the existing regulatory requirements for banks. However, the Agencies are proposing certain additions and modifications to modernize and strengthen banks' AML/CFT programs to allow banks to better mitigate illicit finance risks.

1. Internal Policies, Procedures, and Controls

The Agencies' rules currently require banks to develop “a system of internal controls to assure ongoing compliance” with the requirements of the BSA as part of their AML/CFT programs.⁴¹ The Agencies' existing program rules, however, do not clearly articulate what it means to establish such a system of

internal policies, procedures, and controls to ensure compliance.

Under the proposal, the Agencies are amending and clarifying the current internal control pillar requirements. Specifically, the proposal provides that banks must establish a risk-based set of internal policies, procedures, and controls that is reasonably designed to: (1) identify, assess, and document ML/TF risks through risk assessment processes; (2) mitigate ML/TF risks consistent with the risk assessment processes, including by directing more attention and resources toward higher-risk customers and activities rather than toward lower-risk customers and activities; and, (3) conduct ongoing CDD. The preamble addresses each of these features below.

Under this proposal, a bank's risk-based set of internal policies, procedures, and controls should be based upon, informed by, and consistent with a bank's risk assessment processes. The internal policies, procedures, and controls should be commensurate with the size, structure, risk profile, and complexity of the bank. The requirement that a bank's risk-based set of internal policies, procedures, and controls be “reasonably designed” gives banks flexibility in how they achieve compliance with the BSA and the proposed rule's other requirements. As part of having a risk-based set of internal policies, procedures, and controls, reasonably designed to ensure compliance, banks may choose to responsibly adopt new technologies or innovative approaches to comply with BSA requirements. Consistent with this purpose, the Agencies encourage banks to evaluate whether new technology or innovative approaches in other resources might help to more effectively combat financial crime. Innovative approaches could involve machine learning, GenAI, digital identity, blockchain monitoring and analytics, or APIs.

i. Risk Assessment Processes

The Agencies are proposing that, as part of a bank's risk-based set of internal policies, procedures, and controls, the bank identify, assess, and document the bank's ML/TF risk through risk assessment processes that: (1) evaluate the ML/TF risks of the bank's business activities, including products, services, distribution channels, customers, and geographic locations; (2) review and, as appropriate, incorporate the AML/CFT Priorities; and (3) update promptly upon any change that the bank knows or has reason to know significantly changes the bank's ML/TF risks.

⁴¹ See, 12 CFR 21.21(d)(1) (OCC); 12 CFR 326.8(c)(1) (FDIC); and 12 CFR 748.2(c)(1) (NCUA).

The Agencies have traditionally viewed risk assessment processes as a critical tool of a reasonably designed BSA compliance program; a bank cannot implement a reasonably designed program to achieve compliance with the BSA unless it understands its risk profile.⁴² Most banks already use risk assessments or risk assessment processes to structure their risk-based compliance programs. Despite being viewed as a critical tool, the Agencies' regulations do not currently explicitly require such risk assessment processes nor outline mandatory considerations for such processes. Thus, the proposed rule would codify into regulations the requirement for banks to establish risk assessment processes, thereby clarifying existing expectations and practices, as well as require specific factors for consideration that are responsive to the AML Act.

Importantly, the proposed rule requires, as a part of a bank's risk-based set of internal policies, procedures and controls, that it identify, assess, and document its ML/TF risks using risk assessment processes. A bank would retain flexibility in how it would document the results of its risk assessment processes. As proposed, banks would not be required to establish a single, consolidated risk assessment document solely to comply with the proposed rule. While such a document may be appropriate under the proposal, the use of the term "risk assessment processes" is intended to reflect that a financial institution may rely on multiple processes—applied as appropriate within its AML/CFT program—to identify, assess, and document its ML/TF risks and will be examined based on the totality of these processes rather than the sufficiency of a single, standalone risk assessment document.

The Agencies believe banks are best positioned to identify and evaluate their

ML/TF risk and are therefore not prescribing any particular risk assessment processes or methodologies other than the critical elements described in this proposed rule. Under the proposed rule, banks would be examined for whether they have established and maintained, in all material respects, reasonably designed risk assessment processes—which need not be in the form of a singular risk assessment process. Furthermore, the Agencies are not prescribing any particular time frame for banks to update their risk assessment processes.

The Agencies recognize that banks vary significantly in size, structure, complexity, and risk profile. Under the proposed rule, bank's risk-based set of internal policies, procedures, and controls—including its risk assessment processes—should be commensurate with the bank's size, structure, risk profile, and complexity. Accordingly, banks with broader product offerings, more complex corporate structures, or greater exposure to higher-risk customers, products, services, or geographic locations would be expected to establish correspondingly more formalized or analytically complex internal policies, procedures, and controls—including risk assessment processes. By contrast, many community banks operate with more limited business activities, traditional lending and deposit services, a narrower geographic footprint, and customer bases concentrated within defined local communities. For such banks, risk assessment processes may appropriately be more streamlined or qualitative in nature, and a risk-based set of internal policies, procedures, and controls that is reasonably designed for a large, complex financial organization would not necessarily be required or appropriate for a community bank with a more limited risk profile.

As noted previously, most banks already design their BSA compliance programs based on their assessment of ML/TF risks under existing risk assessment processes. The Agencies expect that most banks will be able to leverage their existing risk assessment processes to satisfy the proposed requirement without making significant changes.

a. ML/TF Risks

The proposed rule would require banks' risk assessment processes to evaluate the ML/TF risks of the bank's business activities, including products, services, distribution channels, customers, and geographic locations. These factors are generally well known and often incorporated into current risk

assessment processes of banks. While most banks are generally familiar with these concepts, "distribution channels" may be a newer term for some banks. For purposes of this rule, the Agencies consider "distribution channels" to refer to the methods and tools through which a bank opens accounts and provides products or services, including, for example, through remote or other non-face-to-face means.

Banks may use a variety of sources to inform their risk assessment processes. Such sources may include information obtained from other financial institutions, such as emerging risks and typologies identified through section 314(b) information sharing or payment transactions that other financial institutions returned or flagged due to ML/TF risks.⁴³ Information a bank generates or maintains could be another source. Internal information may include, for example, customer internet protocol addresses or device logins and related geolocation information.

Feedback from FinCEN, law enforcement, and financial regulators may also inform risk assessment processes. For example, if a bank receives feedback from law enforcement about a report it has filed or potential risks at the bank, the bank may incorporate that information into its risk assessment processes. Similarly, banks may consider information identified from responding to section 314(a) requests.

In addition to feedback, reports and analyses published by Treasury and FinCEN may be particularly relevant to a bank's business activities, thereby warranting consideration when evaluating ML/TF risks. For example, Treasury describes changes in the illicit finance risk environment in its biennial National Money Laundering Risk Assessment, National Terrorist Financing Risk Assessment, and National Proliferation Financing Risk Assessment, which highlight significant illicit finance threats, vulnerabilities, and risks.⁴⁴ Regardless of the source, banks should take measures in their risk assessment processes to ensure this

⁴² Joint Statement on Risk-Focused Bank Secrecy Act/Anti-Money Laundering Supervision (July 22, 2019), <https://www.fdic.gov/sites/default/files/2024-03/pr19065a.pdf>. The Joint Statement on Risk Focused BSA/AML Supervision, July 22, 2019, clarifies the Agencies' and the Federal Reserve Board's long-standing supervisory approach to examining for compliance with the BSA considers a financial institution's risk profile and notes that "[a] risk-based [AML] compliance program enables a bank to allocate compliance resources commensurate with its risk." It further clarifies that a well-developed risk assessment process assists examiners in understanding a bank's risk profile and evaluating the adequacy of its AML program. The statement also explains that, as part of their risk-focused approach, examiners review a bank's risk management practices to evaluate whether a bank has developed and implemented a reasonable and effective process to identify, measure, monitor, and control risks.

⁴³ See FinCEN, Section 314(b) Fact Sheet, (Dec. 2020), www.fincen.gov/system/files/shared/314bfactsheet.pdf.

⁴⁴ See U.S. Dep't of Treasury, 2026 Nat. Money Laundering Risk Assess. (Mar. 2026), <https://home.treasury.gov/system/files/246/2026-NMLRA.pdf>; U.S. Dep't of Treasury, 2026 Nat. Terrorist Financing Risk Assess. (Mar. 2026), <https://home.treasury.gov/system/files/246/2026-NTFRA.pdf>; U.S. Dep't of Treasury, 2026 Nat. Proliferation Financing Risk Assess. (Mar. 2026), <https://home.treasury.gov/system/files/246/2026-NPFRRA.pdf>.

information is reasonably current, complete, and accurate.

b. AML/CFT Priorities

The AML/CFT Priorities set out the priorities for the U.S. government's AML/CFT policy as required by the AML Act and are designed to ensure that banks' AML/CFT programs are aligned with those priorities. Recognizing the diverse nature of ML/TF threats facing the U.S. financial system and national security, and that bank AML/CFT programs benefit U.S. national security by safeguarding the financial system from ML/TF risk, the AML/CFT Priorities are intended to ensure that banks are focusing on the greatest threats to U.S. national security, as defined by Treasury.

Section 6101 of the AML Act requires that a financial institution's review and appropriate incorporation of the AML/CFT Priorities into its AML/CFT program be subject to supervision and examination for compliance with the BSA and other AML/CFT laws and regulations.⁴⁵ The Agencies are implementing this statutory requirement by proposing that, as part of their risk assessment processes, banks must review and, as appropriate, incorporate the AML/CFT Priorities. The inclusion of the AML/CFT Priorities in risk assessment processes is meant to help ensure that banks understand their exposure to risks in areas that are of particular importance nationally, which may help banks develop risk-based and reasonably designed AML/CFT programs.

The Agencies understand that the AML/CFT Priorities may not always be applicable to a bank's risk profile and activities. Therefore, the Agencies require the incorporation of the AML/CFT Priorities in a bank's risk assessment processes, as appropriate. This means that, having reviewed the AML/CFT Priorities, a bank may determine the extent to which a particular Priority is applicable and whether and how a particular AML/CFT Priority should be appropriately incorporated into its risk assessment processes.

Further, a bank may use its judgment and apply a reasonable, risk-based determination on whether to focus on a specific aspect of an AML/CFT Priority, rather than addressing all aspects of a Priority that may either not be applicable or pose lower risks to the bank. However, the Agencies caution that a surface-level, perfunctory review of an AML/CFT Priority by a bank and of the foreseeable ways in which it may

manifest itself within the bank's customers, products and services, geographies, and distribution channels would not satisfy this requirement. For example, patterns of transactions that may be consistent with potential structuring should not automatically be dismissed as lower value to law enforcement and untethered to an AML/CFT Priority without determining whether there is a potential connection to various types of other illicit finance activity (*e.g.*, structuring or similar patterns involving transactions in narcotics trafficking proceeds).

Whenever the AML/CFT Priorities are updated, banks would no longer be required to incorporate prior versions of the AML/CFT Priorities. Banks would only be required, as appropriate, to incorporate the most recent AML/CFT Priorities into their risk-based AML/CFT programs.

The Agencies anticipate that some banks, such as community banks, may ultimately determine that their business models and risk profiles have limited exposure to some of the threats addressed in the AML/CFT Priorities but instead have greater exposure to other ML/TF risks. Additionally, some banks' risk assessment processes may determine that their AML/CFT programs already sufficiently incorporate to some extent, the AML/CFT Priorities. In either case, any changes to banks' AML/CFT program, such as internal policies, procedures, or controls would be based on the results of risk assessment processes and their impact on the AML/CFT program, including how to review and, as appropriate, incorporate the AML/CFT Priorities before making these determinations.⁴⁶ The Agencies request comment from the public on whether additional guidance related to the consideration of the AML/CFT Priorities as part of an institution's risk assessment processes would be warranted.

c. Updates to Risk Assessment Processes

The proposed rule would require banks to update their risk assessment processes promptly upon any change that the bank would know or have reason to know would significantly change their ML/TF risk profile. For example, a bank may need to update its risk assessment when new products, services, and customer types are introduced; existing products, services, and customer types undergo significant changes; when the bank adopts new risk mitigation technology; or the bank as a

whole expands or contracts through mergers, acquisitions, and divestitures. Banks may also need to update their risk assessment processes based on factors external to their operations that they know or have reason to know significantly change their ML/TF risk profiles. The Agencies welcome comments on whether it should further clarify when banks must review or update their risk assessment processes.

ii. Mitigate ML/TF Risks Through Risk-Based Allocation of Attention and Resources

Section 6101(b) of the AML Act states that the AML/CFT programs of financial institutions should be "risk-based, including ensuring that more attention and resources of financial institutions should be directed toward higher-risk customers and activities, consistent with the risk profile of a financial institution, rather than toward lower-risk customers and activities."⁴⁷ The proposed rule would adopt this formulation as part of a bank's obligation to establish a risk-based set of internal policies, procedures, and controls. Under the proposed rule, a bank's efforts to mitigate its ML/TF risks would involve "directing more attention and resources toward higher-risk customers and activities, consistent with the risk profile of [a bank], rather than toward lower-risk customers and activities."

The Agencies view risk-based allocation of resources as a critical step in realizing the AML Act's BSA modernization and reform ambitions, and consistent with the Agencies' ongoing efforts to modernize AML/CFT compliance and supervision. The proposed rule envisions banks exercising more flexibility in deploying attention and resources in accordance with the proposed rule without fear of supervisory criticism or action from examiners for directing more attention and resources on higher risk customers and activities, rather than toward lower risk customers and activities.

The goal of risk-based resource allocation is for banks to spend less time, energy, and resources on lower priority activities that may result in less resources devoted to and potentially distract from more serious threats. The proposed rule would enable banks to focus more on higher risk customers and activities, which the Agencies have determined should result in banks being more effective at detecting, reporting, and preventing the flow of illicit funds and providing law enforcement with more valuable BSA reporting.

⁴⁶ FinCEN's concurrently issued proposal provides additional clarity on how FinCEN anticipates addressing the AML/CFT Priorities.

⁴⁷ 31 U.S.C. 5318(h)(2)(B)(iv)(II).

⁴⁵ 31 U.S.C. 5318(h)(4)(E).

As noted above, the Agencies believe that banks are best positioned to identify and evaluate their ML/TF risk and to make decisions related to risk identification and resource allocation in accordance with risk identification. The proposed rule, therefore, does not contemplate second-guessing of a bank's reasonable determinations regarding appropriate resource allocation or conclusions regarding specific risks. However, while the Agencies do not believe that an examiner should substitute his or her own subjective judgment in place of the bank's, examiners will be expected to assess whether (1) a bank's resource allocation decisions are informed by, and consistent with, reasonably designed risk assessment processes; and (2) with respect to implementation, specifically, whether the bank knows or should know of resource-related issues involving its internal policies, procedures, and controls and other mandatory elements that may result in the bank failing to implement its AML/CFT program in all material respects and has failed to address such issues.

iii. Conduct Ongoing Customer Due Diligence

The proposed rule would add CDD as a required component of the Agencies' AML/CFT program rule. Appropriate risk-based procedures for conducting ongoing CDD—in the form of understanding the nature and purpose of customer relationships and conducting ongoing monitoring—is currently a required component in FinCEN's AML program rule,⁴⁸ and, therefore, banks are already required to comply with these ongoing CDD requirements under FinCEN's rule. The inclusion of risk-based procedures for conducting ongoing CDD in the Agencies' proposed rules would mirror FinCEN's existing rule and reflect the Agencies' long-standing supervisory expectations. Long before FinCEN amended its AML program rule to expressly include the CDD component requirement, the Agencies had considered CDD an integral component of a risk-based program, enabling the bank to understand its customers and its customers' activity to better identify suspicious activity. Adding the CDD component to the Agencies' AML/CFT program rule will eliminate confusion for banks concerning the current differences with FinCEN's rule. Because banks must already comply with FinCEN's CDD component requirement,

the proposed change should not alter current compliance practices.

The proposed rule would incorporate CDD requirements not as a standalone pillar, but instead by making them part of the requirement that banks establish a risk-based and reasonably designed set of internal policies, procedures, and controls. As noted previously, the activities required to conduct ongoing CDD, such as monitoring customer relationships, maintaining and updating customer information on a risk basis, and identifying and reporting suspicious transactions are, in practice, subsumed by the obligation for a bank to have a risk-based and reasonably designed set of internal policies, procedures, and controls and have long been viewed by the Agencies as integral to component of a bank's internal controls. Accordingly, establishing these requirements within this pillar more accurately reflects how banks operationalize ongoing customer due diligence as part of their overall AML programs.

2. Independent Testing

The Agencies have required banks to perform independent testing since the original adoption of their BSA compliance program rules. The AML Act did not change the BSA's separate requirement that each bank must independently test its AML/CFT program.⁴⁹ The proposed rule therefore retains the existing requirement for banks to establish independent AML/CFT program testing to be conducted by bank personnel or an outside party with minor, non-substantive clarifications that are not intended to change regulatory requirements.

The purpose of independent testing is to assess the bank's compliance with AML/CFT statutory and regulatory requirements, relative to its risk profile. The independent AML/CFT program testing should be focused on whether the AML/CFT program is effective, and it should identify issues and areas for remediation accordingly.

To support the effective implementations of an AML/CFT program, independent testing should be based on objective criteria designed to assess whether a bank has established and implemented an effective AML/CFT program and allocated resources consistent with its risk assessment processes. These criteria should also assess whether related project governance is sufficient to manage risks and apply compensating controls where necessary, particularly in areas where remediation is underway. This

evaluation helps to inform the bank's board of directors and senior management of weaknesses or areas in need of enhancement or stronger controls. Typically, this evaluation includes a conclusion about the bank's overall compliance with AML/CFT statutory and regulatory requirements and sufficient information for the reviewer (e.g., board of directors, senior management, AML/CFT officer, outside auditor, or an examiner) to reach a conclusion about whether the set of internal policies, procedures, and controls is reasonably-designed, and resources are well-allocated consistent with the bank's risk assessment processes.

Additionally, while banks retain some flexibility regarding who conducts the audit or testing, the proposed rule would continue to require that testing be independent. Banks that do not employ outside auditors or consultants or that do not have internal audit departments may comply with this requirement by using internal staff who are not involved in the function being tested. For these banks and banks with other types of arrangements for independent testing, the AML/CFT officer or any party who directly, and in some cases indirectly, reports to the AML/CFT officer, or an equivalent role, would generally not be considered sufficiently independent. Any individual conducting the testing, whether internal or external, would be required to be independent of other parts of the bank's AML/CFT program, including its oversight. For banks that engage outside auditors or consultants, the bank would be required to ensure that the outside parties conducting the independent testing are not involved in functions related to the AML/CFT program at the bank that may present a conflict of interest or lack of independence, such as AML/CFT training or the development or enhancement of internal policies, procedures, and controls. Additionally, for the purposes of the independent testing component, outside parties would not include government agencies, entities, or instrumentalities, such as a bank's Federal or state functional regulators. Banks with less complex operations and lower risk profiles may consider utilizing a shared resource as part of a collaborative arrangement to conduct testing, as long as the testing is independent.⁵⁰

⁵⁰ See Federal Reserve Board, FDIC, NCUA, OCC, and FinCEN, Interagency Statement on Sharing Bank Secrecy Act Resources (Oct. 3, 2018), <https://www.fincen.gov/news/news-releases/interagency-statement-sharing-bank-secrecy-act-resources>.

⁴⁸ See 31 CFR 1020.210(a)(2)(v) and (b)(2)(v).

⁴⁹ 31 U.S.C. 5318(h)(1)(D).

3. Designate an AML/CFT Officer Located in the United States

i. Duties of the AML/CFT Officer

The Agencies have required banks to “designate an individual or individuals responsible for coordinating and monitoring day-to-day compliance” since the inception of their program requirements. The BSA separately requires that banks with AML/CFT program obligations must have a designated compliance officer, which was not altered by the AML Act. As in the Agencies’ current BSA compliance program rules, the proposed rule would provide that an AML/CFT program must designate an individual(s) (referred to as an AML/CFT officer) responsible for establishing and implementing the AML/CFT program and coordinating and monitoring day-to-day compliance with the requirements and prohibitions of the BSA and FinCEN’s implementing regulations. The Agencies’ view is that the individual serving as the AML/CFT officer must be qualified for that role and not overburdened with other responsibilities at the institution. The Agencies are proposing clarifying and technical changes to the AML/CFT officer requirement, as well as changes to incorporate to FinCEN’s interpretation of 31 U.S.C. 5318(h)(5), as discussed below. These changes are generally not expected to impose new obligations on banks.

Consistent with current requirements, the proposed rule is not intended to be primarily concerned about the formal title of the individual(s) responsible for establishing and implementing the AML/CFT program and coordinating and monitoring day-to-day compliance; instead, the proposed rule focuses on the AML/CFT officer’s position in the bank’s organizational structure that enables the AML/CFT officer to effectively establish and implement the bank’s AML/CFT program. The AML/CFT officer’s authority, independence, and access to resources within the bank are critical. An AML/CFT officer should have decision-making capability regarding the AML/CFT program and sufficient functional stature within the organization to ensure that the program meets BSA requirements.

The AML/CFT officer’s access to resources may include: adequate compliance funds and staffing with the skills and expertise appropriate to the bank’s risk profile, size, and complexity; an organizational structure that supports compliance and effectiveness; and sufficient technology and systems to support the timely identification, measurement, monitoring, reporting, and management of the bank’s ML/TF

risks. An AML/CFT officer with conflicting responsibilities that adversely impact the officer’s ability to effectively coordinate and monitor day-to-day AML/CFT compliance generally would not fulfill this requirement. The addition of the explicit requirement that the AML/CFT officer be responsible for “establishing and implementing the AML/CFT program” in the proposed rule would make explicit a long-standing supervisory expectation, rather than changing current supervisory expectations.

ii. The AML/CFT Officer Must Be Located in the United States and Accessible to Regulators

The AML Act provides that the duty to establish, maintain, and enforce a bank’s AML/CFT program shall remain the responsibility of, and be performed by, persons in the United States who are accessible to, and subject to oversight and supervision by, the Secretary and the appropriate Federal functional regulator.⁵¹ Because this is a new requirement under the AML Act, it is not currently reflected in the Agencies’ program rule requirements. FinCEN’s concurrently proposed revisions to its AML/CFT program rules interpret this requirement as applying to the AML/CFT officer, so the Agencies’ proposed rule would amend the existing compliance officer requirements to align with FinCEN’s proposal.

The Agencies recognize banks may currently have AML/CFT staff and operations outside of the United States, or they may contract out or delegate parts of their AML/CFT operations to third-party providers located outside of the United States. These arrangements may serve to improve cost efficiencies; to enhance coordination, particularly with respect to cross-border operations; or serve other purposes not in conflict with goals underlying the BSA. Consequently, under the proposed rule, while the AML/CFT officer must be located in the United States, personnel located outside of the United States would still be permitted to perform certain AML/CFT functions. This language does not alter existing regulations and guidance that generally prohibit the sharing of SARs with personnel located outside of the United States, other than in limited circumstances such as a bank’s foreign head office or controlling company.⁵²

⁵¹ 31 U.S.C. 5318(h)(5).

⁵² See, e.g., FinCEN, Financial Crimes Enforcement Network; Confidentiality of Suspicious Activity Reports, 75 FR 75593 (Dec. 3, 2010); see also FinCEN, Interagency Guidance on Sharing Suspicious Activity Reports with Head Offices and Controlling Companies (Jan. 20, 2006),

The Agencies request comment on whether any further clarifications on this point would be useful.

4. Ongoing Employee Training Program

The BSA requires AML/CFT programs to include an “ongoing employee training program.”⁵³ This statutory requirement is reflected in all current Agency program rules employing different wording.⁵⁴ The proposed rule would harmonize the Agencies’ program rules with that of other financial regulators by adopting the BSA’s “ongoing employee training program” language uniformly.⁵⁵ This change is clarifying, not substantive.

The Agencies would generally expect training to cover a bank’s internal policies, procedures, and controls, which should in turn reflect the results of the bank’s risk assessment processes, the latest AML/CFT regulatory requirements, and other relevant information. The frequency with which the training would occur, and the content of the training, would depend on the bank’s ML/TF risk profile and the roles and responsibilities of the persons receiving the training. The Agencies welcome comment on whether any further clarifications of the proposed training requirement are needed and recognize that banks may have employees and non-employees who may have a variety of roles and responsibilities in relation to the AML/CFT program. The risk-based nature of an AML/CFT program provides flexibility for financial institutions to identify both employees and non-employees who must be trained on an ongoing basis.

E. Access to and Approval of a Written AML/CFT Program

1. Written AML/CFT Programs Must Be Made Available Upon Request

The Agencies’ current BSA compliance program rule generally requires a bank to have a written AML/CFT program that is approved by the

<https://www.fincen.gov/system/files/guidance/sarsharingguidance01122006.pdf>.

⁵³ 31 U.S.C. 5318(h)(1)(C).

⁵⁴ 12 CFR 21.21(d) (OCC); 12 CFR 326.8 (FDIC); and 12 CFR 748.2 (NCUA).

⁵⁵ Other financial regulators with stakeholders subject to the BSA currently utilize their own versions of this requirement. See 31 CFR 1020.210(a)(2)(iv), (b)(2)(iv) (banks); 1021.210(b)(2)(iii) (casinos); 1022.210(d)(3) (MSBs); 1023.210(b)(4) (broker-dealers); 1024.210(b)(4) (mutual funds); 1025.210(b)(3) (insurance companies); 1026.210(b)(4) (FCMs and IBCs); 1027.210(b)(3) (DPMSJs); 1028.210(b)(3) (operators of credit card systems); 1029.210(b)(3) (loan or finance companies); 1030.210(b)(3) (housing GSEs).

bank's board of directors.⁵⁶ The proposed rule would modify these requirements and move them to a separate subsection and add clarifying text to harmonize the language with FinCEN's proposed rule. The Agencies request comment on whether further clarification on this point would be useful.

2. Bank Approval of a Written AML/CFT Program

Banks subject to Agency supervision currently must have board approval for their AML/CFT programs under the Agencies' rules. The proposed rule would continue to require that a bank's written AML/CFT program be approved, though the proposal will expand the options available for a bank to obtain such approval. Specifically, the proposed rule will require that the AML/CFT program be approved by the bank's board of directors or an equivalent governing body within the bank, or appropriate senior management. The proposed rule specifies that approval encompasses each of the components of the AML/CFT program.

With respect to the new "equivalent governing body" language, FinCEN's current rule requires a bank lacking a Federal functional regulator to obtain approval of the bank's written AML program from either the bank's board or an equivalent governing body.⁵⁷ The Agencies' proposed rule would also add a reference to an "equivalent governing body" to clarify that a bank can satisfy the requirement by having an equivalent governing body approve the program. The equivalent governing body can take different forms. For example, for the U.S. branch of a foreign bank, the equivalent governing body may be the foreign banking organization's board of directors or delegates acting under the board's express authority. Similarly, banks that do have a board of directors might instead reasonably delegate the approval requirement to a board committee exercising targeted oversight, such as a compliance committee, which would similarly qualify as an "equivalent governing body" under the proposal.

Finally, the rule would also permit a bank's senior management to approve the AML/CFT program. Such individuals may include Chief Executive Officer, Chief Financial Officer, Chief Operations Officer, Chief Legal Officer, Chief Compliance Officer, Director, and individuals with similar

status or functions. Also, banks may establish or utilize existing senior committees of appropriate senior management officials to perform these functions. The Agencies propose permitting approval by senior management to reflect the division of roles and responsibilities between a bank's board of directors and senior management with respect to establishing and implementing an AML/CFT program, as a bank's senior management is charged with the actual role of establishing and implementing the AML/CFT program.

While the proposed rule will no longer require the bank's board to approve the AML/CFT program, this would not alter the Agencies' expectations regarding the responsibilities of a bank's board of directors for providing appropriate oversight of the bank's AML/CFT compliance. The Agencies have always expected bank boards, both as a whole or through appropriate committees, to provide appropriate oversight of senior management to maintain the bank's operations in a safe and sound manner, oversee compliance with applicable laws and regulations, and establish appropriate risk governance frameworks. A bank's board might reasonably permit appropriate senior management to have AML/CFT program approval authority to provide more effective, timely oversight on a day-to-day basis, while still fulfilling the board's obligations through other appropriate means.

F. Customer Identification Program

The proposed rule would maintain the current Customer Identification Program requirements but would move them to a separate section. The Agencies propose minor, non-substantive updates to reference the "AML/CFT" terminology and harmonize the language between the Agencies to "require a customer identification program to be implemented as part of the AML/CFT program." These technical changes are not anticipated to establish new obligations.

G. Supervision and Enforcement

The proposed rule would add new supervision and enforcement frameworks for banks' AML/CFT programs that are aligned with the AML Act's emphasis on effectiveness and risk-based supervision. The proposed rule defines key terms, describes the Agencies' enforcement and supervision policy with respect to AML/CFT program implementation failures, and establishes a consultation process between FinCEN and the Agencies

relating to AML/CFT enforcement actions or significant AML/CFT supervisory actions. The enforcement requirements only apply to actions by the Agencies.

1. Definitions

Proposed section (a) would define several terms used throughout the section. The term "AML/CFT requirement" would mean a requirement of the Bank Secrecy Act (as that term is defined in 31 CFR 1010.100) or of the regulations in title 31, chapter X, or a requirement prescribed under the proposed definition.

The term "AML/CFT enforcement action" would mean any formal or informal action taken by one of the Agencies under authority of 12 U.S.C. 1818, 1786, or other applicable law that seeks to penalize, remedy, prevent, or respond to noncompliance with past or ongoing violations of, or past or ongoing deficiencies relating to, an AML/CFT requirement. The term includes a cease-and-desist order, written agreement, consent order, or memorandum of understanding, or the assessment of a civil money penalty.

The term "significant AML/CFT supervisory action" would mean any written communication or other formal supervisory determination issued by one of the Agencies that identifies one or more alleged deficiencies, weaknesses, violations of law, or unsafe or unsound practices or conditions relating to an AML/CFT requirement; communicates supervisory expectations to a bank regarding actions or remedial measures required to correct the deficiency, weakness, violation, or practice or condition; and contemplates significant or programmatic actions or remedial measures to be taken by the bank. The term does not include examiner observations, suggestions, or other informal comments.

The FDIC is also adding a definition that is currently in 12 CFR 326.1. Previously, the FDIC's text referred to the definitions section in Subpart A of Part 326. This proposal would include a definitions section within Subpart B, and so FDIC is adding one definition needed from the section in Subpart A. This is not a substantive change.

2. Enforcement and Supervision Policy

The proposed rule would articulate the Agencies' enforcement and supervision policy as it relates to AML/CFT requirements.⁵⁸ Except with respect to a significant or systemic

⁵⁶ See 12 CFR 21.21(c)(1) (OCC), 326.8(b)(1) (FDIC), and 748.2(b)(1) (NCUA).

⁵⁷ See 12 CFR 1020.210(b)(3).

⁵⁸ The proposal would not be intended to affect or restrict criminal enforcement under the BSA or the authority of the Department of Justice to pursue such actions.

failure to implement in all material respects an established AML/CFT program in accordance with the proposed rule, a bank that has properly established an AML/CFT program would not be subject to an AML/CFT enforcement action or to a significant AML/CFT supervisory action based on the program rule. At the same time, the proposed rule would clarify that nothing in this policy would restrict an AML/CFT enforcement action or a significant AML/CFT supervisory action with respect to a failure to establish an AML/CFT program. The proposal is only intended to affect actions by the Agencies.

3. FinCEN Consultation

The proposed rule would establish a notice and consultation framework applicable when one of the Agencies intends to initiate an AML/CFT enforcement action or a significant AML/CFT supervisory action, as those terms are defined in the proposed regulation. Before initiating such an action, the Agency would provide the Director of FinCEN with an opportunity to review the action and would consider any input offered by the Director of FinCEN, which may include any view as to the effectiveness of the bank's AML/CFT program. To facilitate that review, the Agency would be required to provide written notice to the Director of FinCEN of the Agency's intent to take the action at least 30 days in advance of the proposed action, unless a shorter period is necessary, at the sole discretion of the Agency, to remedy, prevent, or respond to an unsafe or unsound practice or condition.

The notice would be accompanied by the relevant AML/CFT information underlying the proposed action. Relevant AML/CFT information may include, but is not limited to, relevant portions of draft report of examination; relevant portions of a draft enforcement action; examination workpapers supporting the proposed action; and the relevant AML/CFT information submitted by the bank to the Agency. The Agency would not be obligated to provide information over which the bank may claim privilege under Federal or State law. The Agency would also respond, to the extent reasonably practicable, to requests for additional AML/CFT information from the Director of FinCEN regarding the proposed action.

H. Other Changes for Modernization, Clarification, and Consistency

In addition to the previously described changes, the proposed rule would make other revisions to increase

clarity and consistency in the program rules. Most of these changes are technical, such as renumbering provisions, amending cross-references, and updating statutory references based on changes to the BSA by the AML Act. For example, along with FinCEN, references to "BSA/AML programs" are being updated to "AML/CFT programs" for financial institutions. This technical change is not anticipated to establish new obligations.

I. Disclosure of Supervisory Information

Each Agency has issued regulations that generally prohibit the disclosure of the Agency's non-public information, except as provided under such regulations.⁵⁹ This prohibition generally applies to disclosure of any portion of a report of examination, supervisory correspondence, and any representations concerning such reports or supervisory correspondence, or their findings, including conclusions regarding compliance with AML/CFT compliance program requirements.

Consistent with the proposed rule's goal of enhancing FinCEN's role in the AML/CFT enforcement and supervisory process, the proposed rule would clarify that banks may share any information with the FinCEN Director that relates to an existing or potential AML/CFT enforcement action or significant AML/CFT supervisory action. This proposed rule specifically provides that this authorization to share information includes information that would ordinarily be considered non-public information under the Agencies' respective rules. To qualify for this information sharing, the information at issue must have an appropriate nexus to an existing or potential AML/CFT enforcement action or significant AML/CFT supervisory action. The Agencies are proposing this clarification to ensure that banks can share appropriate information with the FinCEN Director, including in the context of actions subject to the newly established consultation requirement. Otherwise, banks may be unable to provide thorough information to the FinCEN Director, whether proactively or in response to the Director's requests.

While the proposed rule intends to permit such sharing, the Agencies are proposing two alternative methods for permitting such information sharing with the FinCEN Director. Under the first approach, referred to as Option 1 in the amendatory text below, the Agency would authorize the disclosure of covered information on the Agency's

behalf to the FinCEN Director and separately permit the FinCEN Director to use such information. This phrasing is intended to mirror the permissible scope of information sharing by the Agencies under 12 U.S.C. 1821(t), which provides that a "covered agency, in any capacity, shall not be deemed to have waived any privilege applicable to any information by transferring that information to or permitting that information to be used by" another Federal agency.

Under the alternative approach, referred to as Option 2 in the amendatory text below, the Agency would similarly authorize the disclosure of covered information on the Agency's behalf, as well as similarly authorize the use of such information by the FinCEN Director. The Agencies, however, would expressly require that any such information shared on the Agency's behalf be contemporaneously disclosed by the bank to the Agency. While the Agency will necessarily already have access to its own non-public information, this additional requirement is potentially more consistent with the retention of privilege contemplated under 12 U.S.C. 1821(t) and, therefore, potentially provides a greater safeguard against the unintended destruction of privilege. The Agencies also recognize that banks' willingness to share timely, thorough information with the FinCEN Director is essential to the success of the consultation framework; and requiring banks to contemporaneously disclose to an Agency the same non-public information they provide to FinCEN may discourage proactive reporting and thereby undermine the rule's objective of enhancing FinCEN's role.

Importantly, both of the options outlined above only permit the FinCEN Director to use the Agencies' non-public information. This authorization to use the information does not include an authorization by the Agencies to further disclose the received non-public information. Any dissemination by a bank to a party other than the FinCEN Director or by the FinCEN Director to any party would be subject to the Agencies' respective rules governing disclosure of non-public information.

Regardless, the proposed rule would include additional clarifying text intended to preserve all applicable privileges. The destruction of privilege over non-public supervisory information could prove harmful both to the Agency and the bank, so the additional language is intended to prevent such consequences.

The Agencies invite comment on these options for permitting greater information sharing with the FinCEN

⁵⁹ 12 CFR part 4, subpart C (OCC); 12 CFR 309.6 (FDIC); and 12 CFR part 792, subpart C (NCUA).

Director regarding existing or potential AML/CFT enforcement actions or significant AML/CFT supervisory actions, including possible alternative methods of accomplishing the rule's objectives without unintentionally impeding applicable privileges.

IV. Severability

The Agencies propose that if one portion of the proposed rule, if finalized, is found to be invalid, the invalidated portion of the regulation should be severed with the other portions of the proposed rule remaining in full force and effect. The Agencies' position is that invalidation of any one provision, or application thereof to any one person or circumstance, does not, and should not, affect any other provision in this proposed regulation or other existing regulations. Each provision serves an important, related, but distinct purpose and application, designed to benefit the public by protecting the U.S. financial system from illicit financial activity. The Agencies accordingly propose incorporating this into their respective rules, such that invalidating one provision would not undermine the operability or usefulness of the other provisions.

V. Final Rule Effective Date

The Agencies are proposing an effective date of 12 months from the date of issuance of the final rule to allow sufficient time for banks to review and implement the requirements of the proposed rule. The Agencies solicit comment on the proposed effective date.

VI. Request for Comment

The Agencies welcome comment on all aspects of the proposed amendments but specifically seek comment on the questions below. The Agencies encourage commenters to reference specific question numbers when responding.

An "Effective" AML/CFT Program (IV.B)

1. The proposed rule sets forth the conditions for an effective AML/CFT program. Is the description of an effective program sufficiently clear or is there anything further that the Agencies should consider in the final rule adding to clarify program effectiveness?

2. The proposed rule reflects a determination by the Agencies that banks are best placed to identify risks and allocate resources, and that providing them with greater discretion in these areas will improve the quality of AML/CFT compliance and reporting to law enforcement. Is this correct or should the Agencies consider adding

more requirements regarding allocation of resources? How might banks assess changes in the total allocation of resources devoted to an AML/CFT program in a changing risk and cost environment?

Establishing and Maintaining an AML/CFT Program (IV.C)

3. Do banks distinguish between establishing a program and maintaining a program by implementing the program? Do banks distinguish between establishing a program and maintaining a program by implementing the program? If so, how? Should the Agencies add anything to further define these terms in the final rule?

4. Should the proposed rule's distinction between "establishing" and "maintaining" a program be modified? Is the distinction between "establishing" and "maintaining" a compliance program useful for banks?

5. Should the proposed rule distinguish between "establishing" and "maintaining" at the program level and "establishing" and "maintaining" each individual element? For example, should the final rule more clearly differentiate between a failure to establish the program, as a whole, versus a failure to establish an individual mandatory component of the program?

6. Is clarification needed for banks to determine what constitutes a "significant or systemic failure" to implement in all material respects a properly established AML/CFT program?

7. Is clarification needed for banks to determine what constitutes a "failure to establish an AML/CFT program"?

8. How should the proposed rule ensure that the regulations issued by FinCEN and the appropriate Agencies function harmoniously? How should the proposed rule differentiate between the Secretary of the Treasury's responsibility for regulations on establishing AML/CFT programs and the Agencies' responsibilities for regulations on establishing and maintaining programs?

Internal Policies, Procedures, and Controls (IV.D.1)

9. Do banks expect any changes to their existing internal policies, procedures, and controls under the proposed rule, which requires that internal policies, procedures, and controls be "risk-based" and "reasonably designed" to ensure compliance with the BSA?

Risk Assessment Processes (Generally) (IV.D.1.i)

10. The proposed rule refers to risk assessment processes rather than a risk assessment process. This leaves banks free to use findings from one or more processes to assess their ML/TF risk. Does this description of how banks assess their ML/TF risk provide sufficient flexibility? How should the Agencies describe "risk assessment processes" to better reflect how banks assess ML/TF risks?

11. Should risk assessment processes be required to take into account additional or different criteria or risks than those listed in the proposed rule? If so, what additional factors should the Agencies consider requiring?

12. How long does it generally take a bank to incorporate the results of a risk assessment into its AML/CFT program? What factors determine this time frame?

Risk Assessment Processes (AML/CFT Priorities) (IV.D.1.i.b)

13. What, if any, difficulties do banks anticipate when incorporating the AML/CFT Priorities as part of their risk assessment processes?

14. What additional guidance on how to incorporate the AML/CFT Priorities into a bank's risk assessment processes would it be useful for the Agencies to provide?

Risk Assessment Processes (Updates) (IV.D.1.i.c)

15. The proposed rule requires that risk assessment processes are updated promptly upon any change that the bank knows or has reason to know significantly changes the bank's money laundering, terrorist financing, and other illicit finance activity risks. Would the proposed update requirement change the way banks currently update their risk assessment processes, and if so how? Is additional explanation needed concerning when a financial institution would be required to update its risk assessment? In particular, how might the Agencies clarify how risk assessment processes would be updated "promptly"? Would an alternative approach, such as periodic updates or a set schedule for updates, be preferable? Would an alternative standard, such as "materially changes," be clearer than "significantly changes"?

16. How do a bank's ML/TF risks and its risk assessment processes affect one another? Put differently, if there is a feedback loop between the two, please describe it, including the typical amount of time between discovering new risks and incorporating those findings into risk assessment processes.

Independent AML/CFT Program Testing To Be Conducted by Bank Personnel or by an Outside Party (IV.D.2)

17. Under the proposed rule, a bank is required to conduct independent AML/CFT program testing. This requirement is already reflected in existing AML program rule requirements as is the requirement to include “an independent audit function to test programs.”⁶⁰ The Agencies solicit comment on how financial institutions may interpret and carry out this requirement, based on the proposed rule’s description of an effective AML/CFT program. Are further clarifications on the independent AML/CFT program testing requirement necessary to ensure that audits carried out by bank personnel or outside third parties are well-tailored, risk-based, and focused on effectiveness?

AML/CFT Officer Located in the United States (IV.D.3.ii)

18. Under the proposed rule, while the AML/CFT officer must be located in the United States, personnel located outside of the United States would still be permitted to perform certain AML/CFT functions. This language does not alter existing regulations and guidance that generally prohibit the sharing of SARs with personnel located outside of the United States other than limited circumstances such as a bank’s foreign head office or controlling company. Are any further clarifications on this issue needed?

Written AML/CFT Program and Approval (IV.E)

19. The proposed rule standardizes the long-standing requirement that an AML/CFT program be written. Should the Agencies further clarify which specific elements of an institution’s AML/CFT program must be written, or is this requirement generally understood in its current form? In particular: (a) which program components—such as risk assessment processes; internal policies, procedures, and controls; transaction monitoring rules and parameters; escalation and reporting protocols; independent testing results; training materials; and documentation of designated personnel—should be required in writing; (b) what form (e.g., narrative descriptions, checklists, system configurations, or electronic records) such documentation should take; and (c) what level of detail is appropriate for each component? Should the Agencies instead alter the requirement that an AML/CFT program

be expressly required to be “written”? What would be the benefits or drawbacks of any such alterations to this requirement?

20. The proposed rule would require that a bank’s written AML/CFT program be approved by its board of directors, an equivalent governing body within the bank, or appropriate senior management. Should the Agencies further clarify which aspects of the AML/CFT program must be subject to such approval? In particular: (a) should approval be required for each of the core program components (e.g., the risk assessment processes framework; internal policies, procedures, and controls; transaction-monitoring and escalation frameworks; independent testing structure; training program; and designation of responsible personnel), or would approval of the overall program framework be sufficient; (b) should material revisions to particular components (such as significant changes to the institution’s risk assessment methodology, monitoring architecture, or governance structure) require re-approval at the same level; and, (c) what level of specificity should the approving body be required to review and approve (e.g., high-level program architecture versus detailed procedures or parameter-level settings)? Should the Agencies instead eliminate the specified approval requirement, allowing banks flexibility in determining how leadership oversight of the AML/CFT program is structured? What would be the benefits or drawbacks of not prescribing a mandatory approval requirement in the regulation? If the Agencies do not eliminate the specified approval requirement, should the Agencies consider amending the requirement? Are there alternatives to board of directors or an equivalent governing body, such as “appropriate senior management” that would be more appropriate?

Supervision and Enforcement (IV.G)

21. Is clarification needed for banks to determine what constitutes a “significant or systemic failure” to implement an established AML/CFT program?

22. Is clarification needed for banks to determine what constitutes a “failure to establish an AML/CFT program”?

23. The proposed rule would add a requirement for an agency to notify and consider information provided by FinCEN before initiating a significant AML/CFT supervisory action when acting pursuant to authority delegated under this chapter. Should the proposed consultation process include an asset threshold—e.g., consultation is required

for any significant AML/CFT supervisory actions involving banks with \$10 billion or more in assets? In addition, or as an alternative, should the proposed rule not require but instead provide the option for banks to request their agency consult with FinCEN prior to initiating a significant AML/CFT supervisory action?

24. The definition of significant AML/CFT supervisory action includes the term “any written communication.” Is the term “any written communication” too broad? Are there downsides and negative consequences to including the term “any written communication” in the proposed regulatory text? If so, please describe. Should the term “any written communication” be more clearly defined or removed altogether?

25. As described above, the purpose of the FinCEN consultation requirement is to ensure consistency in BSA/AML enforcement and supervision across banks, and for FinCEN to provide relevant information on the effectiveness and impact of an institution’s AML/CFT program. While Treasury, FinCEN, and the Agencies believe the benefits of a required consultation process outweigh the costs, the parties recognize this adds additional layers of review for banks and the Agencies during an examination. Are there any avenues, communication channels, or methods in which FinCEN and the Agencies can streamline the consultation process and prevent logistical burdens for banks or delays in exam report issuance?

26. Is the definition of the term “significant AML/CFT supervisory action” sufficiently clear? Does the inclusion of “unsafe or unsound practices or conditions” introduce confusion about what types of supervisory actions would be subject to the FinCEN consultation requirement, since those terms are not found in the BSA?

Disclosure of Supervisory Information (IV.I)

27. The Agencies invite comment on the two options for permitting greater information sharing with the FinCEN Director regarding AML/CFT enforcement actions or significant AML/CFT supervisory actions. In particular, would the disclosure of confidential supervisory information to FinCEN compromise attorney-client privilege, other applicable privileges, or otherwise undermine the preservation of privilege in 12 U.S.C. 1821(t)?

Other Topics

28. Should the rule be revised to tailor program requirements or

⁶⁰ 12 CFR 21.21(d)(2) (OCC); 12 CFR 326.8(c)(2) (FDIC); and 12 CFR 748.2(c)(2) (NCUA).

implementation timelines to the size, complexity, or risk profile of the bank?

Final Rule Effective Date (V.)

29. The Agencies are proposing an effective date of 12 months from the date of issuance of the final rule to allow sufficient time for financial institutions to review and implement their requirements. The Agencies solicit comment on the proposed effective date.

VII. Regulatory Impact Analysis

The proposed rule, if finalized, would modernize and align the Agencies' AML/CFT program requirements at 12 CFR parts 21 (OCC), 326 (FDIC), and 748 (NCUA) with the rule concurrently proposed by FinCEN under the BSA, as amended by the AML Act.⁶¹ As described in Sections I–V of this **SUPPLEMENTARY INFORMATION**, the proposed rule would: clarify the elements of an effective, risk-based, and reasonably designed AML/CFT program; codify risk-assessment processes; distinguish program establishment from program implementation; and enhance FinCEN's role in supervision and enforcement through a structured consultation mechanism. As a result of these changes, the Agencies expect that banks would recalibrate their AML/CFT programs to concentrate on higher-risk activities and deprioritize lower-risk activities, resulting in greater overall efficiency in their AML/CFT programs.

In accordance with OMB Circular A–4, the Agencies estimate the annual effect of the proposed rule as the difference in estimated economic outcomes between a state of the world in which the proposed rule is adopted and a baseline state of the world in which the proposed rule is not adopted. This analysis assumes that in both states of the world, all other relevant regulations and financial conditions data for all banks supervised by each of the Agencies as of the quarter ending September 30, 2025, with one exception: because the proposed rule is being promulgated simultaneously with a rulemaking by FinCEN that will modify rules regarding AML/CFT for a broader set of institutions regulated by FinCEN, the analysis assumes FinCEN's rulemaking is finalized under both the baseline and under the proposed rule. This assumption allows the analysis to focus on the effects specific to the proposed rule. Because banks supervised by each of the Agencies are required to comply with the BSA, the proposed rule would apply to approximately 3,775 banks supervised by the FDIC and the OCC and another

4,331 credit unions supervised by the NCUA for an approximate total population of 8,100 banks.⁶²

Under the baseline, banks must establish and maintain effective AML/CFT programs. These programs must include risk-based internal policies, procedures, and controls; a designated compliance officer; ongoing employee training; and independent testing. Banks also must meet FinCEN's CDD requirements. The analysis below evaluates incremental impacts of the proposal against that baseline.

Overall, the proposed rule is expected to provide direct benefits to banks through increased clarity of rules and increased consistency of enforcement for banks across financial regulators. The rule also codifies the general practice among banks to calibrate their AML/CFT programs to concentrate on higher-risk activities and deprioritize lower-risk activities. This recalibration would provide indirect benefits including the potential for reductions in crime due to greater deterrence and restriction of the flow of illicit funds as well as potentially increased access to financial services by low-risk members of the public.⁶³ The Agencies expect that the proposed rule would impose relatively small one-time adjustment costs on banks to update their AML/CFT programs to align with the newly-clarified requirements. Compliance costs are not anticipated to increase on an on-going basis, as overall program requirements have been clarified rather than increased and banks already maintain robust AML/CFT programs. The remainder of this section discusses these effects in turn.

A. Benefits

1. Benefit to the Public: Reduction in Money Laundering and Terrorist Financing

Effective AML/CFT programs can deter illicit behavior by preventing the flow of illicit funds and assisting law enforcement and national security efforts to identify and prosecute criminals. By clarifying banks' AML/CFT obligations, the proposed rule may improve the effectiveness of AML/CFT programs for banks, relative to the baseline, by enabling them to reallocate AML/CFT resources toward higher-risk customers and activities. This recalibration may reduce the frequency

and severity of harm caused by criminal activity.

Reductions in illicit financial activities from effective AML/CFT programs have several benefits, both for affected banks as well as for the broader society. For banks, effective AML/CFT programs may result in direct cost savings due to a decreased likelihood that they will be subject to illicit schemes, which in turn decreases the probability of disruptions to a bank's normal business operations. It could result in other potential cost savings due to a decreased probability that a bank may need to make victimized customer accounts whole, conduct internal investigations of successful illicit schemes, or implement remediation steps to address and prevent future recurrences of previously successful illicit schemes.⁶⁴

In terms of broader societal benefits, AML/CFT activities are often tied to other illicit activities such as but not limited to drug, weapons, wildlife, or human trafficking as well as terrorist activities. Any reduction in money laundering or terrorist financing is a benefit to society given the nature of the illegal activities that AML/CFT programs are designed to prevent. While it is inherently difficult to estimate the annual reduction in crime generally or financial crime specifically that could result from more effective AML/CFT programs, recent estimates suggest that those illicit activities run to the billions or trillions of dollars⁶⁵ and affect millions of Americans,⁶⁶ and given that

⁶⁴ See Citizens Rulemaking Alliance comment letter (Nov. 17, 2025), p. 2, submitted in context of the recent proposed rulemaking 90 FR 48835: Unsafe or Unsound Practices; Matters Requiring Attention. The letter provided conservative estimates for general burden to community banks to address matters sufficiently deficient to warrant a supervisory action of a Matters Requiring Attention. Their provided estimates suggested 120 internal staff hours per MRA to scope, draft, implement, and document a written remediation plan; 20 board/committee hours for oversight and attestation; and \$15,000 in external advisory/legal services for complex MRAs. Agency staff expect that costs would be even greater for larger, more complex banks to remediate significant deficiencies or system failures in their AML/CFT programs.

⁶⁵ The net annual cost of crime in the U.S. was estimated at approximately \$3–4 trillion net of transfers in David A. Anderson, "The Aggregate Cost of Crime in the United States," *The Journal of Law and Economics*, vol 64 no. 4 (2021). One specific type of financial crime, fraud, resulted in over \$12 billion in reported losses in 2024 (see the Federal Trade Commission, *Consumer Sentinel Network Data Book 2024* (Mar. 2025), https://www.ftc.gov/system/files/ftc_gov/pdf/csn-annual-data-book-2024.pdf).

⁶⁶ There were over 6 million reports according to the Consumer Sentinel Network in 2024 (see Federal Trade Commission, *Consumer Sentinel Network Data Book 2024* (Mar. 2025), https://www.ftc.gov/system/files/ftc_gov/pdf/csn-annual-data-book-2024.pdf).

⁶² Consolidated Reports of Condition and Income (September 30, 2025).

⁶³ For example, there is at least some anecdotal evidence that otherwise normal (low risk) customers could have reduced access as a result of BSA compliance. See https://www.banking.senate.gov/imo/media/doc/klein_testimony_2-5-25.pdf at 4.

⁶¹ 31 U.S.C. 5311–5336.

scale, even a very small percentage decrease would result in a meaningful benefit.

2. Benefit to the Public: Increased Access to Financial Services

An additional benefit of a recalibration of AML/CFT programs towards higher-risk activities under the proposed rule is that fewer low-risk clients or customers, or potential clients and customers, of banks would be inadvertently or accidentally denied access to banking services due to their non-illicit transactions being incorrectly flagged by an AML/CFT program. The Agencies lack the data to quantify the scale of this benefit.

3. Benefit to Banks: Increased Clarity, Supervisory Coherence, and More Effective AML/CFT Programs

The proposed rule would generate additional qualitative benefits from increased clarity and supervisory coherence, relative to the baseline. These benefits include: reducing regulatory fragmentation by harmonizing the Agencies' regulations with FinCEN's corresponding regulations and eliminating overlap pertaining to the CDD requirements; providing clarity regarding supervisory expectations, which will promote consistent supervisory outcomes across Agencies; enhancing outcomes related to national security and law enforcement by reinforcing risk-based approaches; and enabling more consistent identification and reporting of higher-priority illicit activity.

Having an effective AML/CFT program also reduces a bank's probability of regulatory and legal consequences, which may otherwise increase a bank's costs and adversely affect earnings. For example, ineffective programs that lead to significant AML/CFT activities may result in subsequent higher: operational risk capital requirements for larger banks currently subject to operational risk regulations; compliance costs from increased regulatory monitoring; or legal costs and financial penalties if program deficiencies result in violations of law, such as potential enforcement actions and civil money penalties.

Although these benefits are not readily quantifiable, they are expected to improve the focus of (1) AML/CFT supervision on mitigating significant or systemic failures in a bank's AML/CFT program and (2) bank compliance programs on higher-risk customers and activities.

B. Costs

1. One-Time Adjustment Costs to Banks

If adopted, the proposed rule would require alignment of existing AML/CFT programs to the clarified requirements. However, these costs are expected to be minimal. Possible one-time costs include:

- Labor costs associated with updating policy, procedure, and documentation to reflect risk-assessment processes, to codify definitions of “establish,” “maintain,” and “implement,” and to comply with the requirement that the program be written, accessible upon request, and approved by the board (or equivalent governance).
- Potential labor costs or transitional productivity reductions associated with ensuring that the designated AML/CFT officer is located in the United States and has sufficient authority, stature, independence, and resourcing to comply with the requirements of the proposed rule.
- Training costs to refresh relevant personnel to reflect the revised expectations, risk prioritization, updated governance roles, and program documentation.

Given that most banks maintain AML/CFT programs that adhere with current regulations and supervisory expectations and given that the proposed rulemaking sets forth requirements that banks are already generally in compliance with, these incremental costs are expected to be minimal relative to current AML/CFT compliance costs. The Agencies do not have data available to estimate the one-time transition costs listed. In addition, the Agencies recognize that these costs vary across banks based on their size, complexity, and the specific activities they engage in, as well as the sophistication of their current BSA compliance program.⁶⁷ Based on

⁶⁷ The Agencies expect there would be variation in the magnitude of these transition costs among affected institutions, depending on bank size, complexity of business model, transaction volume, and scope and nature of products, customers, services, and geographical operations. Smaller institutions would be expected to have significantly less transition costs to update policies, procedures, and documentation than larger institutions with more complex risk profiles, higher transaction volume, and greater diversity and volume of products, customers, services, and geographical operations. Smaller institutions also tend to have significantly less staff dedicated to AML/CFT compliance than larger institutions. As such, these smaller institutions would need to train fewer staff on the proposed rule's requirements than larger institutions, requiring them to allocate fewer total dollars to training. Furthermore, smaller institutions generally already have a designated AML/CFT officer domiciled in the United States whereas larger, internationally active institutions may not. This would result in no expected labor

supervisory experience, Agency staff believe that banks are already generally in compliance with the proposed requirements based on longstanding regulatory and supervisory expectations. Therefore, the Agencies anticipate that banks would expend *de minimis* incremental costs to update their AML/CFT compliance programs in conformance with the proposed requirements.

2. Ongoing Costs to Banks

While the Agencies lack the data necessary to estimate how compliance costs for banks would change under the proposed rule, several factors suggest that ongoing compliance costs would be similar to the baseline.⁶⁸ First, banks already maintain extensive AML/CFT programs, in many cases exceeding the minimum requirements under current rules. Second, the proposed rule would clarify existing requirements rather than imposing new ones, which suggests that banks may not find it necessary to devote additional resources to AML/CFT programs relative to the baseline.

As a result, the Agencies anticipate no increase in ongoing compliance costs resulting from the proposed rule. Given the economic effects described above, the Agencies expect the benefits of the proposed rule would justify the costs.

The Agencies invite comments on all aspects of the economic analysis provided in this supplemental information. What, if any, additional significant benefits or costs should the Agencies consider and why?

VIII. Alternatives Considered

The Agencies have considered several alternatives to the proposed rule which could meet the objectives of this rulemaking. For the reasons described, the Agencies view the proposed rule as the most appropriate and effective means of achieving their policy objectives with respect to the Anti-Money Laundering Act of 2020.

The Agencies considered taking no regulatory action. Under this alternative, banks would remain subject to separate, partially overlapping, and in some cases

opportunity costs for smaller institutions, but possibly one-time costs for larger internationally active institutions that do not currently have a U.S. domiciled AML/CFT officer.

⁶⁸ The Agencies acknowledge that banks would have to incorporate any future AML/CFT priorities FinCEN issues as part of their ongoing costs. However, the Agencies believe that banks have already incorporated the current AML/CFT priorities into their BSA compliance programs because these “[p]riorities reflect longstanding and continuing AML/CFT concerns previously identified by FinCEN and other Treasury components and U.S. government departments and agencies” (see AML/CFT Priorities, page 3 (June 30, 2021)).

inconsistent AML/CFT program requirements across FinCEN and the Agencies. This would perpetuate regulatory fragmentation, increase compliance uncertainty, and risk inefficient resource allocation contrary to the AML Act's emphasis on risk-based programs. It would also fail to implement the AML Act's requirement that the AML/CFT Priorities be incorporated into program rules and examined accordingly, and it would not establish a uniform framework for distinguishing between program establishment and implementation. The Agencies therefore rejected this alternative.

The Agencies considered reissuing or finalizing the 2024 Notice of Proposed Rulemaking (2024 NPRM), which previously addressed these issues. However, public comments in response to the 2024 NPRM suggested that the 2024 NPRM did not adequately emphasize the increased flexibility of banks to recalibrate their BSA/AML programs to concentrate on higher-risk activities. In contrast, the proposed rule would provide such flexibility, and as discussed in this section, result in greater benefits to the public. The proposed rule also includes provisions requiring FinCEN's consultation on supervisory actions and other measures to refocus supervision on substantive issues with banks' BSA/AML programs rather than on procedural compliance. The Agencies therefore chose to issue the proposed rule.

The Agencies considered developing more prescriptive program requirements, such as mandatory risk-assessment methodologies, specific governance structures, required technologies, or defined timelines for updating risk assessments. Such an approach would conflict with the AML Act's emphasis on risk-based, flexible, and outcome-oriented AML/CFT programs, and would be inconsistent with the Agencies' stated view that banks are best positioned to identify and evaluate their own risks. The Agencies therefore rejected this alternative in favor of a flexible framework aligned with statutory intent.

The Agencies considered extending the implementation period beyond the proposed 12 months. A longer period would reduce near-term adjustment costs for some banks but would delay the benefits of improved clarity, harmonization, and risk-based supervision. Given that most banks already maintain programs substantially consistent with the proposed requirements, the Agencies believe a 12-month period appropriately balances

transition needs and timely realization of benefits.

The Agencies considered whether the proposed rule should apply only to larger or more complex banks or include tailored requirements by size or business model. Because all banks must comply with the BSA, and because the proposal is inherently risk-based and scalable to each bank's risk profile, the Agencies determined that formal tailoring was unnecessary. Explicit tailoring could also undermine consistency and create cliff effects as banks restrict their growth to remain under regulatory thresholds. Therefore, the Agencies retained full applicability while emphasizing flexibility in program design.

The Agencies invite comments on possible alternatives to the proposed rule.

IX. Administrative Law Matters

A. Regulatory Flexibility Act (RFA)

OCC RFA

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, requires an agency, in connection with a proposed rule, to prepare an initial Regulatory Flexibility Analysis describing the impact of the rule on small entities (defined by the U.S. Small Business Administration (SBA) for purposes of the RFA to include commercial banks and savings institutions with total assets of \$850 million or less and trust companies with total assets of \$47 million or less) or to certify that the rule will not have a significant economic impact on a substantial number of small entities. The OCC currently supervises approximately 609 small entities, all of which would be subject to the proposed rule. In general, the OCC classifies the economic impact on an individual small entity as significant if the total estimated impact in one year is greater than 5 percent of the small entity's total annual salaries and benefits or greater than 2.5 percent of the small entity's total non-interest expense. Furthermore, the OCC considers 5 percent or more of OCC-supervised small entities to be a substantial number. Thus, at present, 30 OCC-supervised small entities would constitute a substantial number.

The OCC's proposed rulemaking imposes no additional mandates, and thus no incremental direct costs beyond FinCEN's proposed rule, on affected OCC-supervised institutions.⁶⁹

⁶⁹ A 2018 study considering compliance costs in community banks found that small bank compliance costs typically were about 10 percent of noninterest expense and the portion of this attributable to BSA was about 22 percent. This implies that total BSA compliance costs for small

Therefore, the OCC certifies that the proposed rule would not have a significant economic impact on a substantial number of OCC-supervised small entities.

FDIC

The RFA generally requires an agency, in connection with a proposed rule, to prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of the proposed rule on small entities.⁷⁰ However, an initial regulatory flexibility analysis is not required if the agency certifies that the proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The SBA has defined "small entities" to include banking organizations with total assets of less than or equal to \$850 million.⁷¹ Generally, the FDIC considers a significant economic impact to be a quantified effect in excess of 5 percent of total annual salaries and benefits or 2.5 percent of total noninterest expenses. The FDIC believes that effects in excess of one or more of these thresholds typically represent significant economic impacts for FDIC-supervised institutions. For the reasons provided below, the FDIC certifies that the proposed rule would not have a significant economic impact on a substantial number of small banking organizations. Accordingly, a regulatory flexibility analysis is not required.

As previously discussed, the proposed rule, if finalized, would modernize and align the Agencies' AML/CFT program requirements with FinCEN's concurrently proposed BSA

banks are 22 percent; this would need to increase more than two-fold in order for the rule to have a significant economic impact on small institutions because of the OCC's methodology of using a 2.5 percent noninterest expense threshold to establish significant impact on small entities. However, because the rule generally reinforces and codifies existing practices, the OCC expects the rule would not have a significant economic impact on a substantial number of small entities. See <https://www.communitybanking.org/-/media/files/communitybanking/compliance-costs-economies-of-scale-and-compliance-performance.pdf> for details.

⁷⁰ 5 U.S.C. 601 *et seq.*

⁷¹ Assets for purposes of classifying "small entities" are determined by averaging the assets reported on its four quarterly financial statements for the preceding year. See 13 CFR 121.201 (as amended by 87 FR 69118, effective Dec. 19, 2022). In its determination, the "SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates." See 13 CFR 121.103. Following these regulations, the FDIC uses an insured depository institution's affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the FDIC insured depository institution is "small" for the purposes of RFA.

rule, as amended by the AML Act.⁷² It would clarify the components of an effective, risk based AML/CFT program; codify risk assessment processes; distinguish program establishment from implementation; and strengthen FinCEN's supervisory and enforcement role through structured consultation, if adopted. All FDIC-supervised Insured Depository Institutions (IDIs) are required to comply with AML/CFT program requirements. As of the quarter ending September 30, 2025, the FDIC supervised 2,778 institutions,⁷³ of which 2,064 are considered small entities for the purposes of RFA.⁷⁴ Therefore, the FDIC estimates that the proposed rule would directly affect 2,064 small, FDIC-supervised IDIs.

As noted in section VII, the FDIC estimates the effect of the proposed rule on each small FDIC-supervised IDI as the difference in estimated economic outcomes between a state of the world in which the proposed rule is adopted and a baseline state of the world in which the proposed rule is not adopted. This analysis assumes that in both states all other relevant statutes and regulations applicable to IDIs that existed as of September 30, 2025 would be in place, with one exception: because the proposed rule is being promulgated simultaneously with a rulemaking by FinCEN that will modify rules regarding AML/CFT for a broader set of institutions regulated by FinCEN, the analysis assumes FinCEN's rulemaking is finalized under both the baseline and under the proposed rule. This assumption allows the analysis to focus on the effects specific to the proposed rule. Under the baseline, small, FDIC-supervised IDIs would continue to be required to maintain AML/CFT programs that adhere to current regulations and supervisory expectations. These requirements include internal policies, procedures, and controls; a designated compliance officer; ongoing employee training; and independent testing. Small, FDIC-supervised institutions would also continue to be required to meet FinCEN's CDD requirements and are expected, though not uniformly codified, to maintain risk assessment processes.

The proposed rule introduces changes that are unlikely to result in significant direct effects to small, FDIC-supervised IDIs. As discussed in section VII, small,

FDIC-supervised IDIs are already generally in compliance with the proposed requirements based on longstanding regulatory and supervisory expectations. Therefore, small, FDIC-supervised IDIs would incur *de minimis* incremental costs to update their AML/CFT compliance programs to conform with the proposed requirements. In addition, the FDIC anticipates no small, FDIC-supervised IDI would incur a significant increase in ongoing compliance costs as a result of the proposed rule.⁷⁵

As a result, the FDIC certifies that the rule would not have a significant economic impact on a substantial number of small entities.

The FDIC invites comments on all aspects of the supporting information provided in this section, and in particular, whether the proposed rule would have any significant effects on small entities that the FDIC has not identified.

NCUA

The Regulatory Flexibility Act generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.⁷⁶ If the agency makes such a certification, it shall publish the certification at the time of publication of either the proposed rule or the final rule, along with a statement providing the factual basis for such certification.⁷⁷ For purposes of this analysis, the NCUA considers small credit unions to be those having under \$100 million in assets.⁷⁸

As of September 30, 2025, the NCUA supervised 4,331 Federally insured credit unions (FICUs). Typically, credit unions are much smaller than commercial banks. For example, median asset size for those 4,331 credit unions

was \$63.63 million; the comparable figure for FDIC-insured banks was \$370.84 million (nearly six times the FICU figure).⁷⁹ The NCUA considers FICUs with fewer than \$100 million in assets to be small entities for RFA purposes. As of 2025: Q3, 2,553 FICUs, or 58.9 percent of supervised institutions, qualified as small. Median asset size for small FICUs was \$21.24 million. The median number of full-time equivalent employees (FTEs) for small credit unions was five. Because this rule applies to FICUs of all sizes, it will undoubtedly affect small credit unions. Both qualitative and quantitative evidence, however, point to an economically insignificant impact on small FICUs.

As for qualitative evidence, the NCUA already expects FICUs to maintain robust BSA-AML policies, consistent with the size and scope of the credit union. Because the agency believes the proposed rule largely codifies existing supervisory expectations, it should not prove a burden for most FICUs. Some credit unions, however, may find supervisory expectations marginally tighter relative to the current regime. Of course, adapting to marginal changes could still challenge credit unions with as few as five FTEs. For that reason, the NCUA makes resources available to help small credit unions meet such challenges and, more broadly, support overall growth and development.

As for quantitative evidence, the OCC and FDIC present analysis showing the number of supervised institutions for whom compliance will potentially be burdensome. Their threshold for "burdensome" is a compliance cost exceeding five percent of compensation expense or 2.5 percent of total non-interest expense. The NCUA believes these hurdles do not automatically carry over to FICUs because of the significant differences between the size, structure, and operating models of banks and credit unions. Unlike commercial banks, for example, credit unions are cooperatives. On average, credit-union compensation expense per employee is lower than bank compensation expense. Finally, many small credit unions have relied historically on volunteers and sponsor support to contain expenses. These factors collectively suggest the materiality threshold should be higher for credit unions. But even assuming every small credit union needs 32 hours to comply with the rule, that all credit unions pay the average hourly wage for

⁷² See William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Public Law 116–283, 134 Stat. 3388 (Jan. 1, 2021).

⁷³ FDIC-supervised institutions are set forth in 12 U.S.C. 1813(q)(2).

⁷⁴ Consolidated Reports of Condition and Income (Sept. 30, 2025).

⁷⁵ A 2018 study considering compliance costs in community banks found that small bank compliance costs typically were about 10 percent of noninterest expenses, and the portion of this attributable to BSA was about 22 percent. This implies that total BSA compliance costs for small banks are approximately 2.2 percent of noninterest expenses. For the proposed rule to have a significant impact on a small FDIC-supervised IDI, that IDI's BSA compliance costs would need to increase more than two-fold under the proposed rule. Because the proposed rule generally reinforces and codifies existing practices, the FDIC expects such an increase to be implausible. See <https://www.communitybanking.org/-/media/files/communitybanking/compliance-costs-economies-of-scale-and-compliance-performance.pdf>.

⁷⁶ 5 U.S.C. 601 *et seq.*

⁷⁷ 5 U.S.C. 605(b).

⁷⁸ 80 FR 57512 (Sept. 24, 2015).

⁷⁹ Viewed another way, the FDIC considers small entities to be those holding fewer than \$850 million in assets—88.0 percent of FICUs are smaller than that threshold.

FICUs with fewer than \$100 million in assets, and the bank thresholds for materiality are appropriate, the number of credit unions facing a significant compliance burden is roughly in line with the figures obtained by the FDIC.

B. Paperwork Reduction Act (PRA)

The Paperwork Reduction Act of 1995⁸⁰ (PRA) states that no agency may conduct or sponsor, nor is the

respondent required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC and FDIC have reviewed this proposed rule and determined that it does not create any information collection.

The NCUA is proposing to extend for three years, with revision, its information collection. This revision

will be submitted to OMB for approval under the PRA.

Title of Information Collection: Anti-Money Laundering and Countering the Financing of Terrorism Program Requirements.

OMB Control Number: 3133–0108.

Respondents: All federal insured credit unions.

Estimated Annual Burden: 80,856.

NCUA SUMMARY OF ESTIMATED ANNUAL BURDEN (OMB No. 3133–0108)

Information collection (obligation to respond)	Type of burden (frequency of response)	Number of respondents	Number of responses per respondent	Average time per response (hours)	Total estimated annual burden (hours)
1. Establish AML/CFT Program. (Implementation) 12 CFR 748.2(b) and (c) (Mandatory).	Record-keeping (One Time).	4,331	.3	32	46,208
2. Maintain AML/CFT Program. (Ongoing) 12 CFR 748.2(b) and (c) (Mandatory).	Record-keeping (Annual).	4,331	1	8	34,648
Total Estimated Annual Burden (Hours) .....	.....	.....	.....	.....	80,856

The NCUA invites comments on:
(a) Whether the collections of information are necessary for the proper performance of the Agencies' functions, including whether the information has practical utility;

(b) The accuracy of the Agencies estimates of the burden of the information collections, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Comments on aspects of this document that may affect reporting, recordkeeping, or disclosure requirements and burden estimates should be sent to the addresses listed in the **ADDRESSES** section of this document. Written comments and recommendations for these information collections also should be sent within 30 days of publication of this document 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.

C. Riegle Community Development and Regulatory Improvement Act

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (RCDRIA),⁸¹ in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on IDIs, each Federal banking agency must consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on affected depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations. In addition, section 302(b) of the RCDRIA requires new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on IDIs generally to take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form. The Agencies invite comments that further will inform their consideration of the RCDRIA.⁸²

D. Plain Language

Section 722 of the Gramm-Leach-Bliley Act⁸³ requires the Federal banking Agencies to use plain language

in all proposed and final rulemakings published in the **Federal Register** after January 1, 2000. The Agencies invite your comments on how to make this proposed rule easier to understand. For example:

- Have the Agencies organized the material to suit your needs? If not, how could the proposed rule be more clearly stated?
- Are the requirements in the proposed rule clearly stated? If not, how could the proposed rule be more clearly stated?
- Does the proposed rule contain language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the proposed rule easier to understand? If so, what changes to the format would make the proposed rule easier to understand?
- What else could the Agencies do to make the proposed rule easier to understand?

E. Providing Accountability Through Transparency Act of 2023

The Providing Accountability Through Transparency Act of 2023 requires that a notice of proposed rulemaking include the internet address of a summary of not more than 100 words in length of a proposed rule, in plain language, that shall be posted on the internet website under section

⁸⁰ 44 U.S.C. 3501–3521.

⁸¹ 12 U.S.C. 4802(a).

⁸² 12 U.S.C. 4802(b).

⁸³ Public Law 106–102, section 722, 113 Stat. 1338, 1471 (1999), 12 U.S.C. 4809.

206(d) of the E-Government Act of 2002.⁸⁴

The proposal and the required summary can be found for the Agencies at <https://www.regulations.gov> by searching for Docket ID OCC–2024–0005 and <https://occ.gov/topics/laws-and-regulations/occ-regulations/proposed-issuances/index-proposed-issuances.html>, <https://www.fdic.gov/resources/regulations/federal-register-publications/index.html#>, and <https://www.regulations.gov> by searching for Docket ID NCUA–2024–0033.

F. Executive Orders 12866, 13563, and 14192

Executive Order 12866, as affirmed and supplemented by Executive Order 13563, directs agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This proposed rule was drafted and reviewed in accordance with Executive Order 12866. Within OMB, the Office of Information and Regulatory Affairs (OIRA) has determined that this rulemaking is an “economically significant regulatory action” pursuant to Executive Order 12866 section 3(f)(1). Accordingly, the draft rule was submitted to OIRA for review. As noted in other sections of the **SUPPLEMENTARY INFORMATION** of this document, the Agencies have assessed the costs and benefits of this rulemaking and have made a reasoned determination that the benefits of this rulemaking justify its costs. This proposed rule, if finalized as proposed, is not expected to be a regulatory action under Executive Order 14192 because it imposes no more than *de minimis* costs.

G. Unfunded Mandates Reform Act

The OCC has analyzed the proposed rule under the factors in the Unfunded Mandates Reform Act of 1995 (UMRA). Under this analysis, the OCC considered whether the proposed rule includes a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year (\$187 million as adjusted annually for inflation). Pursuant to section 202 of the UMRA, if a proposed rule meets this UMRA threshold, the OCC would need to prepare a written statement that includes, among other things, a cost-benefit analysis of the proposal. The UMRA does not apply to regulations that incorporate requirements specifically set forth in law.

The OCC estimates that the proposed rule would not require additional expenditures from OCC regulated entities. As noted earlier, there are no additional mandated costs associated with the OCC’s proposed rule beyond those required by FinCEN’s concurrently issued proposal. Therefore, there are no UMRA costs associated with the OCC’s proposal. The OCC’s proposed rule would not result in an expenditure of \$187 million or more annually by State, local, and tribal governments, or by the private sector.

H. NCUA Analysis on Executive Order 13132 on Federalism

Executive Order 13132 encourages certain regulatory agencies to consider the impact of their actions on State and local interests. The NCUA, an agency as defined in 44 U.S.C. 3502(5), complies with the executive order to adhere to fundamental Federalism principles. This proposed rule would apply to all Federally insured credit unions, including State-chartered credit unions. This scope is set by statute. The NCUA works cooperatively with State regulatory agencies on all supervisory matters, including AML/CFT matters, and will continue to do so. The NCUA expects that any effect on States or on the distribution of power and responsibilities among the various levels of government will be minor. The NCUA welcomes comments on ways to eliminate, or at least minimize, any potential impact in this area.

I. NCUA Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this proposed rule would not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999.⁸⁵ The proposed rule relates to Federally insured credit unions’ AML/CFT programs, and any effect on family well-being is expected to be indirect.

List of Subjects

12 CFR Part 21

Crime, Currency, National banks, Reporting and recordkeeping requirements, Security measures.

12 CFR Part 326

Banks, Banking, Currency, Reporting and recordkeeping requirements, Security measures.

12 CFR Part 748

Computer technology, Confidential business information, Credit unions,

Crime, Currency, Internet, Personally identifiable information, Privacy, Reporting and recordkeeping requirements, Security measures.

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 21

Authority and Issuance

For the reasons set forth in the preamble, the Office of the Comptroller of the Currency proposes to amend 12 CFR part 21 as follows:

PART 21—MINIMUM SECURITY DEVICES AND PROCEDURES AND ANTI-MONEY LAUNDERING/ COUNTERING THE FINANCING OF TERRORISM COMPLIANCE

■ 1. The authority citation for part 21 continues to read as follows:

Authority: 12 U.S.C. 1, 93a, 161, 1462a, 1463, 1464, 1818, 1881–1884, and 3401–3422; 31 U.S.C. 5318.

■ 2. The heading of part 21 is revised to read as set forth above.

■ 3. Revise and republish subpart C to read as follows:

Subpart C—Procedures for Anti-Money Laundering/Countering the Financing of Terrorism Compliance

§ 21.21 Anti-Money Laundering/Countering the Financing of Terrorism Compliance, Supervision, and Enforcement.

(a) *Definitions.* For purposes of this section:

(1) *AML/CFT enforcement action* means any formal or informal action taken by the OCC under authority of 12 U.S.C. 1818 or other applicable law, that seeks to penalize, remedy, prevent, or respond to noncompliance with past or ongoing violations of, or past or ongoing deficiencies relating to, an AML/CFT requirement. The term includes—

(i) A cease-and-desist order, written agreement, consent order, or memorandum of understanding; or

(ii) The assessment of a civil money penalty.

(2) *AML/CFT requirement* means:

(i) A requirement of the Bank Secrecy Act or the implementing regulations at 31 CFR chapter X; or

(ii) A requirement prescribed under 12 U.S.C. 1818(s) or this section.

(3) *Bank Secrecy Act* has the meaning given that term in 31 CFR 1010.100

(4) *Significant AML/CFT supervisory action* means any written communication or other formal supervisory determination that—

(i) Identifies one or more alleged deficiencies, weaknesses, violations of

⁸⁴ 44 U.S.C. 3501 note.

⁸⁵ Public Law 105–277, section 654, 112 Stat. 2681, 2681–528 (1998).

law, or unsafe or unsound practices or conditions relating to an AML/CFT requirement;

(ii) Communicates supervisory expectations to a national bank or Federal savings association regarding actions or remedial measures required to correct the deficiency, weakness, violation, or practice or condition; and

(iii) Contemplates significant or programmatic actions or remedial measures to be taken by the national bank or Federal savings association.

The term does not include examiner observations, suggestions, or other informal comments.

(b) *AML/CFT program in general.*

Each national bank or Federal savings association must establish and maintain an effective AML/CFT program. A national bank or Federal savings association complies with this requirement if it:

(1) Establishes an AML/CFT program in accordance with paragraph (c) of this section; and

(2) Maintains an AML/CFT program by implementing the AML/CFT program in accordance with paragraph (d) of this section.

(c) *AML/CFT program establishment.*

A national bank or Federal savings association establishes an AML/CFT program in accordance with this paragraph if it:

(1) Establishes a risk-based set of internal policies, procedures, and controls that is reasonably designed to ensure compliance with the Bank Secrecy Act and the implementing regulations at 31 CFR chapter X and to:

(i) Identify, assess, and document the national bank's or Federal savings association's money laundering, terrorist financing, and other illicit finance activity risks through risk assessment processes that:

(A) Evaluate the money laundering, terrorist financing, and other illicit finance activity risks of the national bank's or Federal savings association's business activities, including its products, services, distribution channels, customers, and geographic locations;

(B) Review and, as appropriate, incorporate the AML/CFT priorities as that term is defined in 31 CFR 1010.100; and

(C) Are updated promptly upon any change that the national bank or Federal savings association knows or has reason to know significantly changes the national bank's or Federal savings association's money laundering, terrorist financing, and other illicit finance activity risks;

(ii) Mitigate the national bank's or Federal savings association's money

laundering, terrorist financing, and other illicit finance activity risks consistent with the risk assessment processes required under paragraph (c)(1)(i) of this section, including by directing more attention and resources toward higher-risk customers and activities, consistent with the risk profile of the national bank or Federal savings association, rather than toward lower-risk customers and activities; and

(iii) Conduct ongoing customer due diligence, including to:

(A) Understand the nature and purpose of customer relationships for the purpose of developing a customer risk profile; and

(B) Conduct ongoing monitoring to identify and report suspicious transactions and, on a risk basis, to maintain and update customer information (including information regarding the beneficial owners of legal entity customers, as defined in 31 CFR 1010.230);

(2) Establishes independent AML/CFT program testing to be conducted by bank or savings-association personnel or by an outside party;

(3) Designates an individual, who is (i) located in the United States; (ii) accessible to, and subject to oversight and supervision by, FinCEN and the OCC; and (iii) responsible for establishing and implementing the AML/CFT program and coordinating and monitoring day-to-day compliance; and

(4) Establishes an ongoing employee training program.

(d) *AML/CFT program*

implementation. A national bank or Federal savings association implements an AML/CFT program in accordance with this paragraph if the national bank or Federal savings association implements, in all material respects, the AML/CFT program required under paragraph (c) of this section.

(e) *Written AML/CFT program and approval.* A national bank's or Federal savings association's AML/CFT program must be written, and it must be approved by the national bank's or Federal savings association's board of directors, an equivalent governing body within the national bank or Federal savings association, or appropriate senior management within the national bank or Federal savings association.

(f) *Customer identification program.* Each national bank or Federal savings association shall implement a customer identification program in accordance with 31 CFR 1020.220.

(g) *Enforcement and supervision policy.*

(1) *In general.* Except with respect to a significant or systemic failure to

implement the AML/CFT program in accordance with paragraph (d) of this section, a national bank or Federal savings association that has established an AML/CFT program in accordance with paragraph (c) of this section will not be subject to an AML/CFT enforcement action or to a significant AML/CFT supervisory action related to the requirements of 12 U.S.C. 1818(s), 31 U.S.C. 5318(h)(1), this section, or 31 CFR 1020.210.

(2) *Program establishment violations.* Nothing in this paragraph (g) may be construed to restrict an AML/CFT enforcement action or a significant AML/CFT supervisory action with respect to any failure to establish an AML/CFT program in accordance with paragraph (c) of this section.

(3) *Criminal Enforcement Unaffected.* Nothing in this subpart may be construed to affect criminal enforcement under the BSA.

(h) *FinCEN consultation.*

(1) *Consultation and consideration requirement.* Before initiating an AML/CFT enforcement action or a significant AML/CFT supervisory action, the OCC will provide the FinCEN Director an opportunity to review the action and consider any input offered by the FinCEN Director on the action, which may include any view as to the effectiveness of the national bank's or Federal savings association's AML/CFT program.

(2) *Notice requirement.* To provide the FinCEN Director an opportunity to provide a view under paragraph (h)(1) of this section, the OCC will:

(i) Send written notice to the FinCEN Director of its intent to take that action at least 30 days before taking the action (unless a shorter period of time is necessary, in the sole discretion of the Comptroller of the Currency, to remedy, prevent, or respond to an unsafe or unsound practice or condition), accompanied by the relevant AML/CFT information underlying the proposed action, including the relevant portions of the draft report or enforcement action, the relevant examination workpapers supporting the proposed action, and the relevant AML/CFT information submitted by the national bank or Federal savings association to the OCC, other than information over which the national bank or Federal savings association may claim privilege under Federal or State law; and

(ii) Respond to the extent reasonably practicable to requests for additional information from the FinCEN Director regarding the proposed action.

(i) *Disclosure of supervisory information to FinCEN.*

[OPTION 1 FOR PARAGRAPH (i)(1):]

(1) Notwithstanding 12 CFR part 4, the OCC permits a national bank or Federal savings associations, on behalf of OCC, to disclose to the FinCEN Director, and permits the FinCEN Director to use, any information relating to an existing or potential AML/CFT enforcement action or significant AML/CFT supervisory action to which the national bank or Federal savings association has access.

[OPTION 2 FOR PARAGRAPH (i)(1):]

(1) Notwithstanding 12 CFR part 4, the OCC permits a national bank or Federal savings association, on behalf of the OCC, to disclose to the FinCEN Director, and permits the FinCEN Director to use, any information relating to an existing or potential AML/CFT enforcement action or significant AML/CFT supervisory action to which the national bank or Federal savings association has access upon the contemporaneous disclosure of such information to the OCC.

(2) A national bank's or Federal savings association's disclosure of information to the FinCEN Director under paragraph (i)(1) of this section does not waive, invalidate, destroy, or otherwise affect any privilege or protection available under Federal or State law, including the attorney-client privilege, the work-product doctrine, the bank-examination privilege, or any other confidentiality or evidentiary privilege.

(3) Any disclosure made by a national bank or Federal savings association under paragraph (i)(1) of this section is made on behalf of the OCC pursuant to the OCC's authorization under 12 U.S.C. 1821(t).

(j) Severability.

The provisions of this subpart are separate and severable from one another. If any provision of this subpart is held to be invalid, or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions, or application of such provisions to other persons or circumstances, that can be given effect without the invalid provision or application.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 326

Authority and Issuance

For the reasons set forth in the preamble, the Federal Deposit Insurance Corporation proposes to amend 12 CFR part 326 as follows:

PART 326—MINIMUM SECURITY DEVICES AND PROCEDURES AND ANTI-MONEY LAUNDERING/COUNTERING THE FINANCING OF TERRORISM COMPLIANCE

■ 4. The authority citation for part 326 is revised to read as follows:

Authority: 12 U.S.C. 1813, 1815, 1817, 1818, 1819 (Tenth), 1829b, 1881–1883, 5412; 31 U.S.C. 5311–5314, 5316–5336.

■ 5. The heading of part 326 is revised to read as set forth above.

■ 6. Revise and republish subpart B to read as follows:

Subpart B—Procedures for Monitoring Anti-Money Laundering/Countering the Financing of Terrorism Compliance

§ 326.8 Anti-Money Laundering/Countering the Financing of Terrorism Compliance, Supervision, and Enforcement.

(a) *Definitions.* For purposes of this section:

(1) *AML/CFT enforcement action* means any formal or informal action taken by the FDIC under authority of 12 U.S.C. 1818 or other applicable law, that seeks to penalize, remedy, prevent, or respond to noncompliance with past or ongoing violations of, or past or ongoing deficiencies relating to, an AML/CFT requirement. The term includes—

(i) A cease-and-desist order, written agreement, consent order, or memorandum of understanding; or

(ii) The assessment of a civil money penalty.

(2) *AML/CFT requirement* means:

(i) A requirement of the Bank Secrecy Act or the implementing regulations at 31 CFR chapter X; or

(ii) A requirement prescribed under 12 U.S.C. 1818(s) or this section.

(3) *Bank Secrecy Act* has the meaning given that term in 31 CFR 1010.100.

(4) *Significant AML/CFT supervisory action* means any written communication or other formal supervisory determination that—

(i) Identifies one or more alleged deficiencies, weaknesses, violations of law, or unsafe or unsound practices or conditions relating to an AML/CFT requirement;

(ii) Communicates supervisory expectations to an FDIC-supervised institution regarding actions or remedial measures required to correct the deficiency, weakness, violation, or practice or condition; and

(iii) Contemplates significant or programmatic actions or remedial measures to be taken by the FDIC-supervised institution.

The term does not include examiner observations, suggestions, or other informal comments.

(5) *FDIC-supervised institution* or *institution* means any entity for which the Federal Deposit Insurance Corporation is the appropriate Federal banking agency pursuant to section 3(q) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(q).

(b) *AML/CFT program in general.* Each FDIC-supervised institution must establish and maintain an effective AML/CFT program. A FDIC-supervised institution complies with this requirement if it:

(1) Establishes an AML/CFT program in accordance with paragraph (c) of this section; and

(2) Maintains an AML/CFT program by implementing the AML/CFT program in accordance with paragraph (d) of this section.

(c) *AML/CFT program establishment.* An FDIC-supervised institution establishes an AML/CFT program in accordance with this paragraph if it:

(1) Establishes a risk-based set of internal policies, procedures, and controls that is reasonably designed to ensure compliance with the Bank Secrecy Act and the implementing regulations at 31 CFR chapter X and to:

(i) Identify, assess, and document the FDIC-supervised institution's money laundering, terrorist financing, and other illicit finance activity risks through risk assessment processes that:

(A) Evaluate the money laundering, terrorist financing, and other illicit finance activity risks of the FDIC-supervised institution's business activities, including its products, services, distribution channels, customers, and geographic locations;

(B) Review and, as appropriate, incorporate the AML/CFT priorities as that term is defined in 31 CFR 1010.100; and

(C) Are updated promptly upon any change that the FDIC-supervised institution knows or has reason to know significantly changes the FDIC-supervised institution's money laundering, terrorist financing, and other illicit finance activity risks;

(ii) Mitigate the FDIC-supervised institution's money laundering, terrorist financing, and other illicit finance activity risks consistent with the risk assessment processes required under paragraph (c)(1)(i) of this section, including by directing more attention and resources toward higher-risk customers and activities, consistent with the risk profile of the FDIC-supervised institution, rather than toward lower-risk customers and activities; and

(iii) Conduct ongoing customer due diligence, including to:

(A) Understand the nature and purpose of customer relationships for the purpose of developing a customer risk profile; and

(B) Conduct ongoing monitoring to identify and report suspicious transactions and, on a risk basis, to maintain and update customer information (including information regarding the beneficial owners of legal entity customers, as defined in 31 CFR 1010.230);

(2) Establishes independent AML/CFT program testing to be conducted by institution personnel or by an outside party;

(3) Designates an individual, who is (i) located in the United States, (ii) accessible to, and subject to oversight and supervision by, FinCEN and the FDIC, and (iii) responsible for establishing and implementing the AML/CFT program and coordinating and monitoring day-to-day compliance; and

(4) Establishes an ongoing employee training program.

(d) *AML/CFT program implementation.* An FDIC-supervised institution implements an AML/CFT program in accordance with this paragraph if the FDIC-supervised institution implements, in all material respects, the AML/CFT program required under paragraph (c) of this section.

(e) *Written AML/CFT program and approval.* A FDIC-supervised institution's AML/CFT program must be written and it must be approved by the FDIC-supervised institution's board of directors, an equivalent governing body within the FDIC-supervised institution, or appropriate senior management within the FDIC-supervised institution.

(f) *Customer identification program.* Each FDIC-supervised institution shall implement a customer identification program in accordance with 31 CFR 1020.220.

(g) *Enforcement and supervision policy.*

(1) *In general.* Except with respect to a significant or systemic failure to implement the AML/CFT program in accordance with paragraph (d) of this section, an FDIC-supervised institution that has established an AML/CFT program in accordance with paragraph (c) of this section will not be subject to an AML/CFT enforcement action or to a significant AML/CFT supervisory action related to the requirements of 12 U.S.C. 1818(s), 31 U.S.C. 5318(h)(1), this section, or 31 CFR 1020.210.

(2) *Program establishment violations.* Nothing in this paragraph (g) may be construed to restrict an AML/CFT enforcement action or a significant

AML/CFT supervisory action with respect to any failure to establish an AML/CFT program in accordance with paragraph (c) of this section.

(3) *Criminal Enforcement Unaffected.* Nothing in this subpart may be construed to affect criminal enforcement under the BSA.

(h) *FinCEN consultation.*

(1) *Consultation and consideration requirement.* Before initiating an AML/CFT enforcement action or a significant AML/CFT supervisory action, the FDIC will provide the FinCEN Director an opportunity to review the action and consider any input offered by the FinCEN Director on the action, which may include any view as to the effectiveness of the FDIC-supervised institution's AML/CFT program.

(2) *Notice requirement.* To provide the FinCEN Director an opportunity to provide a view under paragraph (h)(1) of this section, the FDIC will:

(i) Send written notice to the FinCEN Director of its intent to take that action at least 30 days before taking the action (unless a shorter period of time is necessary, in the sole discretion of the FDIC, to remedy, prevent, or respond to an unsafe or unsound practice or condition), accompanied by the relevant AML/CFT information underlying the proposed action, including the relevant portions of the draft report or enforcement action, the relevant examination workpapers supporting the proposed action, and the relevant AML/CFT information submitted by the FDIC-supervised institution to the FDIC, other than information over which the FDIC-supervised institution may claim privilege under Federal or State law; and

(ii) Respond to the extent reasonably practicable to requests for additional information from the FinCEN Director regarding the proposed action.

(i) *Disclosure of supervisory information to FinCEN.*

[OPTION 1 FOR PARAGRAPH (i)(1):]

(1) Notwithstanding 12 CFR part 309, the FDIC permits an FDIC-supervised institution, on behalf of FDIC, to disclose to the FinCEN Director, and permits the FinCEN Director to use, any information relating to an existing or potential AML/CFT enforcement action or significant AML/CFT supervisory action to which the FDIC-supervised institution has access.

[OPTION 2 FOR PARAGRAPH (i)(1):]

(1) Notwithstanding 12 CFR part 309, the FDIC permits an FDIC-supervised institution, on behalf of the FDIC, to disclose to the FinCEN Director, and permits the FinCEN Director to use, any

information relating to an existing or potential AML/CFT enforcement action or significant AML/CFT supervisory action to which the FDIC-supervised institution has access upon the contemporaneous disclosure of such information to the FDIC.

(2) An FDIC-supervised institution's disclosure of information to the FinCEN Director under paragraph (i)(1) of this section does not waive, invalidate, destroy, or otherwise affect any privilege or protection available under Federal or State law, including the attorney-client privilege, the work-product doctrine, the bank-examination privilege, or any other confidentiality or evidentiary privilege.

(3) Any disclosure made by an FDIC-supervised institution under paragraph (i)(1) of this section is made on behalf of the FDIC pursuant to the FDIC's authorization under 12 U.S.C. 1821(t).

(j) *Severability.*

The provisions of this subpart are separate and severable from one another. If any provision of this subpart is held to be invalid, or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions, or application of such provisions to other persons or circumstances, that can be given effect without the invalid provision or application.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 748

Authority and Issuance

For the reasons set forth in the preamble, the National Credit Union Administration proposes to amend 12 CFR part 748 as follows:

PART 748—SECURITY PROGRAM, SUSPICIOUS TRANSACTIONS, CATASTROPHIC ACTS, CYBER INCIDENTS, AND ANTI-MONEY LAUNDERING/COUNTERING THE FINANCING OF TERRORISM PROGRAM

■ 7. The authority citation for part 748 continues to read as follows:

Authority: 12 U.S.C. 1766(a), 1786(b)(1), 1786(q), 1789(a)(11); 15 U.S.C. 6801–6809; 31 U.S.C. 5311 and 5318.

■ 8. The heading of part 748 is revised to read as set forth above.

■ 9. Revise § 748.2 and republish to read as follows:

§ 748.2 Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) Program Requirements.

(a) *Definitions.* For purposes of this section:

(1) *AML/CFT enforcement action* means any formal or informal action taken by the NCUA under authority of 12 U.S.C. 1786 or other applicable law, that seeks to penalize, remedy, prevent, or respond to noncompliance with past or ongoing violations of, or past or ongoing deficiencies relating to, an AML/CFT requirement. The term includes—

(i) A cease-and-desist order, written agreement, consent order, or memorandum of understanding; or

(ii) The assessment of a civil money penalty.

(2) *AML/CFT requirement* means:

(i) A requirement of the Bank Secrecy Act or the implementing regulations at 31 CFR chapter X; or

(ii) A requirement prescribed under 12 U.S.C. 1786(q) or this section.

(3) *Credit union* for the purposes of this section means a federally insured credit union.

(4) *Bank Secrecy Act* has the meaning given that term in 31 CFR 1010.100.

(5) *Significant AML/CFT supervisory action* means any written communication or other formal supervisory determination that—

(i) Identifies one or more alleged deficiencies, weaknesses, violations of law, or unsafe or unsound practices or conditions relating to an AML/CFT requirement;

(ii) Communicates supervisory expectations to a credit union regarding actions or remedial measures required to correct the deficiency, weakness, violation, or practice, or condition; and

(iii) Contemplates significant or programmatic actions or remedial measures to be taken by the credit union.

The term does not include examiner observations, suggestions, or other informal comments.

(b) *AML/CFT program in general.*

Each credit union must establish and maintain an effective AML/CFT program. A credit union complies with this requirement if it:

(1) Establishes an AML/CFT program in accordance with paragraph (c) of this section; and

(2) Maintains an AML/CFT program by implementing the AML/CFT program in accordance with paragraph (d) of this section.

(c) *AML/CFT program establishment.* A credit union establishes an AML/CFT program in accordance with this paragraph if it:

(1) Establishes a risk-based set of internal policies, procedures, and controls that is reasonably designed to ensure compliance with the Bank Secrecy Act and the implementing regulations at 31 CFR Chapter X and to:

(i) Identify, assess, and document the credit union's money laundering, terrorist financing, and other illicit finance activity risks through risk assessment processes that:

(A) Evaluate the money laundering, terrorist financing, and other illicit finance activity risks of the credit union's business activities, including its products, services, distribution channels, customers, and geographic locations;

(B) Review and, as appropriate, incorporate the AML/CFT priorities as that term is defined in 31 CFR 1010.100; and

(C) Are updated promptly upon any change that the credit union knows or has reason to know significantly changes the credit union's money laundering, terrorist financing, and other illicit finance activity risks;

(ii) Mitigate the credit union's money laundering, terrorist financing, and other illicit finance activity risks consistent with the risk assessment processes required under paragraph (c)(1)(i) of this section, including by directing more attention and resources toward higher-risk customers and activities, consistent with the risk profile of the credit union, rather than toward lower-risk customers and activities; and

(iii) Conduct ongoing customer-due diligence, including to:

(A) Understand the nature and purpose of customer relationships for the purpose of developing a customer risk profile; and

(B) Conduct ongoing monitoring to identify and report suspicious transactions and, on a risk basis, to maintain and update customer information (including information regarding the beneficial owners of legal entity customers, as defined in 31 CFR 1010.230);

(2) Establishes independent AML/CFT program testing to be conducted by credit union personnel or by an outside party;

(3) Designates an individual, who is (i) located in the United States, (ii) accessible to, and subject to oversight and supervision by, FinCEN and the NCUA, and (iii) responsible for establishing and implementing the AML/CFT program and coordinating and monitoring day-to-day compliance; and

(4) Establishes an ongoing employee training program.

(d) *AML/CFT program implementation.* A credit union implements an AML/CFT program in accordance with this paragraph if the credit union implements, in all material respects, the AML/CFT program

required under paragraph (c) of this section.

(e) *Written AML/CFT program and approval.* A credit union's AML/CFT program must be written, and it must be approved by the credit union's board of directors, an equivalent governing body within the credit union, or appropriate senior management within the credit union.

(f) *Customer identification program.* Each credit union shall implement a customer identification program in accordance with 31 CFR 1020.220.

(g) *Enforcement and supervision policy.*

(1) *In general.* Except with respect to a significant or systemic failure to implement the AML/CFT program in accordance with paragraph (d) of this section, a credit union that has established an AML/CFT program in accordance with paragraph (c) of this section will not be subject to an AML/CFT enforcement action or to a significant AML/CFT supervisory action related to the requirements of 12 U.S.C. 1786(q), 31 U.S.C. 5318(h)(1), this section, or 31 CFR 1020.210.

(2) *Program establishment violations.* Nothing in this paragraph (g) may be construed to restrict an AML/CFT enforcement action or a significant AML/CFT supervisory action with respect to any failure to establish an AML/CFT program in accordance with paragraph (c) of this section.

(3) *Criminal Enforcement Unaffected.* Nothing in this subpart may be construed to affect criminal enforcement under the BSA.

(h) *FinCEN consultation.*

(1) *Consultation and consideration requirement.* Before initiating an AML/CFT enforcement action or a significant AML/CFT supervisory action, the NCUA will provide the FinCEN Director an opportunity to review the action and will consider any input offered by the FinCEN Director on the action, which may include any view as to the effectiveness of the credit union's AML/CFT program.

(2) *Notice requirement.* To provide the FinCEN Director with an opportunity to provide a view under paragraph (h)(1) of this section, the NCUA will:

(i) Send written notice to the FinCEN Director of its intent to take that action at least 30 days before taking the action (unless a shorter period of time is necessary, in the sole discretion of the Chairman or his/her designee, to remedy, prevent, or respond to an unsafe or unsound practice or condition), accompanied by the relevant AML/CFT information underlying the proposed action, including the relevant portions of the draft report or

enforcement action, the relevant examination workpapers supporting the proposed action, and the relevant AML/CFT information submitted by the credit union to the NCUA, other than information over which the credit union may claim privilege under Federal or state law; and

(ii) Respond to the extent reasonably practicable to requests for additional information from the FinCEN Director regarding the proposed action.

(i) *Disclosure of supervisory information to FinCEN.*

[OPTION 1 FOR PARAGRAPH (i)(1):]

(1) Notwithstanding 12 CFR part 792, the NCUA permits a credit union, on behalf of the NCUA, to disclose to the FinCEN Director, and permits the FinCEN Director to use, any information relating to an existing or potential AML/CFT enforcement action or significant AML/CFT supervisory action to which the credit union has access.

[OPTION 2 FOR PARAGRAPH (i)(1):]

(1) Notwithstanding 12 CFR part 792, the NCUA permits a credit union, on behalf of the NCUA, to disclose to the FinCEN Director, and permits the FinCEN Director to use, any information relating to an existing or potential AML/CFT enforcement action or significant AML/CFT supervisory action to which the credit union has access upon the contemporaneous disclosure of such information to the NCUA.

(2) A credit union's disclosure of information to the FinCEN Director, under paragraph (i)(1) of this section does not waive, invalidate, destroy, or otherwise affect any privilege or protection available under Federal or state law, including the attorney-client privilege, the work-product doctrine, the bank-examination privilege, or any other confidentiality or evidentiary privilege.

(3) Any disclosure made by a credit union under paragraph (i)(1) of this section is made on behalf of the NCUA pursuant to the NCUA's authorization under 12 U.S.C. 1821(t).

(j) Severability.

The provisions of this subpart are separate and severable from one another. If any provision of this subpart is held to be invalid, or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions, or application of such provisions to other persons or circumstances, that can be

given effect without the invalid provision or application.

Jonathan V. Gould,

Comptroller of the Currency.

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on April 7, 2026.

Jennifer M. Jones,

Deputy Executive Secretary.

By the National Credit Union Administration Board, this 7th day of April 2026.

Melane Conyers-Ausbrooks,

Secretary of the Board.

[FR Doc. 2026-06948 Filed 4-9-26; 8:45 am]

BILLING CODE 4810-33-P; 6714-01-P; 7535-01-P

FEDERAL RESERVE SYSTEM

12 CFR Part 210

[Docket No. R-1891]

RIN 7100-AH23

Collection of Checks and Other Items by Federal Reserve Banks and Funds Transfers Through the Fedwire Funds Service and the FedNow Service; Regulation J

AGENCY: Board of Governors of the Federal Reserve System (Board).

ACTION: Proposed rule, request for comment.

SUMMARY: The Board is proposing amendments to subpart C of Regulation J (governing the FedNow® Service) to permit FedNow participants to use intermediaries, other than Reserve Banks, to send funds transfers through the FedNow Service. The Board believes this change could support private-sector cross-border payment solutions by allowing FedNow participants to leverage an intermediary (for example, a correspondent bank) for the international portion of a cross-border transaction and use the FedNow Service for the U.S. domestic portion.

DATES: Comments must be submitted by June 9, 2026.

ADDRESSES: You may submit comments, identified by Docket No. R-1891 and RIN 7100-AH23, by any of the following methods:

- *Agency Website:* <https://www.federalreserve.gov/apps/proposals/>. Follow the instructions for submitting comments, including attachments. *Preferred Method.*

- *Mail:* Benjamin W. McDonough, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

- *Hand Delivery/Courier:* Same as mailing address.

- *Other Means:* publiccomments@frb.gov. You must include the docket number in the subject line of the message.

Comments received are subject to public disclosure. In general, comments received will be made available on the Board's website at <https://www.federalreserve.gov/apps/proposals/> 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. Public comments may also be viewed electronically or in person in Room M-4365A, 2001 C St. NW, Washington, DC 20551, between 9 a.m. and 5 p.m. during Federal business weekdays.

FOR FURTHER INFORMATION CONTACT:

Curtis M. Blair, Financial Institution Policy Analyst II, (202) 913-2169, Division of Reserve Bank Operations and Payment Systems; or Corinne Milliken Van Ness, Senior Counsel, Legal Division, Board of Governors of the Federal Reserve System: (202) 452-3000. For users of text telephone systems (TTY) or any TTY-based Telecommunications Relay Services, please call 711 from any telephone, anywhere in the United States.

SUPPLEMENTARY INFORMATION:

I. Background

On July 20, 2023, the Reserve Banks launched the FedNow Service.¹ The FedNow Service is an interbank real-time gross settlement service that supports instant payments in the United States 24x7x365. Currently, under Regulation J, FedNow participants may not use intermediaries, other than the Reserve Banks, for a funds transfer sent through the FedNow Service. This means that a funds transfer sent through the FedNow Service can include only two U.S. banks other than a Reserve Bank. Practically, this has meant that the service can be used only for domestic payments because participating banks located in the United States have been unable to send payments to additional banks outside the United States (such as correspondents).

¹ "FedNow" and "Fedwire" are a registered service mark of the Reserve Banks. A list of marks related to financial services products that are offered to financial institutions by the Reserve Banks is available at [FRBservices.org](https://frb.org/frb-services.org).

When the Board announced the details of the FedNow Service in 2020, the Board stated that, “[i]n line with prioritization of a timely launch, the FedNow Service will only support domestic instant payments initially.”² The Board noted, however, that it would evaluate whether to expand the FedNow Service in the future to allow cross-border payments.³

II. Proposed Regulation J Amendments

Since the launch of the FedNow Service, participants have expressed interest in using the service to initiate or receive cross-border instant payments as a means of improving the speed and efficiency of cross-border payments. In response, the Board is proposing to amend Regulation J to allow FedNow participants to use intermediaries other than Reserve Banks, which is currently prohibited under Regulation J. The Board believes this change could support private-sector cross-border payment solutions, among other potential use cases, by allowing FedNow participants to leverage an intermediary (for example, a correspondent bank) for the international portion of a cross-border transaction and use the FedNow Service for the U.S. domestic portion.⁴ This would make available a second real-time gross settlement payment rail to private-sector providers in addition to the Fedwire Funds Service.

The proposed amendments would align the FedNow Service with the Fedwire Funds Service, which has permitted intermediaries for decades. The changes would not alter the payment flow between FedNow Service participants or change which entities can connect to the service. Like the Fedwire Funds Service, the amendments would simply allow additional transfers before and after funds are sent through the FedNow Service, enabling participants to settle the U.S. domestic portion of larger cross-border transactions. The Board believes these proposed amendments do not create material new money laundering, sanctions evasion, or payment system integrity risks, as the correspondent payment model is

substantially similar to how the Fedwire Funds Service operates today and has functioned successfully for years.

A. Reliance on Numbers Identifying Beneficiary and Intermediary Banks

Currently, section 210.42(a) only permits a Reserve Bank to rely on the number in the payment order identifying the beneficiary's bank. Under the proposal, a Reserve Bank would also be permitted to rely on a number identifying the intermediary bank, consistent with Article 4A of the Uniform Commercial Code (UCC). Specifically, a Reserve Bank, where it acts as receiving bank, would be able to rely on the routing number of an intermediary bank specified in a payment order as identifying the appropriate intermediary bank, even if the payment order identified another bank by name.⁵ The proposed language would mirror the corresponding rules governing the Fedwire Funds Service in subpart B of Regulation J.

B. Permitting Designation of Non-Reserve Bank Intermediary Banks

Currently, a FedNow participant may not send a payment order to a Reserve Bank that requires the Reserve Bank to issue a payment order to an intermediary bank other than another Reserve Bank. The Board is proposing to amend section 210.45(b) to permit a FedNow payment order to designate an intermediary bank other than a Reserve Bank. Additionally, the Board is proposing to make conforming amendments to the commentary to section 210.45.

C. Application of Regulation J's Funds-Availability Requirements

Currently, under section 210.44(b)(1), “[a] beneficiary's bank (other than a Federal Reserve Bank) that accepts a payment order over the FedNow Service is obliged to pay the amount of the order to the beneficiary of the order immediately after its acceptance of the payment order, by crediting an account of the beneficiary in accordance with section 4A–405(a) of Article 4A.”

The Board is not proposing to amend section 210.44(b)(1). Accordingly, Regulation J's immediate funds-availability requirement would apply only to funds transfers in which a beneficiary's bank—not an intermediary bank—accepts a payment order over the

FedNow Service. For example, in an outbound cross-border funds transfer, an intermediary bank (rather than the beneficiary's bank) would accept a payment order over the FedNow Service, and the beneficiary's bank (which would be located outside the United States) would not be obliged under Regulation J to make funds available immediately to the beneficiary. Conversely, if an originator outside the United States initiates a cross-border funds transfer in which the beneficiary's bank accepts a payment order over the FedNow Service, then the beneficiary's bank (which would be located in the United States) would be obliged to make funds available immediately to the beneficiary.

Finally, the Board is proposing a clarifying revision to section 210.44(b)(3). Currently, where a FedNow Service participant, acting as a beneficiary bank, has reasonable cause to believe that the beneficiary is not entitled to or permitted to receive the payment, the beneficiary bank may notify its Reserve Bank that it requires additional time to determine whether to accept the payment order. With the proposed amendment to Regulation J to permit the use of non-Reserve Bank intermediary banks, the Board is also proposing to amend section 210.44(b)(3) to clarify its applicability only to FedNow Service participants.

III. Request for Comment

The Board requests comment on all aspects of the proposed amendments to Regulation J.

IV. Competitive Impact Analysis

The Board conducts a competitive impact analysis when it considers an operational or legal change, if that change would have a direct and material adverse effect on the ability of other service providers to compete with the Federal Reserve in providing similar services due to legal differences or due to the Federal Reserve's dominant market position deriving from such legal differences. All operational or legal changes having a substantial effect on payment system participants will be subject to a competitive impact analysis, even if competitive effects are not apparent on the face of the proposal. If such legal differences exist, the Board will assess whether the same objectives could be achieved by a modified proposal with less competitive impact or, if not, whether the benefits of the proposal (such as contributing to payment system efficiency or integrity or other Board objectives) outweigh the

² 85 FR 48522, 48527 (August 11, 2020).

³ *Id.*

⁴ Correspondent banking generally consists of a bilateral arrangement under which one bank (the correspondent) holds deposits owned by other banks (respondents) and provides payment and other services to those respondent banks. Through such relationships, banks can access financial services in different jurisdictions and provide cross-border payment services to their customers. Bank for International Settlements, *Correspondent Banking* (2016), <https://www.bis.org/cpmi/publ/d147.pdf>.

⁵ A Reserve Bank may rely on the routing number, provided the Reserve Bank did not know of any inconsistency between the routing number and the name of the bank identified. The proposed amendments would not change the language in section 201.42(a) permitting Reserve Banks to rely on a number identifying a beneficiary bank.

materially adverse effect on competition.⁶

The Board does not believe that the proposed amendments to Regulation J will have a direct and material adverse effect on the ability of other service providers to compete effectively with the Reserve Banks in providing similar services due to legal differences. The proposed amendments do not govern similar services provided by private-sector providers and, accordingly, would not preclude a private-sector provider of similar payment services from facilitating cross-border payments. Therefore, the Board does not believe that the proposed amendments would affect the competitive position of private-sector providers vis-à-vis the Reserve Banks.

V. Administrative Law Matters

A. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3506; 5 CFR part 1320 Appendix A.1), the Board may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a valid Office of Management and Budget (OMB) control number. The Board reviewed the proposed rule under the authority delegated to the Board by the OMB and determined that it contains no collections of information under the PRA.⁷ Accordingly, there is no paperwork burden associated with the proposed rule.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (the RFA) (5 U.S.C. 601 *et seq.*) requires agencies either to provide an initial regulatory flexibility analysis with a proposed rule or to certify that the proposed rule will not have a significant economic impact on a substantial number of small entities.⁸ In accordance with section 3(a) of the RFA, the Board has reviewed the proposed amendment. In this case, the proposed amendment would apply to all depository

institutions that choose to use the Reserve Bank's FedNow Service, but the Board does not believe it will have a significant economic impact on a substantial number of small entities. Nevertheless, this initial regulatory flexibility analysis has been prepared in accordance with 5 U.S.C. 603 for the Board to solicit comment on the effect of the proposal on small entities. An initial regulatory flexibility analysis must contain: (1) a description of the reasons why action by the agency is being considered; (2) a succinct statement of the objectives of, and legal basis for, the proposed rule; (3) a description of, and, where feasible, an estimate of the number of small entities to which the proposed rule will apply; (4) a description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; (5) an identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap with, or conflict with the proposed rule; and (6) a description of any significant alternatives to the proposed rule which accomplish its stated objectives and minimize any significant economic impact of the proposed rule on small entities.⁹ The Board will, if necessary, conduct a final regulatory flexibility analysis after consideration of comments received during the public comment period.

1. Statement of the Need for, Objectives of, and Legal Basis for, the Proposed Rule

The proposed amendments are intended to allow FedNow participants to initiate and receive cross-border payments. The proposed amendments are designed to accommodate FedNow participants' existing correspondent-respondent relationships and encourage innovative cross-border payment solutions.

The following sections of the Federal Reserve Act provide the Board with the legal basis for these amendments: section 13 (12 U.S.C. 342), paragraph (f) of section 19 (12 U.S.C. 464), paragraph 14 of section 16 (12 U.S.C. 248(o)), and paragraphs (i) and (j) of section 11 (12 U.S.C. 248(i) and (j)).

2. Small Entities Affected by the Proposed Rule

The proposed amendments would apply to all depository institutions that

choose to participate in the FedNow Service regardless of their size. Pursuant to regulations issued by the Small Business Administration (13 CFR 121.201), a small banking organization includes a depository institution with \$850 million or less in total assets.¹⁰ Based on call report data, there are approximately 7,040 depository institutions that have total domestic assets of \$850 million or less and thus are considered small entities for purposes of the RFA.

3. Projected Reporting, Recordkeeping, and Other Compliance Requirements

Given that the proposed rule consists only of limited new service terms, there are no new projected reporting, recordkeeping, or other compliance requirements associated with the proposal.

4. Identification of Duplicative, Overlapping, or Conflicting Federal Rules

The Board has not identified any likely duplication and/or potential conflict between the proposed regulatory amendments and any other Federal rule. Some overlap exists between existing subpart C of Regulation J and the Expedited Funds Availability Act (implemented in Regulation CC). Specifically, Regulation CC provides that funds received by a bank via an electronic payment shall be available for withdrawal not later than the business day after the banking day on which such funds are received. Existing subpart C of Regulation J establishes a faster—*i.e.*, immediate—funds-availability requirement, but only for payments in which the beneficiary's bank accepts a payment order over the FedNow Service. The regulatory overlap does not create conflicting federal rules and would not be changed by this proposal.

5. Significant Alternatives to the Proposed Rule

The Board has not identified any regulatory burden associated with the proposed amendments to Regulation J, nor has the Board identified any significant alternatives that would reduce the regulatory burden on small entities.

Therefore, the Board believes that the proposed rule will not have a significant economic impact on a substantial number of small entities supervised by the Board.

The Board welcomes comment on all aspects of its analysis. In particular, the

¹⁰ For example, the SBA defines a commercial bank as small if it has \$850 million or less in assets. See 13 CFR 121.201.

⁶ Federal Reserve Regulatory Service, 7–145.2.

⁷ See 44 U.S.C. 3502(3).

⁸ Under regulations issued by the U.S. Small Business Administration ("SBA"), a small entity includes a depository institution, bank holding company, or savings and loan holding company with total assets of \$850 million or less. See 13 CFR 121.201. Consistent with the SBA's General Principles of Affiliation, the Board includes the assets of all domestic and foreign affiliates toward the applicable size threshold when determining whether to classify a particular entity as a small entity. See 13 CFR 121.103. As of the second quarter of 2025, there were approximately 2,796 small bank holding companies and approximately 157 small savings and loan holding companies, and approximately 443 small state member banks.

⁹ 5 U.S.C. 603(b)–(c).

Board requests that commenters describe the nature of any impact on small entities and provide empirical data to illustrate and support the extent of the impact.

C. Solicitation of Comments on Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act (Pub. L. 106–102, 113 Stat. 1338, 1471, 12 U.S.C. 4809) requires the federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The Board has sought to present the proposal in a simple and straightforward manner and invites comment on the use of plain language and whether any part of the proposal could be more clearly stated.

D. Providing Accountability Through Transparency

The Providing Accountability Through Transparency Act of 2023 (5 U.S.C. 553(b)(4)) requires that a notice of proposed rulemaking include the internet address of a summary of not more than 100 words in length of the proposed rule, in plain language, that shall be posted on the internet website under section 206(d) of the E-Government Act of 2002 (44 U.S.C. 3501 note).

The Board of Governors of the Federal Reserve System is proposing to amend subpart C of its Regulation J, which governs the Federal Reserve Banks' FedNow Service, to permit participants to use intermediary banks in addition to Federal Reserve Banks. This change would enable participants to leverage their correspondent banking networks for the U.S. domestic portion of cross-border transactions.

The proposal and the required summary can be found at <https://www.regulations.gov> and <https://www.federalreserve.gov/supervisionreg/reglisting.htm>.

List of Subjects in 12 CFR Part 210

Banks, Banking, Federal Reserve System.

For the reasons set forth in the preamble, the Board proposes to amend 12 CFR part 210 as follows:

PART 210—COLLECTION OF CHECKS AND OTHER ITEMS BY FEDERAL RESERVE BANKS AND FUNDS TRANSFERS THROUGH THE FEDWIRE FUNDS SERVICE AND THE FEDNOW SERVICE (REGULATION J)

■ 1. The authority citation for part 210 continues to read as follows:

Authority: 12 U.S.C. 248(i), (j), and 248–1, 342, 360, 464, 4001–4010, and 5001–5018.

■ 2. Amend § 210.42(a) to read as follows:

(a) *Reliance by a Federal Reserve Bank on number to identify an intermediary bank or beneficiary's bank.*

A Federal Reserve Bank that receives a payment order from a sender containing a number that identifies the intermediary bank or beneficiary's bank may rely on the number, even if it identifies a bank different from the bank identified by name in the payment order, if the Federal Reserve Bank does not know of such an inconsistency in identification. A Federal Reserve Bank has no duty to detect any such inconsistency in identification.

■ 3. Amend the first sentence of § 210.44(b)(3) to read as follows:

(3) In circumstances where the beneficiary's bank (other than a Federal Reserve Bank) that has received a payment order over the FedNow Service has reasonable cause to believe that the beneficiary is not entitled or permitted to receive payment, the beneficiary's bank may notify its Federal Reserve Bank that it requires additional time to determine whether to accept the payment order.

■ 4. Amend § 210.45(b) to read as follows:

(b) *Selection of an intermediary bank.* For an interdistrict transfer through the FedNow Service, a Federal Reserve Bank is authorized and directed to execute a payment order through another Federal Reserve Bank. A sender shall not send a payment order to a Federal Reserve Bank that requires the Federal Reserve Bank to send a payment order to an intermediary bank (other than a Federal Reserve Bank) unless that intermediary bank is designated in the sender's payment order. A sender shall not send to a Federal Reserve Bank a payment order through the FedNow Service that instructs use by a Federal Reserve Bank of a funds-transfer system or means of transmission other than the FedNow Service, unless the Federal Reserve Bank agrees with the sender in writing to follow such instructions.

■ 5. In Appendix A of Subpart C of part 210 under "Section 210.45—Payment Orders", amend paragraph (b)(2) to read as follows:

Appendix A of Subpart C of Part 210—Commentary

* * * * *

Section 210.45—Payment Orders

* * * * *

(b) * * * This section provides that in an interdistrict transfer, a Federal Reserve Bank is authorized and directed to select another Federal Reserve Bank as

an intermediary bank. A sender may, however, instruct a Federal Reserve Bank to use a particular intermediary bank by designating that bank as the bank to be credited by that Federal Reserve Bank (or the second Federal Reserve Bank in the case of an interdistrict transfer) in its payment order, in which case the Federal Reserve Bank will send the payment order to that bank if that bank receives payment orders through the FedNow Service. A sender may not instruct a Federal Reserve Bank to use its discretion to select an intermediary bank other than a Federal Reserve Bank or an intermediary bank designated by the sender. In addition, a sender may not send a payment order through the FedNow Service that instructs a Federal Reserve Bank to use a funds-transfer system or means of transmission other than the FedNow Service, unless the sender and the Federal Reserve Bank agree in writing to the use of that funds-transfer system or means of transmission.

* * * * *

By order of the Board of Governors of the Federal Reserve System,

Benjamin W. McDonough,

Secretary of the Board.

[FR Doc. 2026–06996 Filed 4–9–26; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–3480; Project Identifier MCAI–2025–01031–T]

RIN 2120-AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2025–10–12, which applies to all Airbus SAS Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320 series airplanes; Model A321–211, –212, –213, –231, –232, –251N, –251NX, –252N, –252NX, –253N, –253NX, –253NY, –271N, –271NX, –272N, and –272NX airplanes; Airbus SAS Model A330–200 series airplanes; Model A330–300 series airplanes; Model A330–800 series airplanes; Model A330–900 series

airplanes; Model A350–941 and –1041 airplanes; and Model A380–800 series airplanes. AD 2025–10–12 requires repetitive general visual inspections of the broadband antenna adapter plate, skirt, vents, and attachment fittings, and applicable corrective actions, and limits the installation of affected parts under certain conditions. Since the FAA issued AD 2025–10–12, a new Model A321–271NY airplanes has been certified, on which the affected parts could be installed in service. This proposed AD continues to require the actions in AD 2025–10–12 and would add Model A321–271NY airplanes to the applicability. This proposed AD would also prohibit the installation of affected parts under certain conditions. 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 May 26, 2026.

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](https://www.regulations.gov). Follow the instructions for submitting comments.

- *Fax:* 202–493–2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2026–3480; 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 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](https://www.regulations.gov) under Docket No. FAA–2026–3480.

- 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: Bill Ashforth, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3520; email: Bill.Ashforth@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–2026–3480; Project Identifier MCAI–2025–01031–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](https://www.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 Bill Ashforth, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3520; email: Bill.Ashforth@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

The FAA issued AD 2025–10–12, Amendment 39–23046 (90 FR 22457, May 28, 2025) (AD 2025–10–12), for all Airbus SAS Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–211, –212, –214, –216, –231, –232, –233, –251N, –252N, –253N, –271N, –272N, and –273N airplanes; Model A321–211, –212, –213, –231, –232, –251N, –251NX, –252N, –252NX, –253N, –253NX, –253NY, –271N, –271NX, –272N, and –272NX airplanes; Model A330–201, –202, –203, –223, –243, –301, –302, –303, –321, –322, –323, –341, –342, –343, –841, and –941 airplanes; Model A350–941 and –1041 airplanes; and Model A380–841, –842, and –861 airplanes. AD 2025–10–12 was prompted by an MCAI originated by EASA, which is the Technical Agent for the Member States of the European Union. EASA issued AD 2024–0199, dated October 18, 2024 (EASA AD 2024–0199), to correct an unsafe condition.

AD 2025–10–12 requires repetitive general visual inspections of the broadband antenna adapter plate, skirt, vents, and attachment fittings, and applicable corrective actions, and limits the installation of affected parts under certain conditions. The FAA issued AD 2025–10–12 to address the corrosion and cracks on the broadband antenna adapter plate and skirt assembly-adaptor. The unsafe condition, if not addressed, could lead to in-flight detachment of the radome, antenna, and affected parts (e.g., the broadband antenna adapter plate, skirt, vents and attachment fittings), which could impact the tail section of the airplane, possibly resulting in damage and reduced control of the airplane.

Actions Since AD 2025–10–12 Was Issued

Since the FAA issued AD 2025–10–12, EASA superseded EASA AD 2024–0199 and issued EASA AD 2025–0120, dated May 26, 2025 (EASA AD 2025–0120) (also referred to as the MCAI), to correct an unsafe condition for all Airbus SAS Model:

- A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes;

- A320–211, –212, –214, –215, –216, –231, –232, –233, –251N, –252N, –253N, –271N, –272N, and –273N airplanes;

- A321–211, –212, –213, –231, –232, –251N, –251NX, –252N, –252NX, –253N, –253NX, –253NY, –271N, –271NX, –271NY, –272N, and –272NX airplanes;

- A330–201, –202, –203, –223, –243, –301, –302, –303, –321, –322, –323,

–341, –342, –343, –841, and –941 airplanes;

- A350–941 and –1041 airplanes; and
- A380–841, –842, and –861

airplanes.

Model A320–215 airplanes are not certificated by the FAA and are not included on the U.S. type certificate data sheet; this AD therefore does not include those airplanes in the applicability.

The MCAI states a new Model, A321–271NY, has been certified, on which affected parts could be installed in service. Airbus has released Airbus Service Bulletin A320–44–1103 Revision 03, dated February 25, 2026, to include certain Model A321–271NY airplanes. EASA AD 2025–0120 is still considered to be an interim action, and further EASA AD action may follow.

The FAA is proposing this AD to address the unsafe condition on these products. You may examine the MCAI in the AD docket at regulations.gov under Docket No. FAA–2026–3480.

Explanation of Retained Requirements

Although this proposed AD does not explicitly restate the requirements of AD 2025–10–12, this proposed AD would retain all of the requirements of AD 2025–10–12. Those requirements are referenced in EASA AD 2025–0120, which, in turn, is referenced in paragraph (g) of this proposed AD.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed EASA AD 2025–0120, which specifies procedures for repetitive general visual inspections for cracks and corrosion of the broadband antenna adapter plate, skirt, vents, and attachment fittings, and, depending on

findings, corrective actions including repair or replacement of the affected parts. EASA AD 2025–0120 also limits the installation of affected parts under certain conditions and requires reporting of both positive and negative inspection results after the initial inspection and thereafter reporting the positive inspection results after each subsequent inspection.

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 accomplishing the actions specified in EASA AD 2025–0120 described previously, except for any differences identified as exceptions in the regulatory text 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 2025–0120 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2025–0120 in its entirety 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 2025–0120 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 2025–0120. Material required by EASA AD 2025–0120 for compliance will be available at regulations.gov under Docket No. FAA–2026–3480 after the FAA final rule is published.

Interim Action

The FAA considers that this proposed AD would be an interim action. The FAA anticipates that further AD action will follow.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 8 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from AD 2025–10–12 (4 airplanes).	Up to 61 work-hours × \$85 per hour = \$5,185.	\$0	Up to \$5,185	Up to \$20,740.
New proposed actions (4 airplanes)	Up to 61 work-hours × \$85 per hour = \$5,185.	0	Up to \$5,185	Up to \$20,740.

The FAA estimates the following costs to do any necessary on-condition action that would be required based on

the results of any required actions. The FAA has no way of determining the

number of aircraft that might need this on-condition action:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
50 work-hours × \$85 per hour = \$4,250	\$10,000	\$14,250

The FAA has received no definitive data on which to base the cost estimates for the repairs specified in this proposed AD.

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB Control Number for this information collection is 2120-0056. Public reporting for this collection of information is estimated to take approximately 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177-1524.

Authority for This Rulemaking

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

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

Regulatory Findings

The FAA 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:
 - a. Removing Airworthiness Directive (AD) 2025-10-12, Amendment 39-23046 (90 FR 22457, May 28, 2025); and
 - b. Adding the following new AD:

Airbus SAS: Docket No. FAA-2026-3480; Project Identifier MCAI-025-01031-T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by May 26, 2026.

(b) Affected ADs

This AD replaces AD 2025-10-12, Amendment 39-23046 (90 FR 22457, May 28, 2025) (AD 2025-10-12).

(c) Applicability

This AD applies to all Airbus SAS airplanes specified in paragraphs (c)(1) through (6) of this AD, certificated in any category.

(1) Model A319-111, -112, -113, -114, -115, -131, -132, and -133 airplanes.

(2) Model A320-211, -212, -214, -216, -231, -232, -233, -251N, -252N, -253N, -271N, -272N, and -273N airplanes.

(3) Model A321-211, -212, -213, -231, -232, -251N, -251NX, -252N, -252NX, -253N, -253NX, -253NY, -271N, -271NX, -271NY, -272N, and -272NX airplanes.

(4) Model A330-201, -202, -203, -223, -243, -301, -302, -303, -321, -322, -323, -341, -342, -343, -841, and -941 airplanes.

(5) Model A350-941 and -1041 airplanes.

(6) Model A380-841, -842, and -861 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by a report that found corrosion and cracks on the broadband antenna adapter plate during an inspection. The FAA is issuing this AD to address the corrosion and cracks on the broadband antenna adapter plate and skirt assembly-adapter. The unsafe condition, if not addressed, could lead to in-flight detachment of the radome, antenna, and affected parts, which could impact the tail section of the airplane, possibly resulting in damage and reduced control 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 2025-0120, dated May 26, 2025 (EASA AD 2025-0120).

(h) Exceptions to EASA AD 2025-0120

(1) Where Appendix A in "the applicable SB" identified in EASA AD 2025-0120 specifies a compliance time "from SB publication date" or "from 14 June 2024 [the effective date of the EASA AD 2024-0106]," this AD requires using July 2, 2025 (the effective date of AD 2025-10-12), except for Model A321-271NY airplanes this AD requires using the effective date of this AD.

(2) Where EASA AD 2025-0120 specifies "14 June 2024 [the effective date of EASA AD 2024-0106]," this AD requires using July 2, 2025 (the effective date of AD 2025-10-12), except for Model A321-271NY airplanes this AD requires using the effective date of this AD.

(3) This AD does not adopt the "Remarks" section of EASA AD 2025-0120.

(4) Where paragraph (2) of EASA AD 2025-0120 specifies "any crack and/or corrosion are detected on an affected part", this AD requires replacing that text with "any crack or corrosion is detected on an affected part".

(5) Paragraph (4) of EASA AD 2025-0120 specifies to report inspection results to Airbus within a certain compliance time. For this AD, report inspection results at the applicable time specified in paragraph (h)(5)(i) or (ii) of this AD.

(i) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(ii) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

(i) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, AIR-520, Continued Operational Safety 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 AIR-520, Continued Operational Safety Branch, send it to the attention of the person identified in paragraph (j) 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, AIR-520, Continued Operational Safety Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* Except as required by paragraph (i)(2) of this AD, if any material contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Additional Information

For more information about this AD, contact Bill Ashforth, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206-231-3520; email: Bill.Ashforth@faa.gov.

(k) 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 2025-0120, dated May 26, 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 April 8, 2026.

Brian Knaup,

Acting Deputy Director, Integrated Certificate Management Division, Aircraft Certification Service.

[FR Doc. 2026-06980 Filed 4-9-26; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA-2024-2531]

14 CFR Part 141

Notice of Request for Comment on the Part 141 Modernization Industry Recommendations Report

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of request for comment.

SUMMARY: FAA is requesting comments and is soliciting public input on the newly submitted *Part 141 Modernization Industry Recommendations Report*.

DATES: Comments must be received no later than May 11, 2026.

ADDRESSES: Send comments identified by docket number FAA-2024-2531 using any of the following methods:

- *Federal eRulemaking Portal:* Go to www.regulations.gov and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M-30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at (202) 493-2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.govinfo.gov/content/pkg/FR-2008-01-17/pdf/E8-785.pdf>.

Docket: Background documents or comments received may be read at

www.regulations.gov at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Lyndsay Carlson with the Part 141 Modernization Initiative Team, Office of Safety Standards, General Aviation and Commercial Division, Training and Certification Group (AFS-810), Federal Aviation Administration; telephone (202) 267-1100; email 9-AFS-Modernization-Part141-Comments@faa.gov.

SUPPLEMENTARY INFORMATION: The *Part 141 Modernization Industry Recommendations Report*¹ constitutes an industry-based proposal to FAA regarding modernization of 14 Code of Federal Regulations part 141 based upon the public meetings that took place between March 2025 and March 2026. The report and associated public meetings are not part of a rulemaking action and, therefore, are not subject to requirements for a public comment period. However, in recognition of the value of stakeholder participation and in continuation of the inclusive approach taken during the public meetings, FAA will afford all interested parties the opportunity to provide input on the *Part 141 Modernization Industry Recommendations Report*.

Authority: 49 U.S.C. 106(f), 40113, 44701-44703, 44707, 44709, 44711, 45102-45103, 45301-45302.

Issued in Washington, DC, on April 8, 2026.

Everette C. Rochon, Jr.,

Manager, Training and Certification Group General Aviation and Commercial Division Office of Safety Standards, Flight Standards Service

[FR Doc. 2026-07015 Filed 4-9-26; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 310

[Docket ID: DOD-2026-OS-0662]

RIN 0790-AL74

Privacy Act of 1974; Implementation

AGENCY: Office of Inspector General, Department of Defense (DoD).

¹ See <https://www.regulations.gov/comment/FAA-2024-2531-0293>.

ACTION: Proposed rule.

SUMMARY: The Department of Defense (Department or DoD) is giving notice of a proposed rulemaking to exempt portions of the “Inspector General Criminal Investigation Records,” CIG–04, system of records from certain provisions of the Privacy Act because of national security and law enforcement requirements and to avoid interference during the conduct of criminal investigations. The DoD is giving concurrent notice of a modified system of records elsewhere in today’s issue of the **Federal Register**.

DATES: Send comments on or before June 9, 2026.

ADDRESSES: You may submit comments, identified by docket number, Regulation Identifier Number (RIN), and title, by any of the following methods.

Federal Rulemaking Portal: <https://www.regulations.gov>. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Director of Administration and Management, Privacy, Civil Liberties, and Transparency Directorate, Regulatory Division, 4800 Mark Center Drive, Attn: Mailbox #24, Suite 05F16, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name and docket number or RIN 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 on the internet at <https://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Rahwa Keleta, Chief, Privacy and Civil Liberties Division, osd.mc-alex.oatsd-pclt.mbx.pclt-sorn@mail.mil; (703) 571–0070.

SUPPLEMENTARY INFORMATION:**I. Background**

In accordance with the Privacy Act of 1974, the Office of Inspector General (OIG) is modifying and reissuing a current system of records titled, “Case Reporting and Information Management System Records,” CIG–04. The system of records is being retitled, “Inspector General Criminal Investigation Records (IGCIR).”

The system consists of both electronic and paper records and will be used by the DoD OIG to maintain records about individuals suspected of criminal misconduct and investigated pursuant to the Inspector General Act of 1978, as amended.

II. Privacy Act Exemption

The Privacy Act permits Federal agencies to exempt eligible records in a system of records from certain provisions of the Act, including those that provide individuals with a right to request access to and amendment of their own records. If an agency intends to exempt a particular system of records, it must first go through the rulemaking process pursuant to 5 U.S.C. 553(b)(1)–(3), (c), and (e). This proposed rule explains why an exemption is being claimed for this system of records and invites public comment, which the DoD will consider before the issuance of a final rule implementing the exemption.

The DoD OIG proposes to modify 32 CFR part 310 to update the existing Privacy Act exemption rule for CIG–04, “Case Control System,” to change the system name and to add exemptions for this system of records from certain provisions of the Privacy Act because information in this system of records may fall within the scope of the following Privacy Act exemptions: 5 U.S.C. 552a(k)(1) and (k)(2). The existing exemption under 5 U.S.C. 552a(j)(2) will continue to be claimed for this system. This rulemaking seeks public comment on the addition of exemptions under 5 U.S.C. 552a(k)(1) and (k)(2).

The DoD OIG proposes this exemption because certain records may contain classified national security information, and as a result, notice, access, amendment, and disclosure (to include accounting for those records) to an individual and certain record-keeping requirement may cause damage to national security. The Privacy Act, pursuant to 5 U.S.C. 552a(k)(1), authorizes agencies to claim an exemption for systems of records that contain information properly classified pursuant to executive order. The DoD OIG is proposing to claim an exemption from several provisions of the Privacy Act, including various access, amendment, disclosure of accounting, and certain record-keeping and notice requirements pursuant to 5 U.S.C. 552a(k)(1), to prevent disclosure of any information properly classified pursuant to executive order, as implemented by DoD Instruction 5200.01 and DoD Manual 5200.01, Volumes 1 and 3.

The DoD OIG also proposes to exempt this system of records because these records support the conduct of criminal law enforcement activities, and certain requirements of the Privacy Act may interfere with the effective execution of these activities and undermine good order and discipline. Pursuant to 5 U.S.C. 552a(k)(2), agencies may exempt

a system of records from certain provisions of the Privacy Act if it contains investigatory material compiled for law enforcement purposes, other than materials within the scope of 5 U.S.C. 552a(j)(2). The DoD OIG is proposing to claim exemptions from several provisions of the Privacy Act, including various access, amendment, disclosure of accounting, and certain record-keeping and notice requirements, pursuant to 5 U.S.C. 552a(k)(2), to prevent the harms articulated in this rule from occurring.

Records in this system of records are only exempt from the Privacy Act to the extent that the purposes underlying the exemption pertain to the record. A modified system of records for CIG–04 is also published in this issue of the **Federal Register**.

Regulatory Analysis

Executive Order 12866, “Regulatory Planning and Review,” and Executive Order 13563, “Improving Regulation and Regulatory Review”

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, of reducing costs, of harmonizing rules, and of promoting flexibility. It has been determined that this rulemaking is not a significant regulatory action.

Executive Order 14192, “Unleashing Prosperity Through Deregulation”

This rule is not subject to Executive Order 14192, because this rule is not a significant regulatory action under Executive Order 12866.

Congressional Review Act (5 U.S.C. 804(2))

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. DoD will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule may take effect no earlier than 60 calendar days after Congress receives the rule report or the

rule is published in the **Federal Register**, whichever is later. This rule is not a “major rule” as defined by 5 U.S.C. 804(2).

Section 202, Public Law 104–4, “Unfunded Mandates Reform Act”

Section 202(a) of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532(a)) requires agencies to assess anticipated costs and benefits before issuing any rule whose mandates may result in the expenditure by State, local and Tribal governments in the aggregate, or by the private sector, in any one year of \$100 million in 1995 dollars, updated annually for inflation. This rulemaking will not mandate any requirements for State, local, or Tribal governments, nor will it affect private sector costs.

Public Law 96–354, “Regulatory Flexibility Act” (5 U.S.C. 601 et seq.)

The Director of Administration and Management has certified that this rulemaking is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. This rulemaking is concerned only with the administration of Privacy Act systems of records within the DoD. Therefore, the Regulatory Flexibility Act, as amended, does not require DoD to prepare a regulatory flexibility analysis.

Public Law 96–511, “Paperwork Reduction Act” (44 U.S.C. 3501 et seq.)

The Paperwork Reduction Act (44 U.S.C. 3501 et seq.) was enacted to minimize the paperwork burden for individuals; small businesses; educational and nonprofit institutions; Federal contractors; State, local and Tribal governments; and other persons resulting from the collection of information by or for the Federal Government. The Act requires agencies obtain approval from the Office of Management and Budget before using identical questions to collect information from ten or more persons. This rulemaking does not impose reporting or recordkeeping requirements on the public.

Executive Order 13132, “Federalism”

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a rule that has federalism implications, imposes substantial direct requirement costs on State and local governments, and is not required by statute, or has federalism implications and preempts State law. This rulemaking will not have

a substantial effect on State and local governments.

Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments”

Executive Order 13175 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct compliance costs on one or more Indian tribes, preempts tribal law, or affects the distribution of power and responsibilities between the Federal Government and Indian tribes. This rulemaking will not have a substantial effect on Indian tribal governments.

List of Subjects in 32 CFR Part 310

Privacy.

Accordingly, 32 CFR part 310 is proposed to be amended as follows:

PART 310—PROTECTION OF PRIVACY AND ACCESS TO AND AMENDMENT OF INDIVIDUAL RECORDS UNDER THE PRIVACY ACT OF 1974

■ 1. The authority citation for 32 CFR part 310 continues to read as follows:

Authority: 5 U.S.C. 552a.

■ 2. Amend § 310.28 by revising paragraph (c)(1) to read as follows:

§ 310.28 Office of the Inspector General (OIG) exemptions.

* * * * *

(c) * * *

(1) *System identifier and name.* CIG–04, Inspector General Criminal Investigation Records.

(i) *Exemptions.* This system of records is exempt from 5 U.S.C. 552a(c)(3) and (4); (d)(1), (2), (3), and (4); (e)(1); (e)(2); (e)(3); (e)(4)(G), (H), and (I); (e)(5); (e)(8); (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). This system of records is exempt from 5 U.S.C. 552a(c)(3); (d)(1), (2), (3), and (4); (e)(1); (e)(4)(G), (H), and (I); and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(1) and (k)(2).

(ii) *Authority.* 5 U.S.C. 552a(j)(2), (k)(1) and (k)(2).

(iii) *Exemption from the particular subsections.* Exemption from the particular subsections is justified for the following reasons:

(A) *Subsections (c)(3), (d)(1), and (d)(2).*

(1) *Exemption (j)(2).* Records in this system of records may contain investigatory material compiled for criminal law enforcement purposes to include information identifying criminal offenders and alleged offenders, information compiled for the purpose of criminal investigation, or

reports compiled during criminal law enforcement proceedings. Application of exemption (j)(2) may be necessary because access to, amendment of, or release of the accounting of disclosures of such records could inform the record subject of an investigation of the existence, nature, or scope of an actual or potential law enforcement or disciplinary investigation, and thereby seriously impede law enforcement or prosecutorial efforts by permitting the record subject and other persons to whom he might disclose the records to avoid criminal penalties or disciplinary measures; reveal confidential sources who might not have otherwise come forward to assist in an investigation and thereby hinder DoD’s ability to obtain information from future confidential sources and result in an unwarranted invasion of the privacy of others.

(2) *Exemption (k)(1).* Records in this system of records may contain information that is properly classified pursuant to executive order. Application of exemption (k)(1) may be necessary because access to and amendment of the records, or release of the accounting of disclosures for such records, could reveal classified information. Disclosure of classified records to an individual may cause damage to national security.

(3) *Exemption (k)(2).* Records in this system of records may contain investigatory material compiled for law enforcement purposes other than material within the scope of 5 U.S.C. 552a(j)(2). Application of exemption (k)(2) may be necessary because access to, amendment of, or release of the accounting of disclosures of such records could: inform the record subject of an investigation of the existence, nature, or scope of an actual or potential law enforcement investigation, and thereby seriously impede law enforcement or prosecutorial efforts by permitting the record subject and other persons to whom he might disclose the records or the accounting of records to avoid criminal penalties; reveal confidential sources who might not have otherwise come forward to assist in an investigation and thereby hinder DoD’s ability to obtain information from future confidential sources; and result in an unwarranted invasion of the privacy of others.

(B) *Subsection (c)(4), (d)(3) and (4).* These subsections are inapplicable to the extent that an exemption is being claimed from subsections (d)(1) and (2). Accordingly, exemption from subsection (c)(4) is claimed pursuant to (j)(2) and exemptions from subsections (d)(3) and (d)(4) are claimed pursuant to (j)(2), (k)(1) and (k)(2).

(C) *Subsection (e)(1)*. In the collection of information for investigatory and law enforcement purposes it is not always possible to conclusively determine the relevance and necessity of particular information in the early stages of the investigation or adjudication. In some instances, it will be only after the collected information is evaluated in light of other information that its relevance and necessity for effective investigation and adjudication can be assessed. Collection of such information permits more informed decision-making by the Department when making required disciplinary and prosecutorial determinations. Additionally, records within this system may be properly classified pursuant to executive order. Accordingly, application of exemptions (j)(2), (k)(1) and (k)(2) may be necessary.

(D) *Subsection (e)(2)*. To collect information from the subject individual could serve notice that he or she is the subject of a criminal investigation and thereby present a serious impediment to such investigations. Collection of information only from the individual accused of criminal activity or misconduct could also subvert discovery of relevant evidence and subvert the course of justice. Accordingly, application of exemption (j)(2) may be necessary.

(E) *Subsection (e)(3)*. To inform individuals as required by this subsection could reveal the existence of a criminal investigation and compromise investigative efforts. Accordingly, application of exemption (j)(2) may be necessary.

(F) *Subsection (e)(4)(G) and (H)*. These subsections are inapplicable to the extent exemption is claimed from subsections (d)(1) and (2). Accordingly, application of exemptions (j)(2), (k)(1) and (k)(2) may be necessary.

(G) *Subsection (e)(4)(I)*. To the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect the privacy and physical safety of witnesses and informants. Accordingly, application of exemptions (j)(2), (k)(1) and (k)(2) may be necessary.

(H) *Subsection (e)(5)*. It is often impossible to determine in advance if investigatory records contained in this system are accurate, relevant, timely and complete, but, in the interests of effective law enforcement, it is necessary to retain this information to maintain an accurate record of the investigatory activity, to preserve the integrity of the investigation, and satisfy

various Constitutional and evidentiary requirements, such as mandatory disclosure of potentially exculpatory information in the investigative file to a defendant. It is also necessary to retain this information to aid in establishing patterns of activity and provide investigative leads. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined through judicial processes. Accordingly, application of exemption (j)(2) may be necessary.

(I) *Subsection (e)(8)*. To serve notice as required by this subsection could give the subject of an investigation sufficient warning to evade investigative efforts. Accordingly, application of exemption (j)(2) may be necessary.

(J) *Subsection (f)*. The agency's rules are inapplicable to those portions of the system that are exempt. Accordingly, application of exemptions (j)(2), (k)(1) and (k)(2) may be necessary.

(K) *Subsection (g)*. This subsection is inapplicable to the extent that the system is exempt from other specific subsections of the Privacy Act. Accordingly, an exemption from subsection (g) is claimed pursuant to (j)(2).

(iv) *Exempt records from other systems*. In the course of carrying out the overall purpose for this system, exempt records from other systems of records may in turn become part of the records maintained in this system. To the extent that copies of exempt records from those other systems of records are maintained in this system, the DoD claims the same exemptions for the records from those other systems that are entered into this system, as claimed for the prior system(s) of which they are a part, provided the reason for the exemption remains valid and necessary.

* * * * *

Dated: April 7, 2026.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2026-06949 Filed 4-9-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 13

[Docket No. NPS-2026-0034; NPS-AKRO-NPS0042589; PPAKAKROD0, PPMPSPD1Y.YM00000]

RIN 1024-AE96

Alaska; Hunting and Trapping in National Preserves; Extension of Comment Period

AGENCY: National Park Service, Interior.

ACTION: Proposed rule; extension of public comment period.

SUMMARY: The National Park Service is extending the public comment period on our recently published proposed rule to improve guidance for unit managers and the public and to restore opportunities for protected activities by returning to the Alaska-specific regulations that were in effect for over three decades, prior to a series of amendments starting in 2015 that will be rescinded under the proposal. This action will provide interested parties additional time and opportunity to comment on the proposed restoration of the pre-2015 regulations and other modifications. Comments previously submitted need not be resubmitted and will be fully considered in preparation of the final rule.

DATES: The comment period on the proposed rule that published March 10, 2026 (91 FR 11483) is being extended by 15 days. We will accept comments received or postmarked on or before Friday, April 24, 2026. Please note that comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. Eastern Time (7:59 p.m. Alaska Time) on the closing date, and comments submitted by U.S. mail must be postmarked by that date to ensure timely consideration.

ADDRESSES: You can obtain copies of the March 10, 2026, proposed rule and associated documents at <http://www.regulations.gov> by entering "NPS-2026-0034" in the search box, selecting the "Dockets" tab, and clicking on the title of the rule. You can submit written comments by one of the following methods:

(1) *Electronically:*

■ *Go to the Federal Register website:* <https://www.federalregister.gov>. In the search box, enter "1024-AE96", the regulation identifier number (RIN) for this rulemaking. Click on the "Submit a Public Comment" button at the top of the page and follow the instructions, or

■ *Go to the Federal eRulemaking Portal:* <http://www.regulations.gov>. In the search box, enter “NPS–2026–0034”, the docket number for the proposed rule. Click on the “Comment” button at the top of the page and follow the instructions.

Please ensure you have found the correct document before submitting your comments electronically.

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: National Park Service, Regional Director, Alaska Regional Office, 240 West 5th Avenue, Anchorage, AK 99501. Comments delivered on external storage devices (e.g., flash drives, compact discs) will not be accepted.

We request that comments be submitted only by the methods described above; comments are not accepted via fax or email. Please ensure the words “National Park Service” or “NPS” and the docket number (“NPS–2026–0034”) or RIN (“1024–AE96”) are included in the submission. Comments received may be posted without change on <https://www.regulations.gov>. This generally means we will post any personal information you provide us (see Public Comments, below, for more information).

FOR FURTHER INFORMATION CONTACT: Don Striker, Regional Director (Acting), Alaska Regional Office, 240 West 5th Ave., Anchorage, AK 99501; phone (907) 227–6163; email: AKR_Regulations@nps.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:

Background

The management of National Park System units in Alaska is governed by federal laws such as the 1916 Organic Act (System-wide) and the 1980 Alaska National Interest Lands Conservation Act (Alaska-specific); by regulations implementing these laws; by treaties; by Service policy; and by principles of sound resource management that may lead to standards or limits to the range of potential activities that may be allowed.

On March 10, 2026, we published a proposed rule to revise the Alaska-specific regulations at 36 CFR part 13 to restore both the procedures used to restrict public uses and opportunities to

engage in those uses in Alaska park areas. These changes restore Service interpretations of law, policies, and regulations adopted to implement statutory provisions for these areas. This proposed rule addresses interests and input from the State of Alaska, Alaska Congressional Delegation, Alaska Federation of Natives, and others during previous rulemaking efforts. The purpose of the proposed rule is to realign state and federal regulations, restore the robust public engagement process Alaskans relied on to stay involved and informed on park management actions, enhance regulatory consistency across all lands and waters, and increase access to federal public lands in furtherance of Executive and Secretarial orders. The proposed rule would have no effect on the U.S. Department of the Interior and U.S. Department of Agriculture regulations governing subsistence harvest of fish and wildlife resources in Alaska park areas.

The March 10, 2026, proposed rule had a 30-day public comment period, ending April 9, 2026. During the comment period for the proposed rule, we received multiple requests for additional time to submit comments. We are extending the comment period by 15 days, to end April 24, 2026 (see **DATES**), to accommodate requests for additional time to review and provide comments on our proposal.

Public Comments

We will accept comments and information during this extended comment period on our March 10, 2026, proposed rule to revise the public use regulations for Alaska park areas. It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, we will accept written comments and information from all interested parties during the extended comment period (see **DATES**) on the proposed rule. We are also soliciting public input and supporting data to gain additional information for the draft environmental assessment and the Service’s regulatory impacts analysis, such as costs and benefits and trade-offs associated with the proposed rescission and restoration. As a specific example, we are soliciting information or data that would help the Service quantify the effects of restoring available harvest opportunities, including any economic impacts which might result.

Please see **DATES** and **ADDRESSES** in this document for information on providing comments and materials by one of the listed methods. We will

consider information and recommendations received during the original and extended comment periods in our final determination on the March 10, 2026, proposed rule. If you already submitted comments or information on the proposed rule, please do not resubmit them. Any such comments are incorporated as part of the public record for the rulemaking and we will fully consider them in the preparation of our final determination.

If you submit information via <http://www.regulations.gov>, your entire submission—including your personal identifying information—may be posted on the website. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on <http://www.regulations.gov> where they will be available for public inspection.

Our final determination concerning the March 10, 2026, proposed action will take into consideration all comments and materials received during the open comment period. Submissions will be included in the public record for this rulemaking and we will fully consider them in the preparation of a final determination.

Authors

The primary authors of this document are Department of the Interior and National Park System staff of the Alaska regional offices.

Kevin Lilly,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks, Exercising the Delegated Authority of the Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2026–07006 Filed 4–9–26; 8:45 am]

BILLING CODE 4312–52–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R02–OAR–2025–1047; FRL–13227–01–R2]

Air Plan Approval; New York; Interstate Transport Requirements for the 2010 SO₂ NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the

Environmental Protection Agency (EPA) is proposing to approve the portion of the State Implementation Plan (SIP) submittal from the State of New York demonstrating that the State satisfies the interstate transport requirements, also known as the “good neighbor” provision of the CAA, for the 2010 1-hour sulfur dioxide (SO₂) primary National Ambient Air Quality Standard (NAAQS). The good neighbor provision requires that each State’s implementation plan contain adequate provisions prohibiting the interstate transport of air pollution in amounts that will contribute significantly to nonattainment, or interfere with maintenance, of the NAAQS in any other State.

DATES: Written comments must be received on or before May 11, 2026.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R02–OAR–2025–1047, at <https://www.regulations.gov> (our preferred method), or the other submission methods identified in the link below. Once submitted, comments cannot be edited or removed from the docket. EPA may publish any comment received to its public docket. Do not submit to EPA’s docket at <https://www.regulations.gov> any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). Please visit <https://www.epa.gov/dockets/commenting-epa-dockets> for additional submission methods; the full EPA public comment policy; information about CBI, PBI, or multimedia submissions; and general guidance on making effective comments.

FOR FURTHER INFORMATION CONTACT:

Stephanie Lin, Environmental Protection Agency, Air Programs Branch, Region 2, 290 Broadway, New York, New York 10007–1866, telephone number: (212) 637–3711, email address: Lin.Stephanie@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

A. Infrastructure SIPs

B. 2010 1-Hour SO₂ NAAQS Designations Background

- II. Relevant Factors Used To Evaluate 2010 1-Hour SO₂ Interstate Transport SIPs
- III. New York’s SIP Submission and the EPA’s Analysis
 - A. State Submission
 - B. The EPA’s Evaluation Methodology
 - C. The EPA’s Prong 1 Evaluation—Contribute Significantly to Nonattainment
 - D. The EPA’s Prong 2 Evaluation—Interference With Maintenance
- IV. The EPA’s Proposed Action
- V. Statutory and Executive Order Reviews

I. Background

A. Infrastructure SIPs

On June 2, 2010, the EPA established a revised primary 1-hour SO₂ NAAQS with a level of 75 parts per billion (ppb), based on a 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations.¹ CAA section 110(a)(1) requires all states to submit, within three years after promulgation of a new or revised NAAQS, SIP submissions to provide for the implementation, maintenance, and enforcement of the NAAQS.² The EPA has historically referred to these SIPs as “infrastructure SIPs.” Specifically, section 110(a)(1) provides the procedural and timing requirements for SIP submissions. Section 110(a)(2) lists specific elements that all states must meet related to a newly established or revised NAAQS, such as requirements for monitoring, basic program requirements, and legal authority, that are designed to assure attainment and maintenance of the NAAQS.

Section 110(a)(2)(D)(i)(I) of the CAA requires that a state’s SIP include provisions prohibiting any source or other type of emissions activity in the state from emitting any air pollutant in amounts that will contribute significantly to nonattainment, or interfere with maintenance, of the NAAQS in any other State. The EPA has long interpreted this language to enact a “functional prohibition” on certain emissions from upwind states, necessitating the EPA’s independent assessment whether those emissions will occur or have been adequately controlled in the state where they originate.³ The EPA often refers to these

requirements as Prong 1 (significant contribution to nonattainment of the NAAQS) and Prong 2 (interference with maintenance of the NAAQS). We are addressing Prongs 1 and 2 in this action. All other applicable infrastructure SIP requirements of the New York SIP submission are addressed in separate rulemakings.

B. 2010 1-Hour SO₂ NAAQS Designations Background

In this proposed action, the EPA has considered information from the 2010 1-hour SO₂ NAAQS designations process, as discussed in more detail in section III.C of this notice. For this reason, a brief summary of the EPA’s designations process for the 2010 1-hour SO₂ NAAQS is included here.⁴

After the promulgation of a new or revised NAAQS, the EPA is required to designate areas as “nonattainment,” “attainment,” or “unclassifiable” pursuant to CAA section 107(d)(1)–(2). The process for designating areas following promulgation of a new or revised NAAQS is contained in CAA section 107(d). The EPA promulgated the 2010 1-hour SO₂ NAAQS on June 2, 2010. *See* 75 FR 35520 (June 22, 2010). The EPA Administrator signed the first round of designations, Round 1, for the 2010 1-hour SO₂ NAAQS on July 25, 2013. *See* 78 FR 47191 (August 5, 2013).⁵ The Agency published the Data Requirements Rule (DRR) on August 21, 2015 (80 FR 51052) to provide expectations for collection of data, either monitoring or modeling, for the remaining designations.⁶ The **Federal**

prohibition” found in CAA section 110(a)(2)(D)(i)(I).

⁴ While designations may provide useful information for purposes of analyzing transport, the EPA notes that designations themselves are not dispositive of whether or not upwind emissions are impacting areas in downwind states. The EPA has consistently taken the position that CAA section 110(a)(2)(D)(i)(I) requires elimination of significant contribution and interference with maintenance in other states, and this analysis is not limited to designated nonattainment areas. Nor must designations for nonattainment areas have first occurred before states or the EPA can act under section 110(a)(2)(D)(i)(I). *See, e.g.*, Clean Air Interstate Rule, 70 FR 25162, 25265 (May 12, 2005); Cross State Air Pollution Rule, 76 FR 48208, 48211 (Aug. 8, 2011); Final Response to Petition from New Jersey Regarding SO₂ Emissions From the Portland Generating Station, 76 FR 69052 (Nov. 7, 2011) (finding facility in violation of the prohibitions of CAA section 110(a)(2)(D)(i)(I) with respect to the 2010 1-hour SO₂ NAAQS prior to issuance of designations for that standard).

⁵ EPA and state documents and public comments related to the Round 1 final designations are in the docket at [regulations.gov](https://www.regulations.gov) with Docket ID No. EPA–HQ–OAR–2012–0233 and at EPA’s website for SO₂ designations at <https://www.epa.gov/sulfur-dioxide-designations>.

⁶ The DRR requires state air agencies to characterize air quality, through air dispersion modeling or monitoring, in areas associated with

¹ *See* 75 FR 35520 (June 22, 2010).

² On December 10, 2024, the EPA revised the secondary NAAQS for SO₂ to an annual average, averaged over three consecutive years, with a level of 10 parts per billion (ppb). *See* 89 FR 105692 (December 27, 2024).

³ *See* *Genon Rema LLC v. EPA*, 722 F.3d 513, 520–24 (3d Cir. 2013); *Appalachian Power Co. v. EPA*, 249 F.2d 1032, 1045–47 (D.C. Cir. 2001); *see also* 71 FR 25328, 25335 (April 28, 2006) (explaining that the SIP/FIP process under section 110 and the petitioning process for direct federal regulation under section 126 provide independent means of effectuating the same “functional

Register notices for Round 2 designations published on July 12, 2016 (81 FR 45039) and on December 13, 2016 (81 FR 89870).⁷ Round 3 designations were published on January 9, 2018 (83 FR 1098) and April 5, 2018 (83 FR 14597).⁸ Round 4 designations were published on March 26, 2021 (86 FR 16055) and April 14, 2021 (86 FR 19576).⁹

During the second round of designations, EPA designated Erie and Niagara counties in New York State as “unclassifiable/attainment” based on an assessment and characterization of air quality performed using air dispersion modeling software analyzing actual emissions in the area surrounding Huntley and Somerset Generating Stations, and other nearby sources which may have a potential impact in the area of analysis where maximum concentrations of SO₂ are expected.¹⁰ Huntley and Somerset were identified by EPA as meeting the criteria for further analysis to determine whether there is nonattainment.¹¹ Based on information received from New York in response to the DRR, the EPA identified 11 additional sources¹² for which the

sources that emitted in 2014 2,000 tons per year (tpy) or more of SO₂, or that have otherwise been listed under the DRR by EPA or state air agencies. In lieu of modeling or monitoring, state air agencies, by specified dates, could elect to impose federally enforceable emissions limitations on those sources restricting their annual SO₂ emissions to less than 2,000 tpy, or provide documentation that the sources have been shut down. EPA used the information generated by implementation of the DRR to help inform Round 4 designations for the 2010 1-hour SO₂ NAAQS.

⁷ EPA and state documents and public comments related to the Round 2 final designations are in the docket at [regulations.gov](https://www.epa.gov/sulfur-dioxide-designations) with Docket ID No. EPA-HQ-OAR-2014-0464 and at EPA’s website for SO₂ designations at <https://www.epa.gov/sulfur-dioxide-designations>.

⁸ EPA and state documents and public comments related to Round 3 final designations are in the docket at [regulations.gov](https://www.epa.gov/sulfur-dioxide-designations) with Docket ID No. EPA-HQ-OAR-2017-0003 and at EPA’s website for SO₂ designations at <https://www.epa.gov/sulfur-dioxide-designations>.

⁹ EPA and state documents and public comments related to Round 4 final designations are in the docket at [regulations.gov](https://www.epa.gov/sulfur-dioxide-designations) with Docket ID No. EPA-HQ-OAR-2020-0037 and at EPA’s website for SO₂ designations at <https://www.epa.gov/sulfur-dioxide-designations>. The Round 4 2010 1-hour SO₂ NAAQS designations action was signed by former EPA Administrator Andrew Wheeler on December 21, 2020, pursuant to a court-ordered deadline of December 31, 2020. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, former Acting Administrator Jane Nishida re-signed the same action on March 10, 2021, for publication in the **Federal Register**.

¹⁰ 81 FR 45039 (July 12, 2016); <https://www.epa.gov/sites/default/files/2016-03/documents/ny-rec-r2.pdf>.

¹¹ <https://www.epa.gov/sites/default/files/2016-03/documents/ny-epa-td-r2.pdf>.

¹² <https://www.epa.gov/sites/default/files/2016-06/documents/ny-response.pdf>.

State of New York was required to characterize air quality through modeling or monitoring or impose federally enforceable controls, bringing the total number of DRR sources for New York to 13.¹³ For New York, the EPA designated the partial St. Lawrence County area as nonattainment during the fourth round of SO₂ designations, effective April 30, 2021, based on available monitoring data.¹⁴ In Round 4, the EPA also designated the remaining areas—the remaining portion of St. Lawrence County, Cayuga County, Seneca County, and Tompkins County—as attainment/unclassifiable, completing the area designations for the 2010 1-hour SO₂ NAAQS in New York.

II. Relevant Factors Used To Evaluate 2010 1-Hour SO₂ Interstate Transport SIPs

Although SO₂ is emitted from a similar universe of point and nonpoint sources as is directly emitted fine particulate matter (PM_{2.5}) and the precursors to ozone and PM_{2.5}, interstate transport of SO₂ is unlike the transport of PM_{2.5} or ozone, which disperse over a wide area and can contribute to nonattainment or maintenance issues hundreds of miles from precursor-emitting sources or activities. SO₂ emissions usually do not undergo long-range transport in the atmosphere. The transport of SO₂ relative to the 2010 1-hour SO₂ NAAQS is more analogous to the transport of lead (Pb) relative to the Pb NAAQS in that emissions of SO₂ typically result in 1-hour pollutant impacts of greatest concern near the emissions source. However, ambient 1-hour concentrations of SO₂ do not decrease as quickly with distance from the source as do 3-month average concentrations of Pb, because SO₂ gas is not removed by deposition as rapidly as are Pb particles. Emitted SO₂ has wider-ranging impacts than emitted Pb, but it does not have such wide-ranging (far downwind) impacts that treatment in a manner similar to ozone or PM_{2.5} would be appropriate. Accordingly, the approaches that the EPA has adopted for ozone or PM_{2.5} transport are too regionally focused, and the approach for Pb transport is too tightly circumscribed to the source, to be appropriate for assessing SO₂ transport. SO₂ transport is therefore a unique case and necessitates an approach that lies between these other approaches to assessing pollutant transport.

¹³ <https://www.epa.gov/sites/default/files/2016-06/documents/drr-source-list-epa.pdf>.

¹⁴ https://www.epa.gov/sites/default/files/2020-12/documents/06-ny-rd4_final_so2_designations_tsd.pdf; see 86 FR 16055 (March 19, 2021).

In this proposed rulemaking, and consistent with prior SO₂ transport analyses, the EPA focused on a 50 kilometer (km)-wide zone around sources of interest because the physical properties of SO₂ result in relatively localized pollutant impacts near an emission source that drop off with distance. Given the properties of SO₂, the EPA believes that significant impacts in a downwind State are unlikely at distances greater than 50 km from a source and thus, we are focusing our review on areas within 50 km of the state lines. This scale of analysis is consistent with the “urban scale” which is the largest appropriate spatial scale for SO₂ monitors and is useful for assessing SO₂ transport and trends in area-wide air quality.¹⁵

As discussed in section III, and in further detail in the Technical Support Document (TSD) for this action, the EPA reviewed New York’s SO₂ SIP submittal. We also have elected to review and assess other available information regarding SO₂ emissions and air quality for sources in New York to assist in our own evaluation. We independently analyzed such information to determine whether New York meets the interstate transport requirements described in the CAA.¹⁶

Consistent with our prior evaluations of other state’s SO₂ transport obligations, we conducted a weight of evidence (WOE) analysis evaluating several sources of information, including current air quality data from monitors as well as available emissions and/or source modeling for sources in New York and in neighboring states within 50 km of the New York border. A WOE approach can be appropriate in instances, such as in this case, to determine whether or not SO₂ emissions from New York contribute to nonattainment or maintenance issues in adjoining states. A WOE analysis that is based strictly on available data may not

¹⁵ For the definition of spatial scales for SO₂, see 40 CFR part 58, Appendix D, section 4.4 (“Sulfur Dioxide (SO₂) Design Criteria”). For further discussion on how the EPA applies these definitions with respect to interstate transport of SO₂, see the EPA’s proposed rulemaking on Connecticut’s SO₂ transport SIP. See 82 FR 21351, 21352, 21354 (May 8, 2017).

¹⁶ This proposed action is based on the information contained in the administrative record for this action and does not prejudice any future EPA action that may make other determinations regarding the air quality status in New York and downwind states. Any such future action, such as action on a CAA section 126(b) petition or area designations under any NAAQS, would be based on separate administrative records and the EPA’s analyses of information that becomes available at that time. Future available information may include, monitoring data and modeling analyses conducted by states, air agencies, and third-party stakeholders.

be sufficient in all instances for evaluating interstate SO₂ transport, and additional analysis may be necessary. Further, the term “WOE” does not establish the legal or technical meaning for what constitutes significant contribution to nonattainment or interference with maintenance for the 2010 SO₂ NAAQS. Rather, the term refers to the gathering and consideration of a wide range of information, on a case-by-case basis, to make a determination regarding whether a statutory or regulatory standard is met.

In other SO₂ transport SIP actions, the EPA has generally been able to use a WOE analysis of available information to reach a conclusion that there are no SO₂ nonattainment or maintenance issues in the relevant areas of other states, or that no sources in the upwind state are contributing to those issues. If the available evidence indicated, however, that an upwind source, sources, or emissions activities were contributing to an out-of-state SO₂ nonattainment or maintenance problem, then further analysis and a regulatory determination would be necessary concerning what amount of those emissions, if any, constituted “significant contribution” under Prong 1 or Prong 2 of the good neighbor provision.

We find that there is sufficient information to allow the EPA to make a determination that under baseline conditions and likely future emissions scenarios no New York sources are contributing or will contribute to any out-of-state SO₂ nonattainment or maintenance concerns. Therefore, it is not necessary for purposes of this action to render a determination concerning what amount of emissions would be “significant” and therefore subject to prohibition under the good neighbor provision.¹⁷

III. New York’s SIP Submission and the EPA’s Analysis

A. State Submission

On October 3, 2013, New York submitted to the EPA a SIP revision to address the requirements of CAA section 110(a)(1) and (2), including section 110(a)(2)(D)(i)(I) for the 2010 SO₂ NAAQS.

New York’s SIP submittal stated that New York has no nonattainment areas for SO₂ within its own border, and the air quality modeling and monitoring

information that was available at the time showed no violations of the NAAQS at the time of the submittal. New York also affirmed that it would continue to enforce all SIP measures and the regulation of construction of new or modified stationary sources to meet NNSR requirements and mitigate the interstate transport of SO₂.

New York’s SIP submittal also stated the New York would continue to administer the CAIR program until a valid replacement for CSAPR was implemented.

The 2005 Clean Air Interstate Rule¹⁸ (CAIR) covered 28 eastern states (including New York) and the District of Columbia. CAIR was designed to address interstate transport of ozone and fine particulate matter (PM_{2.5}) pollution. CAIR required the covered eastern states to make reductions in SO₂ and nitrogen oxides (NO_x) emissions that significantly contribute to the nonattainment or interference with the maintenance of the 1997 PM_{2.5} and 1997 ozone NAAQS in any downwind state (70 FR 25161, May 12, 2005). CAIR addressed interstate transport for the 1997 PM_{2.5} and 1997 ozone NAAQS but did not address interstate transport for the 2010 SO₂ NAAQS. Subsequently, the D.C. Circuit invalidated CAIR and required that the rule be revised.¹⁹ The court, however, left CAIR in place in order to “temporarily preserve the environmental values covered by CAIR” until the EPA could, by rulemaking, replace CAIR consistent with the court’s opinion.²⁰ In 2011, the EPA promulgated the Cross-State Air Pollution Rule (CSAPR) to replace CAIR.²¹ CSAPR addresses interstate transport for the 1997 PM_{2.5}, 1997 ozone and 2006 PM_{2.5} NAAQS. CSAPR replaced CAIR beginning on January 1, 2015.²² Neither CAIR nor CSAPR directly addresses interstate transport for the 2010 SO₂ NAAQS.

Because CAIR is no longer in place (and was only allowed to remain temporarily in place pending its

replacement at the time of New York’s submission, *see* 76 FR 48208, 48223–24 (Aug. 8, 2011)) and because it did not address the 2010 SO₂ NAAQS, New York’s reliance on CAIR is not adequate on its own to demonstrate the State meets the requirements of CAA section 110(a)(2)(D)(i)(I).

In addition, both CAIR and CSAPR focused on achieving widespread reductions in PM_{2.5} precursor pollutants, which include SO₂. While the programs reduced SO₂ emissions from power plants, they did so with the goal of reducing PM_{2.5} levels, not with the goal of preventing contribution to nonattainment or interference with maintenance of the SO₂ standard. These programs alone cannot be relied upon to demonstrate prohibited interstate transport of SO₂ emissions were prevented. New York did not provide an analysis to show how the reductions from these programs would sufficiently address SO₂ to prevent prohibited impacts. Moreover, these rules required emissions reductions through emissions trading programs for power plants. As such, they were not designed to ensure a particular level of emissions reduction at a particular power plant and did not address SO₂ emissions at all from nonpower plant sources or emissions activities. Thus, despite these programs, individual power plant and non-power plant sources that are near State borders may be able to continue to emit at uncontrolled levels, potentially contributing to SO₂ nonattainment or maintenance issues in other States. As such, these programs alone cannot be relied upon to demonstrate prohibited interstate transport of SO₂ emissions were prevented.

While the rationale provided by New York is not an adequate basis on its own by which the EPA can determine the approvability of the State’s submission, the EPA may elect to consider additional information to assist in reaching a conclusion as to whether the submission may be approved, in whole or in part, as satisfying the Act’s requirements, or does not meet the Act’s requirements. Here, the EPA may consider all relevant information, or generate new data and analysis, to make an independent judgment in evaluating States’ compliance with the good neighbor provision, which concerns the effects of States’ emissions in other States. Therefore, the EPA considered additional available information as described below and in more detail in the TSD for this action, to determine if New York’s SIP complies with 110(a)(2)(D)(i)(I) requirements.

Because (1) neither CAIR nor CSAPR directly address interstate transport for

¹⁷ *Cf. Genon Rema v. EPA*, 722 F.3d 513 (3d Cir. 2013) (upholding EPA grant of CAA section 126(b) petition and establishment of direct federal emissions control requirements on SO₂ source in Pennsylvania found to be significantly contributing to nonattainment and interfering with maintenance of the 2010 SO₂ NAAQS in New Jersey).

¹⁸ 70 FR 25162 (May 12, 2005).

¹⁹ *North Carolina v. EPA*, 531 F. 3d 896, 901 (D.C. Cir. 2008), *modified on reh’g*, 550 F. 3d 1176 (D.C. Cir. 2008).

²⁰ 550 F. 3d at 1178.

²¹ 76 FR 48207 (August 8, 2011).

²² CSAPR has been subject to extensive litigation, and on July 28, 2015, the D.C. Circuit issued a decision generally upholding CSAPR but remanding without vacating the CSAPR emissions budgets for a number of states. New York’s ozone season NO_x budgets were not included in the remand. *EME Homer City Generation v. EPA*, 795 F.3d 118, 138 (D.C. Cir. 2015). On October 26, 2016, we finalized an update to CSAPR that addresses the 1997 ozone NAAQS portion of the remand as well as the CAA requirements addressing interstate transport for the 2008 ozone NAAQS. 81 FR 74504 (October 26, 2016).

the 2010 SO₂ NAAQS (CAIR is no longer in place) and is not adequate on its own to demonstrate that the State meets the requirements of CAA section 110(a)(2)(D)(i)(I), and (2) due to the development of more detailed information concerning potential SO₂ air quality concerns in or around New York, including the partial St. Lawrence County SO₂ nonattainment area designated on March 21, 2021, the EPA is electing to consider additional information to assist in reaching a conclusion as to whether New York's submission may be approved, in whole or in part, as satisfying the Act's requirements. The EPA may consider all relevant information, or generate new data and analysis, to make an independent judgment in evaluating states' compliance with the good neighbor provision, which concerns the effects of states' emissions in other states. Therefore, the EPA considered additional available information as described below and in more detail in the TSD for this action, to reach a determination whether New York's SIP complies with 110(a)(2)(D)(i)(I) requirements.

B. The EPA's Evaluation Methodology

The EPA conducted a WOE analysis for Prong 1 and Prong 2 separately.²³ In its WOE analysis, the EPA evaluated all available information, including air quality data, emission sources, and modeling and emission trends in New York and the states that border or are within 50 km of New York. To identify which sources and emissions activities in New York could potentially impact downwind air quality in other states with respect to the 2010 1-hour SO₂ NAAQS, the EPA used information in the EPA's National Emissions Inventory (NEI)²⁴ and Emissions Inventory System (EIS).²⁵ The NEI is a comprehensive and detailed database of air emissions for criteria pollutants, criteria pollutant precursors, and hazardous air pollutants from air emissions sources, updated every three years using information provided by the states and other information available to the EPA. For this analysis, we largely relied on data from the 2020 NEI, because it is the most recently available, complete, and quality assured dataset. However, in evaluating emissions trends, both state-wide and at the facility level, the EPA also considered

data from prior NEI reports and EIS queries, as part of the overall WOE analysis.

As shown in Table 1, the majority of SO₂ emissions in New York originate from point sources. In 2020, total SO₂ emissions from point sources in New York comprised approximately 63.79 percent of the total SO₂ emissions in the State. Non-point sources, on road and non-road emissions sources are individually much smaller and also more dispersed throughout the State and are therefore unlikely to contribute to high ambient concentrations when compared to point source contributions. Further analysis in the TSD shows that facilities with reported emissions greater than 100 tons per year (tpy) represent approximately 2.74 percent of the total number of New York SO₂ point sources but are responsible for 5,520 tons of SO₂ or 76 percent of the total New York 2020 SO₂ point source emissions.²⁶ Based on this analysis, the EPA focused our WOE analysis on SO₂ emissions from New York's larger point sources (*i.e.*, point sources emitting over 100 tpy of SO₂) that are located within 50 km of one or more State borders.

TABLE 1—SUMMARY OF 2020 SO₂ EMISSIONS IN NEW YORK BY SOURCE CATEGORY

Category	2020 emissions (tpy)	Percent of total SO ₂ emissions
Point	7,295	63.79
Nonpoint	3,761	32.89
Onroad	338	2.95
Nonroad	42	0.37
SO ₂ Emissions Total	11,436	100

As described in this section, the EPA proposes that an assessment of New York's satisfaction of the Prong 1 and 2 requirements under CAA section 110(a)(2)(D)(i)(I) for the 2010 1-hour SO₂ NAAQS may be reasonably based upon several factors. These factors include evaluation of all relevant air quality modeling or monitoring information, the predicted downwind impacts projected in previous relevant modeling studies for the relevant sources and nearby areas, assessment of New York's SO₂ point source emissions of more than 100 tpy of SO₂ per facility that are located

within approximately 50 km of another state, assessment of other states' point sources emitting more than 100 tpy of SO₂ located within approximately 50 km of New York, and assessment of federal regulations and SIP-approved regulations affecting New York's SO₂ sources. The EPA's evaluation is informed by all available data at the time of this rulemaking.²⁷

The EPA notes that if this information were insufficient to draw a reasonable conclusion concerning whether New York is "significantly contributing" or not, then it would not be possible to

propose approval based only on this information. In other words, in general, the absence of information concerning whether interstate transport is occurring is not in itself sufficient justification for approving a good neighbor SIP submission. For example, if there were inadequate monitoring or modeling information to characterize the effects of a large, near-border source of SO₂ emissions, it may be appropriate to conduct, or ask the state to conduct, further analysis to better characterize that source and its effects, in order to reach a determination concerning

²³ In *North Carolina v. EPA*, 531 F.3d at 910–911 (D.C. Cir. 2008), the D.C. Circuit explained that the regulating authority must give Prong 2 "independent significance" from Prong 1 by evaluating the impact of upwind state emissions on downwind areas that, while currently in attainment, are at risk of future nonattainment.

²⁴ EPA's NEI is available and accessible to the public at <https://www.epa.gov/air-emissions-inventories/national-emissions-inventory>.

²⁵ The EIS is EPA's database used to receive and store emissions data and generate emissions inventories. The EIS Gateway is a web-based tool developed to provide only registered EPA, State, local and Tribal users with access to emission inventory data for sources in their jurisdiction.

²⁶ See Table 9 in the EPA's TSD.

²⁷ EPA notes that the evaluation of other states' satisfaction of section 110(a)(2)(D)(i)(I) for the 2010 1-hour SO₂ NAAQS can be informed by similar factors found in this proposed rulemaking but may not be identical to the approach taken in this or any future rulemaking for New York, depending on available information and state-specific circumstances.

whether the good neighbor provision is being met. *See, e.g.*, 88 FR 41344 (June 26, 2023) (proposing approval of Tennessee SO₂ transport SIP submission based on updated modeling conducted to better characterize emissions from the Eastman Chemical facility). In this case, the information available to the EPA, as analyzed in the accompanying TSD and summarized below, is sufficient to conclude that sources in New York are not and will not emit SO₂ pollution in violation of the good neighbor provision for the 2010 SO₂ NAAQS.

C. The EPA's Prong 1 Evaluation—Contribute Significantly to Nonattainment

Prong 1 of the “good neighbor” provision requires states’ plans to prohibit emissions that will contribute significantly to nonattainment of the NAAQS in another state. The EPA’s evaluation²⁸ of whether New York has met its Prong 1 transport obligations was accomplished by considering all available information, including the following: SO₂ ambient air quality in New York and neighboring states; SO₂ emissions trends for New York and neighboring states; potential ambient impacts of SO₂ emissions from certain facilities²⁹ in New York on neighboring states; New York’s SIP-approved regulations specific to SO₂ emissions and permit requirements; and other SIP-approved or federally enforceable regulations which may reduce SO₂ emissions either directly or indirectly.

Based on the EPA’s analysis, we propose to determine that there are no SO₂ nonattainment issues in the relevant areas in other states bordering New York, and as such the EPA proposes to determine that New York’s SIP satisfies the requirements of Prong 1 of CAA section 110(a)(2)(D)(i)(I). This proposed determination is based on the following considerations:

- There is one monitor recording violations of the 2010 1-hour SO₂ NAAQS located in New York. However, all monitors within 50 km of the New York border have design values (DV)³⁰ that are below the 75 ppb SO₂ NAAQS.

²⁸ A detailed review of EPA’s evaluation of emissions, air monitoring data, other technical information, and rationale for proposed approval of this SIP revision as meeting CAA section 110(a)(2)(D)(i)(I) for the 2010 1-hour SO₂ NAAQS may be found in the TSD.

²⁹ The physical properties of SO₂ result in relatively localized pollutant impacts near the emissions source. Therefore, the EPA selected a spatial scale with dimensions up to 50 km from point sources.

³⁰ The design value is the 3-year average of the 99th percentile 1-hour daily maximums at a monitor. A control strategy should be designed to bring the value to attainment of the standard.

Current DVs for New York’s AQS SO₂ monitors within 50 km of another state’s border have remained below the 2010 1-hour SO₂ NAAQS from 2019–2023; similarly, SO₂ monitors in neighboring states (Pennsylvania, Vermont, Connecticut, New Jersey, Massachusetts) within 50 km of New York have 2023 DVs (2021–2023) below the 2010 1-hour SO₂ NAAQS;

- Downward SO₂ emissions trends in New York and its surrounding states (Pennsylvania, Vermont, Connecticut, New Jersey, Massachusetts), when considered together with the other factors discussed as part of EPA’s WOE analysis, further support that New York’s sources will not significantly contribute to any other states’ nonattainment of the 2010 1-hour SO₂ NAAQS;

- A source-specific analyses of every New York 100 tpy source located within 50 km of the state border indicates that the sources do not contribute to nonattainment in other states. These analyses draw upon available emissions data, monitoring data, air quality modeling, control requirements, wind rose data, and other relevant information to assess the likelihood of air quality impacts from these sources to areas in surrounding states. A detailed discussion of each source-specific analysis is contained in Section IV.B.3 of the TSD accompanying this action. Below we cover some of the principal evidence that confirms that emissions from New York do not contribute to nonattainment in other states.

- All monitors closest to the New York SO₂ Areas of Interest (Sources > 100 tpy located within 50 km of adjacent state) have consistently recorded DVs well below the standard for years 2012–2023, indicating that these facilities are not causing exceedances in New York and would not cause exceedances in Pennsylvania, Vermont, Connecticut, New Jersey and Massachusetts.

- For the St. Lawrence source—Alcoa—monitors nearby have recorded DVs above the NAAQS. However, this source being 122 km from the nearest state line (Vermont) supports a determination that emissions from these sources are not contributing to nonattainment across the border into neighboring states.

- For the remainder of the New York SO₂ Areas of Interest (Sources > 100 tpy located within 50 km of adjacent state), either wind rose data, amount of emissions in 2022, or distance between the sources and the nearest neighboring state border supported a determination that these sources will not contribute to nonattainment of the NAAQS in

Massachusetts, New Jersey, Connecticut, Vermont, and Pennsylvania.

- Further there are SIP-approved and federal emissions control regulations within New York that will continue to ensure that SO₂ emissions will be effectively controlled for existing and new sources or modifications.

Based on this evaluation, as more thoroughly discussed in our TSD for this action, the EPA proposes to find that sources within New York will not significantly contribute to nonattainment of the 2010 1-hour SO₂ NAAQS in any other state.

D. The EPA's Prong 2 Evaluation—Interference With Maintenance

Prong 2 of the “good neighbor” provision requires state plans to prohibit emissions that will interfere with maintenance of a NAAQS in another state. The EPA’s evaluation of whether New York has met its Prong 2 transport obligations was accomplished by considering all available information, with a focus on current air quality data, SO₂ emissions trends for New York and neighboring states, and how existing and future sources of SO₂ are addressed through existing SIP-approved and federally enforceable regulations. This evaluation builds upon the analysis conducted for significant contribution to nonattainment (Prong 1), which evaluated SO₂ ambient air quality in New York and neighboring states and potential ambient impacts of SO₂ emissions from certain facilities in New York on neighboring states.

Based on the EPA’s analysis, we propose to find that SO₂ levels in neighboring states near the New York border do not indicate an inability to maintain the SO₂ NAAQS that could be attributed in part to sources in New York, and as such the EPA proposes to determine that New York’s SIP satisfies the requirements of Prong 2 of CAA section 110(a)(2)(D)(i)(I). This determination is based on the following considerations:

- Current 2021–2023 DVs for SO₂ monitors in New York within 50 km of another state’s border and in neighboring states (Pennsylvania, New Jersey, Vermont, Connecticut, and Massachusetts) within 50 km of New York’s border are below the standard except for one (Alcoa West), indicating that the areas in the vicinity of these monitors are all currently in attainment of the 2010 1-hour SO₂ NAAQS except for the partial St. Lawrence area;

- State-wide emissions trends in New York and surrounding states indicate generally declining SO₂ emissions and consequently ambient air concentrations in the relevant areas;

- Current New York statutes, SIP-approved measures, and federal emissions control programs control SO₂ emissions from certain sources within New York; and

- New York's SIP-approved PSD, major New Source Review (NSR) regulations and minor source NSR permit programs address future new and modified SO₂ sources above major and minor permitting thresholds with the intent of ensuring that the SO₂ NAAQS will not be exceeded as a result of new facility construction or existing facility modification within the state or in surrounding states.

Based on this evaluation, as more thoroughly discussed in our TSD for this action, the EPA proposes to find that sources within New York will not interfere with maintenance of the 2010 1-hour SO₂ NAAQS in any other state.

IV. The EPA's Proposed Action

The EPA is proposing to approve the Prong 1 and Prong 2 portions of the infrastructure SIP submission submitted by the state of New York on October 3, 2013, addressing interstate transport for the 2010 1-hour SO₂ NAAQS. Based on the EPA's WOE analysis and as more thoroughly discussed in the TSD, the EPA proposes to determine that emissions from New York will not contribute significantly to nonattainment in, or interfere with maintenance of, any other state with respect to the 2010 SO₂ NAAQS. We therefore propose to find that New York's SIP contains adequate provisions consistent with CAA section 110(a)(2)(D)(i)(I).

V. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review under Executive Order 12866:

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and

- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Sulfur dioxide, Reporting and recordkeeping requirements.

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

Michael Martucci,

Regional Administrator, Region 2.

[FR Doc. 2026–06938 Filed 4–9–26; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2018–0788; FRL–13249–01–R5]

Air Plan Approvals; Indiana; Prong 4 (Visibility) for the 2015 Ozone National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a portion of Indiana's State Implementation Plan (SIP) submission regarding the infrastructure requirements of section 110 of the Clean Air Act (CAA) for the 2015 ozone National Ambient Air Quality Standards (NAAQS). The infrastructure requirements are designed to ensure that the structural components of each State's air quality management program are adequate to meet the State's responsibilities under the CAA. The EPA is proposing that Indiana's infrastructure submission fulfills CAA requirements for a State's SIP to contain adequate provisions prohibiting emissions that will interfere with required visibility protection measures in any other State's SIP.

DATES: Written comments must be received on or before May 11, 2026.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2018–0788 at <https://www.regulations.gov> or via email to langman.michael@epa.gov. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. Do not submit to the EPA's docket at <https://www.regulations.gov> any information you consider to be confidential business information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Michael Langman, Air and Radiation Division (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, telephone number: (312) 886–

6867, email address: *langman.michael@epa.gov*.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean the EPA.

I. Background on Infrastructure SIPs

Whenever the EPA promulgates a new or revised NAAQS, CAA section 110(a)(1) requires States to make SIP submissions to provide for the implementation, maintenance, and enforcement of the NAAQS. This SIP submission is a particular type of SIP commonly referred to as an “infrastructure SIP.” These submissions must meet the various requirements of CAA section 110(a)(2), as applicable. Due to ambiguity in some of the language of CAA section 110(a)(2), the EPA believes that it is appropriate to interpret these provisions in the specific context of acting on infrastructure SIP submissions. EPA has previously provided comprehensive guidance on the application of these provisions through a guidance document for infrastructure SIP submissions (EPA’s 2013 Guidance) and through regional actions on infrastructure submissions.¹ Unless otherwise noted below, we are following the same approach in acting on this submission. In addition, in the context of acting on such infrastructure submissions, the EPA evaluates the submitting State’s SIP for facial compliance with statutory and regulatory requirements, not for the State’s implementation of its SIP.² The EPA has other authority to address any issues concerning a State’s implementation of the rules, regulations, consent orders, etc. that comprise its SIP.

II. What action is the EPA proposing?

The EPA is proposing to approve Indiana’s November 2, 2018 infrastructure SIP submission for the 2015 ozone NAAQS addressing the fourth component of CAA section 110(a)(2)(D)(i)(II), also known as “Prong 4”, requirement that a State’s SIP contain adequate provisions prohibiting

any source or other type of emissions activity within the State from emitting any air pollutant in amounts which will interfere with measures required to be included in the applicable SIP for any other State to protect visibility.

Under the applicable requirements for visibility protection of CAA section 110(a)(2)(D)(i)(II), States are subject to visibility and regional haze program requirements under part C of the CAA, which includes sections 169A and 169B. The EPA’s 2013 Guidance states that the Prong 4 requirements can be satisfied by approved SIP provisions that the EPA has found to adequately address any contribution of that State’s sources that impact the visibility program requirements in other States.³ According to the EPA’s 2013 Guidance, a State’s infrastructure SIP may satisfy Prong 4⁴ for any relevant NAAQS through an air agency’s confirmation that the State has a fully approved regional haze SIP⁵ meeting the requirements of 40 CFR 51.308.

For the second implementation period, the EPA’s Regional Haze regulations under 40 CFR 51.308(f) require that a State consider the emission reduction measures identified by other States as being necessary to make reasonable progress towards meeting the national visibility goal in Class I Federal areas. Specifically, the regulations also require a State to include in its Regional Haze SIP all measures agreed to during that process or measures that will provide equivalent visibility improvement. 40 CFR 51.308(f)(2)(ii). Thus, in meeting the requirements of 40 CFR 51.308(f), an approved regional haze SIP meeting the statutory and regulatory requirements, including 40 CFR 51.308(f)(2)(ii), will ensure that emissions from sources under an air agency’s jurisdiction are not interfering with measures required to be included in other air agencies’ plans to protect visibility and will, therefore, satisfy Prong 4.

III. The EPA’s Evaluation of Indiana’s Infrastructure SIP

To address the requirements of CAA section 110(a)(2)(D)(i)(II), Indiana’s infrastructure SIP submission for the 2015 ozone NAAQS discusses the State’s regional haze program. Indiana’s regional haze SIP submission for the second implementation period was fully approved on January 26, 2026, 91 FR 3057.

For the reasons stated above, by meeting the statutory and regulatory requirements of the regional haze program, including the interstate consultation requirements in 40 CFR 51.308(f)(2)(ii), Indiana’s SIP adequately prohibits emissions from within the State that would interfere with visibility protection measures in any other State’s SIP. Since Indiana has a fully approved regional haze SIP for the second implementation period, which meets the requirements of 40 CFR 51.308, the EPA proposes that Indiana satisfies the requirements of CAA section 110(a)(2)(D)(i)(II) relating to visibility protection for the 2015 ozone NAAQS.

IV. Proposed Action

The EPA proposes to approve Indiana’s November 2, 2018, interstate transport infrastructure SIP submission as satisfying the requirements related to visibility protection contained in CAA section 110(a)(2)(D)(i)(II), also known as Prong 4, for the 2015 ozone NAAQS.

V. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a

¹ The EPA explains and elaborates on these ambiguities and its approach to address them in its September 13, 2013, “Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act sections 110(a)(1) and 110(a)(2)” (available at https://www3.epa.gov/airquality/urbanair/sipstatus/docs/Guidance_on_Infrastructure_SIP_Elements_MultiPollutant_FINAL_Sept_2013.pdf), as well as in numerous agency actions, including the EPA’s prior action on Illinois’, Michigan’s, Minnesota’s, and Wisconsin’s infrastructure SIPs to address the 2008 lead NAAQS (79 FR 27241 (May 13, 2014)).

² See U.S. Court of Appeals for the Ninth Circuit decision in *Montana Environmental Information Center v. EPA*, No. 16–71933 (August 30, 2018).

³ The EPA’s 2013 Guidance at 32–33.

⁴ In the EPA’s 2013 Guidance, we indicated that it may be appropriate to supplement the guidance regarding the relationship between regional haze SIPs and Prong 4 after second implementation period SIPs become due, which occurred on July 31, 2021. After a review of the EPA’s 2013 Guidance and the second implementation period regional haze requirements, the EPA maintains the interpretation that a fully approved regional haze SIP satisfies Prong 4 requirements in the second implementation period.

⁵ Since second implementation period SIPs became due, a “fully approved regional haze SIP” would necessarily include fully approved first and second implementation period regional haze SIPs.

substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen oxides, Ozone, Particulate matter, Sulfur oxides.

Dated: March 31, 2026.

Anne Vogel,

Regional Administrator, Region 5.

[FR Doc. 2026–06942 Filed 4–9–26; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2025–0237; FRL–13273–01–R5]

Air Plan Approval; Ohio; Source-Specific Non-CTG RACT for Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve source-specific State Implementation Plan (SIP) revisions submitted by Ohio. These revisions address major source volatile organic compound (VOC) and nitrogen oxide (NO_x) reasonably

available control technology (RACT) requirements for the Cleveland, OH Moderate nonattainment area (Cuyahoga, Geauga, Lake, Lorain, Medina, Portage, and Summit counties) under the 2015 ozone National Ambient Air Quality Standard (“NAAQS” or “standard”). The affected facilities include Lubrizol, Henkel, and Cleveland-Cliffs Cleveland Works. If this action is finalized as proposed, the Cleveland nonattainment area will have fully satisfied its moderate RACT requirements under the CAA with respect to the 2015 ozone standard.

DATES: Comments must be received on or before May 11, 2026.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2025–0237 at <https://www.regulations.gov>, or via email to arra.sarah@epa.gov. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI, PBI, or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT:

Katie Caskey, Air and Radiation Division (AR18), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, telephone number: (312) 353–3490, email address: caskey.kathleen@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean the EPA.

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I. RACT Requirements

VOCs and NO_x contribute to the production of ground-level ozone, or smog, which harms human health and the environment. The EPA has consistently defined RACT as the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.¹

Sections 182(b)(2) and 182(f) of the Clean Air Act (CAA), when taken together, require States to implement RACT for VOC and NO_x in ozone nonattainment areas classified as Moderate and higher. Specifically, these areas are required to implement RACT for all sources covered by a Control Techniques Guideline (CTG) and all other major stationary sources of VOCs and NO_x in the area.² For the purposes of RACT in Moderate ozone nonattainment areas, major sources of VOCs and NO_x are those that are not covered by CTGs and have the potential to emit (PTE) at least 100 tons per year (tpy).

To address non-CTG RACT requirements, Ohio adopted Ohio Administrative Code (OAC) rules 3745–21–11 and 3745–110–03(J), which require major sources of VOCs and NO_x that are not covered by a CTG to submit detailed source-specific RACT studies analyzing the technological and economic feasibility of available control measures. Ohio evaluated the information provided in the required studies, made a RACT determination for each major source, and submitted the RACT determinations to the EPA for approval and incorporation into the Ohio SIP.

¹ See Memorandum from Roger Strelow, Assistant Administrator for Air and Waste Management, U.S. EPA, to Regional Administrators, U.S. EPA, “Guidance for Determining Acceptability of SIP Regulations in Non-Attainment Areas” (Dec. 9, 1976); see also 44 FR 53761, 53762 (September 17, 1979).

² CTGs provide recommendations to inform State, local, and Tribal air agencies as to what constitutes RACT for categories of VOC sources.

II. History of the Cleveland Nonattainment Area Under the 2015 Ozone NAAQS

Effective August 3, 2018, the EPA designated the Cleveland nonattainment area as a Marginal nonattainment area for the 2015 ozone NAAQS (“Cleveland nonattainment area”).³ The Cleveland nonattainment area consists of Cuyahoga, Geauga, Lake, Lorain, Medina, Portage, and Summit counties. On October 7, 2022, pursuant to section 181(b)(2) of the CAA, the EPA determined that the Cleveland nonattainment area failed to attain the 2015 ozone NAAQS by the August 3, 2021, Marginal area attainment deadline and thus proposed to reclassify the area from Marginal to Moderate nonattainment.⁴ In that action, the EPA established January 1, 2023, as the due date for the State to submit all Moderate area nonattainment plan SIP requirements applicable to newly reclassified areas. Since the Cleveland nonattainment area was reclassified to Moderate, the area was required to meet the RACT requirements discussed above at 100 tpy. On December 17, 2024, the EPA determined that the Cleveland nonattainment area failed to attain the 2015 ozone NAAQS by August 3, 2024, Moderate area attainment deadline and thus reclassified the area from Moderate to Serious nonattainment. The new Serious RACT requirement was due on January 1, 2026, but this action addresses Moderate RACT requirements only.⁵

III. History of Ohio’s VOC and NO_x RACT Regulations

Ohio has adopted regulations to address the NO_x and VOC RACT requirements that apply to Moderate ozone nonattainment areas. The NO_x RACT rules, in OAC Chapter 3745–110, effective March 25, 2022, apply to existing boilers, stationary combustion turbines, stationary internal combustion engines, reheat furnaces, and other sources at facilities that have an uncontrolled potential to emit 100 tpy or more of NO_x. These rules apply to sources located in the Cleveland nonattainment area.

Similarly, the VOC RACT rules, in OAC Chapter 3745–21, effective March 27, 2022, apply to various VOC source categories in the Cleveland nonattainment area. These rules cover both CTG source categories and non-CTG major sources with an uncontrolled potential to emit 100 tpy or more of VOCs.

Ohio EPA submitted OAC Rules 3745–21–11 and 3745–110–03(J) to the EPA for approval and inclusion in the SIP on March 31, 2022. These rules require major non-CTG VOC and NO_x sources located in ozone nonattainment areas classified as Moderate or higher to submit RACT studies to Ohio within one year of the rule’s effective date. These RACT studies contain information on the technical and economic feasibility of VOC and NO_x emission control measures to inform Ohio’s RACT determinations for each major source.

On January 20, 2026 (91 FR 2308), the EPA approved portions of OAC Chapters 3745–21 and 3745–110 as satisfying certain moderate VOC RACT and NO_x RACT requirements for the Cleveland nonattainment area. In the same action, the EPA also approved OAC 3745–21–11 and 3745–110–03(J) as SIP strengthening measures for the Cleveland area designated nonattainment under the 2015 ozone standard.

On February 27, 2026 (91 FR 9771), the EPA proposed to approve source-specific moderate non-CTG RACT for certain facilities in the Cleveland nonattainment area under the 2015 ozone standard subject to OAC 3745–21–11 and 3745–110–03(J). The EPA has not yet finalized that proposed action. This action addresses the remaining non-CTG major source RACT facilities subject to OAC 3745–21–11 and 3745–110–03(J) in the Cleveland nonattainment area.

IV. What is the EPA proposing?

The EPA is proposing to approve the following RACT determinations submitted by Ohio for major sources of VOCs and NO_x in the Cleveland nonattainment area as meeting RACT requirements.

V. Lubrizol

Lubrizol operates a chemical manufacturing facility located in Painesville, Ohio, within the Cleveland nonattainment area. The facility is subject to source-specific RACT requirements under OAC 3745–21–09(LL) for its process reactor systems. As a major non-CTG VOC source, Lubrizol must also submit an updated source-specific RACT study under OAC 3745–21–11. Ohio submitted a VOC RACT determination based on this study to the EPA on October 8, 2025. Lubrizol manufactures specialty chemical products, including additive systems for lubricating oils used in gasoline and diesel engines, automatic transmissions, gear drives, marine engines, tractors, and metalworking.

The primary VOC emission sources are process reactor systems, drum/tote filling lines, and product loading racks.

The EPA approved OAC 3745–21–09(LL) into the Ohio SIP to address non-CTG VOC RACT for the 1-hour ozone standard on April 25, 1996 (61 FR 18255). The rule requires all reactor process vent streams to be routed to an enclosed combustion device that achieves at least 98 percent VOC destruction (or 20 parts per million by volume (ppmv) outlet concentration) or provides at least 0.75 seconds of residence time at 1600 °F. Lubrizol meets and exceeds these requirements. Reactor vent emissions are controlled by two redundant thermal oxidizers that achieve over 99.9 percent VOC destruction efficiency. Continuous temperature monitoring ensures proper combustion and consistent performance between tests. Lubrizol reviewed the EPA’s RACT/BACT/LAER Clearinghouse (RBLCL) for due diligence purposes and found that that BACT for process vents in the chemical manufacturing industry typically requires add-on controls achieving 98 percent destruction efficiency. The existing 98 percent control is more stringent than the non-CTG RACT catch-all provisions in other Region 5 State rules, including Illinois and Indiana (which require at least an 81 percent reduction in VOC emissions). Since Lubrizol achieves greater than BACT-level control and is more stringent than the non-CTG RACT catch-all rules described above, Ohio determined that continued compliance with OAC 3745–21–09(LL) satisfies RACT for these emission units.⁶ The EPA is proposing to approve Ohio’s RACT determination that these controls implement RACT.

Emission unit P132 includes four drum lines and one tote line. VOC emissions from these operations are vented to the same thermal oxidizers used for the reactor vents described in the prior paragraph, which achieve over 99.9 percent destruction efficiency. The facility is currently required to implement submerged filling and venting to a thermal oxidizer capable of at least 98 percent destruction

⁶ Prevention of Significant Deterioration (PSD) permits are required for new major sources or a major source making a major modification in areas that meet the NAAQS. PSD permits require the installation of Best Available Control Technology (BACT). BACT is an emissions limitation which is based on the maximum degree of control that can be achieved. It is a case-by-case decision that considers energy, environmental, and economic impact. BACT can be add-on control equipment or modification of the production processes or methods. The RACT/BACT/LAER Clearinghouse (RBLCL) database contains information on what has been required as BACT in air permits.

³ 83 FR 25776 (June 4, 2018).

⁴ 87 FR 60897 (October 7, 2022).

⁵ 89 FR 101901 (December 17, 2024).

efficiency. These practices meet or exceed recent BACT determinations for similar filling operations, which typically require submerged filling and add-on controls achieving at least 98 percent VOC reduction. Therefore, Ohio determined that submerged filling combined with thermal oxidation (≥ 98 percent efficiency) constitutes RACT for these operations. The EPA proposes to approve Ohio's assessment that these controls implement RACT.

Lubrizol operates multiple product loading racks, many equipped with thermal oxidizers or carbon adsorption systems. Actual VOC emissions from these units ranged from 0.01 to 0.88 tpy during 2019–2021. Based on the EPA's estimate of the cost of additional control technologies, which is well over \$30,000 per ton of VOC removed, the EPA is proposing to find that additional controls would not be economically reasonable. To minimize emissions, Lubrizol implements work practices including ensuring complete drainage of loading arms before disconnection and preventing liquid drainage when not in use. Many loading racks are also subject to VOC limits under Best Achievable Technology (BAT).⁷ Ohio determined that RACT for these operations consists of existing controls, emission limits, and work practices listed in Table 3–2 of Lubrizol's RACT submittal (included in the docket). Ohio included these requirements in a construction permit and is requesting that the EPA incorporate these provisions of the permit into the SIP. The EPA proposes to approve Ohio's RACT determination that these controls implement RACT.

In sum, the EPA is proposing to approve Ohio's RACT determination for Lubrizol as adequately implementing RACT, which includes the following measures summarized above and in Table 3–3 of the docket: continued compliance with site-specific RACT under OAC 3745–21–09(LL) for all process reactor vents; use of submerged filling and venting to a thermal oxidizer achieving greater than 98 percent VOC control efficiency for the drum/tote filling operations; and implementation of existing controls, emission limits, and work practices for the loading racks as specified in the permit sections listed below. Given the already low emissions at Lubrizol (.01 to .88 tpy of VOC) and

the EPA's cost estimate described above, additional controls would be economically unreasonable.

The EPA proposes to incorporate by reference the above RACT requirements from permit number P0138405 (effective date: October 1, 2025), specifically sections (B)(2)–(B)(5), (C)(1)(b)(1)(b), (C)(1)(b)(2)(a), (C)(1)(d)(1), (C)(1)(e)(1), and (C)(1)(f)(2).

VI. Henkel

Henkel US Operations Corporation operates an adhesives and sealants manufacturing facility in Mentor, Ohio, within the Cleveland ozone nonattainment area. The facility is a major source of non-CTG VOC emissions and must submit a source-specific RACT study under OAC 3745–21–11. Ohio submitted this VOC RACT determination to the EPA on November 25, 2025.

The facility produces adhesives and sealants by blending organic solvents and inert fillers in batch mixers, which are the primary sources of VOC emissions. VOC emissions are controlled with condensers that circulate a chilled water/propylene glycol mixture through coiled tubes, cooling vent gases and condensing a portion of the VOC vapors.

To fulfill requirements of the National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Miscellaneous Coating Manufacturing (MCM), Henkel submitted to Ohio EPA a condenser design evaluation to demonstrate MACT compliance, establishing maximum outlet gas temperatures.⁸ Using the same methodology, Henkel later submitted a design evaluation to demonstrate 85 percent VOC removal efficiency under OAC 3745–21–07(M), resulting in lower outlet temperature limits. OAC 3745–21–07(M) contains Ohio's facility-specific VOC control requirements for emissions of organic materials from stationary sources.

Achieving removal efficiencies above 85 percent would require reducing condenser outlet temperatures further—either by lowering coolant temperatures or increasing condenser surface area. However, the chilled water system already operates near the freezing point, and past attempts to reduce temperatures have caused ice formation and vent blockages. A two-stage condenser system or larger condensers could mitigate this issue but, would require significant equipment

replacement and reconfiguration, with minimal additional VOC reduction, so would be economically unreasonable. Further, 85 percent reduction is higher than the non-CTG RACT catch call rules in other States in Region 5, including Illinois and Indiana, which require 81 percent reduction in VOC emissions at a minimum.

Henkel also evaluated alternative add-on controls, including incineration, carbon adsorption, and biofiltration. Biofiltration is technically infeasible because the facility's predominant VOCs are water-insoluble. Incineration and carbon adsorption are technically feasible, but not cost-effective: incineration would cost between \$32,109–\$43,841 per ton of VOC removed, and carbon adsorption would cost \$29,482 per ton.

These analyses show that add-on controls are either technically infeasible or economically unreasonable. The existing condensers already achieve 85 percent VOC reduction, and the facility has already substantially lowered its VOC emissions by shifting production toward low- or no-VOC materials.

Based on Henkel's analysis, Ohio EPA concludes that the facility's current practices—use of low-VOC materials and condenser systems achieving 85 percent control—are RACT for this source. Ohio included these requirements in a construction permit and is requesting that the EPA incorporate these provisions of the permit into the SIP.

The EPA proposes to approve Ohio's assessment that these controls implement RACT and to incorporate by reference the above RACT requirements from permit number P0138691 (effective date: November 18, 2025), specifically sections B.4, C.1.b)1.g, C.1.c)2, C.1.d)5, C.1.e)7, C.1.f)2, C.2.b)1.f, C.2.c)2, C.2.d)6, C.2.e)7, C.2.f)2, C.3.b)1.g, C.3.c)2, C.3.d)5, C.3.e)7, C.3.f)2, C.4.b)1.g, C.4.c)4, C.4.d)5, C.4.e)6, C.4.f)2, C.5.b)1.j, C.5.c)3, C.5.d)6, C.5.e)9, C.5.f)2, C.6.b)1.d, C.6.c)2, C.6.d)2, C.6.e)4, C.6.f)3, C.7.b)1.d, C.7.c)2, C.7.d)2, C.7.e)4, and C.7.f)3.

VII. Cleveland-Cliffs Cleveland Works—NO_x RACT

Cleveland-Cliffs Cleveland Works LLC is an integrated steelmaking plant in the Cleveland nonattainment area. Because the facility is a major source of NO_x with a PTE greater than 100 tpy, it is subject to site-specific NO_x RACT under OAC 3745–110–03(J). Ohio submitted this NO_x RACT determination to the EPA on November 20, 2025.

The facility emits NO_x from numerous sources, including boilers, reheat furnaces, batch annealing furnaces, a continuous annealing line,

⁷ BAT is defined in OAC 3745–31–01(B)(6) as “any combination of work practices, raw material specifications, throughput limitations, source design characteristics, an evaluation of the annualized cost per ton of air pollutant removed, and air pollution control devices that have been previously demonstrated to the director of environmental protection to operate satisfactorily in this state or other states with similar air quality on substantially similar air pollution sources.”

⁸ 40 CFR part 63 subpart HHHHH—NESHAP: Miscellaneous Coating Manufacturing requires this condenser design evaluation per 40 CFR 63.1257(d) for the initial compliance demonstration of maximum achievable control technology (MACT) on the existing process vessels at this plant.

blast furnaces, basic oxygen furnaces, and ladle preheaters. The facility operates under title V permit No. P0129660, effective March 9, 2021.

Boilers B001 through B007 are already subject to the NO_x RACT limits in OAC 3745–110–03(C) and (D)–0.08 pounds per million British thermal units (lb/MMBtu) for gas-fired boilers, 0.2 lb/MMBtu for residual-oil-fired boilers, and 0.3 lb/MMBtu for coal-fired boilers—and are therefore already implementing RACT in accordance with these federally approved provisions. The EPA has previously approved OAC 3745–110–03(C) and (D) as satisfying moderate NO_x RACT for the Cleveland nonattainment area (January 20, 2026, 91 FR 2308).

A. Reheat Furnaces

Cleveland-Cliffs operates three natural-gas-fired reheat furnaces: Reheat Furnaces #1 (P046), #2 (P047), and #3 (P048)—each rated at 630 MMBtu/hr. Cleveland-Cliffs evaluated selective catalytic reduction (SCR), selective noncatalytic reduction (SNCR), and upgraded low-NO_x burners (LNBs) as potential NO_x control options.

Cleveland-Cliffs found SCR technically infeasible. The batch-type furnace operation involves frequent door openings and unstable exhaust temperatures, which prevent the consistent temperature control required for effective SCR catalyst performance.

Cleveland-Cliffs also determined that SNCR is technically infeasible. Exhaust temperatures are too low for effective NO_x reduction, and reheating the flue gas to reach the required temperature would significantly increase fuel use and produce additional NO_x.

The reheat furnaces currently use LNBs. Cleveland-Cliffs evaluated replacing the current burners with newer LNB models capable of achieving 0.074 lb/MMBtu (compared to the current 0.35 lb/MMBtu limit). However, the high cost—\$14,631 to \$29,400 per ton of NO_x removed—renders this option economically unreasonable.

Ohio determined that putting on additional controls for the reheat furnaces is technically infeasible and economically unreasonable. However, Ohio requires the source to submit an updated RACT study if the NO_x emissions ever exceed 348.3 tpy per rolling 12-month period for each reheat furnace. If emissions are higher than 348.3 tpy for a 12-month period, then the cost of the available control technologies per ton of NO_x removed may become economically reasonable.

This emission level was based on the highest maximum actual emissions among the previous three years from the

effective date of OAC rule 3745–110–03. If a unit exceeds this level during any 12-month rolling period, the facility must submit a new RACT analysis to Ohio within one year. The EPA is proposing to approve Ohio's RACT determination for units P046–P048 and the requirement that the source submit an updated RACT study to Ohio if the units exceed the emission level of 348.3 tpy of NO_x.

B. Batch Annealing Furnaces

At Cleveland Works, there are currently 77 operational and nine spare batch annealing furnaces at the North Annealing (P049) and South Annealing (P050) sections. Batch annealing emissions exhaust through multiple indoor stacks, and the system lacks a common stack suitable for post-combustion controls. Therefore, SCR and SNCR are technically infeasible for batch annealing operations.

The batch annealing furnaces have existing LNBs with inherently low NO_x emissions of 1.2 tpy each for units P049 and P050, as demonstrated by the current NO_x emission limit of 0.10 lb/MMBtu, which is consistent with the most recent BACT determination in the EPA's RBL database. Due to the already low NO_x emission levels, installing newer model LNBs to achieve only marginal additional NO_x reductions from the batch annealing furnaces would not be economically reasonable. Ohio determined that RACT for batch annealing sections P049 and P050 is continued use of the existing LNBs and continued compliance with the 0.10 lb/MMBtu limit.

C. Hot Dip Galvanizing Line

The Hot Dip Galvanizing Line (HDGL) includes a 159.17 MMBtu/hr continuous annealing furnace. SCR and SNCR are technically infeasible with the current stack configuration. Its current stack configuration poses significant challenges for installing post-combustion controls. Two exhaust ducts discharge into a common stack inside the building. Installing SCR or SNCR would require removing the existing stack, consolidating the ducts into a single duct, and routing the system to a new external stack, which is economically unreasonable. Cleveland-Cliffs therefore determined that SCR and SNCR are both economically unreasonable and technically infeasible.

The furnace currently uses LNBs with expected NO_x loadings of 0.27 to 0.30 lb/MMBtu. Cleveland-Cliffs evaluated the cost-effectiveness of replacing the existing burners with newer LNB models and found it would cost \$31,937 to \$37,998 per ton of NO_x removed,

which the State determined is economically unreasonable. Ohio determined that RACT for the HDGL Annealing Furnace (Unit P071) consists of continued use of the existing LNBs and compliance with the 0.23 lb/MMBtu NO_x limit. The EPA proposes to approve Ohio's RACT determination that these controls implement RACT.

D. Blast Furnaces

Cleveland-Cliffs operates two blast furnaces (P903 and P904) subject to this RACT review. Both units burn blast furnace gas (BFG), which has a low heating value and limits combustion temperature, resulting in inherently low NO_x emissions and minimal potential for further reduction. NO_x emissions at the blast furnaces are from the stoves, the cast house, and the flare.

In the cast house, natural gas is used for flame suppression during casting, and NO_x forms when the gas exits pipe ends and ignites. Because these emissions are fugitive and lack a stack, SCR and SNCR are technically infeasible. The flare burns excess furnace gas and is an open system without a stack, making SCR and SNCR infeasible there as well.

For the stoves, SCR installation is technically infeasible due to exhaust temperatures (500 °F) below the 600 to 700 °F operating range, the need to reheat large gas volumes (which would increase NO_x and GHG emissions, low inlet NO_x concentrations (leading to low removal efficiency and high ammonia slip), and catalyst fouling concerns from particulates in BFG. SNCR is also technically infeasible because the furnace exhaust temperatures are far below the 1600–2100 °F required for effective operation and reheating would generate additional NO_x emissions.

LNBs cannot be implemented for the cast house because it relies on pilot flames instead of burners for the flare. Ohio determined that LNBs are not economically reasonable because the stoves are already meeting a NO_x limit of 0.06 lb/MMBtu, which is similar to emissions limits achieved by LNBs.

Ohio determined that RACT for this facility includes continued use of low-NO_x BFG for the cast house, flare, and stoves. Also, Ohio determined that RACT includes minimizing NO_x emissions from the cast house and flare through proper operation and maintenance in accordance with manufacturer specifications. For the blast furnace stoves, RACT is defined as meeting a site-specific NO_x limit of 0.06 lb/MMBtu. The EPA proposes to approve Ohio's RACT determination that these controls implement RACT.

E. Basic Oxygen Furnaces

Cleveland-Cliffs operates two basic oxygen furnace (BOF) systems: a full-combustion system (No. 2 BOF, P925/P926) and a suppressed-combustion system (No. 1 BOF, P905/P906). Because BOF vessels do not use burners, LNBs are not technically feasible control options.

SCR and SNCR are also technically infeasible for BOFs. Gas temperatures within the primary hoods vary throughout the batch blow cycle, preventing the consistent temperature and residence time required for either technology to operate effectively. In addition, high particulate levels would quickly foul and poison catalysts.

Because no technically feasible control options are available to meet RACT, Ohio established additional requirements for the BOFs, including installing, maintaining, and operating each system in accordance with manufacturer specifications and good operating practices to minimize NO_x emissions. The EPA proposes to approve Ohio's determination that these controls implement RACT.

F. Ladle Preheaters

Steel shops use ladle preheaters to dry or cure refractory materials. Available NO_x control technologies for ladle preheaters include SCR, SNCR, and LNBs. Because emissions from the preheaters are fugitive and released directly into the melt shop without a stack, post-combustion controls such as SCR and SNCR are technically infeasible.

The preheaters already use inherently low-NO_x burners. Cleveland-Cliffs evaluated newer LNB designs but found them technically infeasible for these preheaters due to the inability to maintain a tight seal between the burner and ladle lip. The equipment is designed to allow intentional air leakage to avoid suffocating the furnace, and this air flow cannot be eliminated. As a result, operators cannot control the combustion zone conditions needed to achieve or verify the performance of newer LNBs, making additional NO_x reductions unlikely.

Therefore, Ohio determined that RACT includes continued use of the existing inherently low-NO_x burners for the ladle preheaters. Also, RACT consists of continued compliance with the site-specific NO_x limit of 0.10 lb/MMBtu. Ohio's due diligence review of control options for ladle preheaters at similar sources in the RBLC supports this limit, as it is consistent with the most recent BACT determination for comparable units. The EPA proposes to

approve Ohio's RACT determination that these controls implement RACT.

Ohio included the Cleveland-Cliffs Cleveland Works NO_x RACT requirements in construction permit number P0138036 and is requesting that the EPA incorporate these provisions of the permit into the SIP. In sum, the EPA is proposing to approve Ohio's RACT determination for Cleveland Works with respect to NO_x emissions as adequately implementing RACT, and proposes to incorporate by reference the above RACT requirements from permit number P0138036 (Effective Date: November 13, 2025), specifically sections C.1.b)1. j., C.1.b)1. k., C.1.b)2.h, C.1.d) 6., and C.1.d) 7., C.1.e)6., and C.1.f)1.g. The EPA also proposes to incorporate by reference the above RACT requirements from permit number P0138136 (Effective Date: November 13, 2025), specifically sections C.5.b)1.e., C.5.b)1.f., 5.b)2.d., C.5.d)5., C.5.e)5., C.5.e)6., C.5.f)1.e., C.6.b)1.e, C.6.b)1.f., C.6.b)2.d, C.6.f)1.b, C.7.b)1.i, C.7.b)1.j., C.7.b)2.f., C.7.d)6., C.7.d)7., C.7.e)7., C.7.f)1.e., C.8.b)1.f., C.8.b)1.g., C.8.b)2.e., C.8.d)3., C.8.e)5., C.8.f)1.d., C.9.b)1.e., C.9.b)1.f., C.9.b)2.f., C.9.d)3., C.9.e)4., and C.9.f)1.e. Additionally, the EPA proposes to incorporate by reference the above RACT requirements from permit number P0138521 (Effective Date: November 13, 2025), specifically sections C.1.b)1.e., C.1.b)1.f., C.1.b)2.c., and C.1.f)1.a.

VIII. Cleveland-Cliffs Cleveland Works—VOC RACT

Cleveland-Cliffs Cleveland Works LLC is also a major non-CTG VOC source, with potential emissions exceeding 100 tpy, and is therefore subject to site-specific VOC RACT under OAC 3745–21–11. Ohio submitted this VOC RACT determination to the EPA on November 20, 2025. VOC emissions at the facility originate from the boilers, reheat furnaces, blast furnaces, BOF operations, and the tandem mill. The facility operates under title V Permit No. P0129660 (effective March 9, 2021).

A. Tandem Mill (P107)

The tandem mill is a rolling mill consisting of multiple closely spaced stands in a continuous line that emit VOCs from emulsified, water-based rolling oils that form mist during operation. The unit is equipped with a chevron-style oil demister that provides VOC reduction.

Cleveland-Cliffs evaluated multiple VOC control options:

- *Thermal incineration*: This is technically infeasible because the 90 °F exhaust temperature is significantly

below the 1,300 °F required, and reheating the high-moisture, low-VOC stream would require excessive fuel, increasing both NO_x and VOC emissions.

- *Catalytic incineration*: This is technically infeasible due to insufficient exhaust temperature (90 °F vs. the 850–1,100 °F required), variable VOC concentrations, and risk of catalyst poisoning.

- *Carbon adsorption*: This is technically infeasible because the exhaust stream would rapidly foul the carbon bed, making regeneration or replacement impractical.

- *Lower-VOC materials*: This is technically infeasible due to operational needs, steel quality specifications, and customer requirements. Only the mill threading compound has a potential lower-VOC substitute, but its use could destabilize the rolling oil and compromise product quality.

The tandem mill's existing oil demister removes visible and entrained oil vapor, moisture, and VOC mist. The facility is required to maintain the mill and mist eliminator consistent with good engineering practices. The tandem mill is also subject to a 12-month rolling VOC limit of 138.91 tpy under Ohio's BAT program.

Because the alternative control technologies identified above are technically infeasible, Ohio determined that RACT for the tandem mill consists of continued operation of the oil demister using good engineering practices, along with compliance with the BAT limit. The EPA proposes to approve Ohio's assessment that these controls constitute RACT.

Ohio also evaluated appropriate VOC content limits for oils used at the tandem mill and adopted limits consistent with those applied at Cleveland-Cliffs' Middletown Works facility. Ohio determined that the following VOC content limits constitute RACT:

- *Rolling Oil*: ≤ 4.6 lb VOC/gal (excluding water and exempt solvents)
- *Rust Preventive Oil*: ≤ 3.3 lb VOC/gal
- *Anti-Galling Material*: ≤ 1.2 lb VOC/gal
- *Pre-Lube Oil*: ≤ 0.8 lb VOC/gal

VOC content must be determined using the test methods in OAC 3745–21–10 or, alternatively, ASTM E1868–10 at actual operating temperature. The EPA proposes to approve Ohio's RACT determination that these controls are RACT.

B. Gas Combustion Sources (Excluding Blast Furnaces)

This facility operates various combustion units including boilers, reheat furnaces, annealing furnaces, and BOF vessels. Each unit's actual emissions range from 0.1 to 6.6 tpy of VOCs, and add-on controls are not economically reasonable. In addition, a review of the EPA's RBLC database for comparable combustion sources installed within the past five years shows that VOC BACT consists of good combustion and operating practices.

Because the alternative control technologies for these units are not economically reasonable, Ohio determined that RACT for these sources consists of operating the units in accordance with manufacturer specifications and good engineering practices. The EPA proposes to approve Ohio's RACT determination that these controls implement RACT.

C. Blast Furnaces (P903 and P904)

Cleveland-Cliffs evaluated four potential VOC control technologies for the combined blast furnace exhaust:

- *Thermal and catalytic incineration:* These are not economically reasonable due to highly dilute VOC concentrations, requiring substantial supplemental fuel. Cost-effectiveness ranges from \$99,676 to \$134,286 per ton of VOC removed.

- *Carbon adsorption:* This is technically infeasible because the exhaust temperature (500 °F) exceeds operating limits for carbon beds (<130 °F), the stream is too dilute and moisture-laden, and fire risks are significant.

- *Scrubbing (absorption):* This is technically infeasible because meaningful VOC removal is not achievable at such low concentrations without impractically large equipment, and scrubbers typically must be paired with controls (carbon adsorption or incineration) that are themselves infeasible.

- *Condensation:* This is technically infeasible because VOC concentrations are far below levels where condensation would be effective, and the required temperatures would cause moisture to freeze and plug the system.

Because the alternative VOC technologies identified above are either technically infeasible or economically unreasonable for the blast furnace exhaust, Ohio determined that RACT consists of operating the blast furnaces in accordance with manufacturer specifications and good engineering practices to minimize emissions. The EPA is proposing to approve Ohio's

RACT determination that these controls constitute RACT.

In sum, the EPA is proposing to approve Ohio's RACT determination for Cleveland Works with respect to VOC emissions as adequately implementing RACT and proposes to incorporate by reference the above RACT requirements from permit number P0138035 (Effective Date: November 13, 2025), specifically sections C.1.b)1.e, C.1.b)2.a, C.1.d)2, C.1.d)3, C.1.d)4, C.1.e)2, C.1.e)3, C.1.e)5, C.1.f)1.d, C.1.f)1.f, C.1.f)2. The EPA also proposes to incorporate by reference the above RACT requirements from permit number P0138036 (Effective Date: November 13, 2025), specifically sections C.1.b)1.i, C.1.b)2.g, C.1.d)6, C.1.e)6.a. Finally, the EPA proposes to incorporate by reference the above RACT requirements from permit number P0138136 (Effective Date: November 13, 2025), specifically sections B.11, C.1.b)1.g, C.1.d)7, C.1.e)5, C.2.b)1.g, C.2.d)9, C.2.e)6, C.3.b)1.e, C.3.d)4, C.3.e)4, C.4.b)1.f, C.4.d)9, C.4.e)6, C.5.b)1.d, C.5.d)4, C.5.e)4, C.6.b)1.d, C.6.d)3, C.6.e)4, C.7.b)1.h, C.7.d)5, C.7.e)6, C.8.b)1.e, C.8.d)2, and C.8.e)4.

IX. What action is the EPA taking?

The EPA is proposing to approve the following as RACT in the Cleveland Moderate nonattainment area with respect to the 2015 ozone NAAQS:

- Lubrizol: continued compliance with site-specific RACT under OAC 3745–21–09(LL) for all process reactor vents; use of submerged filling and venting to a thermal oxidizer achieving greater than 98 percent VOC control efficiency for the drum/tote filling operations; and implementation of existing controls, emission limits, and work practices for the loading racks as detailed in the permit provisions described above.

- Henkel: continued current operational practices of utilizing low-VOC materials and the use of condenser systems to reduce VOC emissions by 85 percent, as detailed in the permit provisions described above.

- Cleveland-Cliffs Cleveland Works

- NO_x RACT:

- Reheat Furnaces (P046–P048): Requirement to submit updated NO_x RACT study per 3745–110–03(J) if NO_x emissions exceed 348.3 tpy per furnace on a 12-month rolling average.

- Batch annealing Furnaces (P049 and P050): Continued operation of existing LNBs and compliance with existing NO_x limit of 0.10 lb/MMBtu.

- HDGL Annealing Furnace (Unit P071): Continued use of the existing LNBs and compliance with the 0.23 lb/MMBtu NO_x limit.

- Blast Furnaces (P903 and P904): Continued use of low-NO_x BFG; Casthouse and Flare—install, maintain, and operate the source in accordance with manufacturer specifications and with good operating practices for the control of NO_x emissions; Blast furnace stoves—Continued compliance with existing NO_x limit of 0.06 lb/MMBtu.

- Basic Oxygen Furnaces and Ladle Preheaters (P905/P906 and P925/P926): BOFs—install, maintain, and operate the source in accordance with the manufacturer's specifications and with good operating practices for the control of NO_x emissions; Ladle Preheaters—Continued use of the existing inherently low-NO_x burners and continued compliance of the site-specific NO_x limit of 0.10 lb/MMBtu.

- VOC RACT:

- Combustion Units (B001–B007, B046–B050, P903–P906): Operate the source in accordance with the manufacturer's specifications and with good operating practices for the control of VOC emissions.

- Tandem Mill (P107): Continued operation of chevron-style oil demister in accordance with good engineering practices; Compliance with existing VOC BAT limit of 138.91 tons per rolling 12-month period; Compliance with proposed VOC content limits for rolling oils described in more detail in the preamble above.

X. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference Ohio rule 3745–21–09(LL), and the permit provisions discussed in the preamble. The EPA has made, and will continue to make, these documents generally available through www.regulations.gov and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

XI. Statutory and Executive Order Reviews

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

those imposed by State law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

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

List of Subjects in 40 CFR Part 52

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

Dated: March 27, 2026.

Cheryl Newton,

Acting Regional Administrator, Region 5.

[FR Doc. 2026-06940 Filed 4-9-26; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R05-OAR-2025-3654; FRL-13297-01-R5]

Air Plan Approval; Ohio; Redesignation of the Cleveland, OH Area to Attainment of the 2015 Ozone Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to act in accordance with a request from the Ohio Environmental Protection Agency (Ohio EPA) to redesignate the Cleveland, Ohio area to attainment for the 2015 ozone National Ambient Air Quality Standards (NAAQS) because the request meets the statutory requirements for redesignation under the Clean Air Act (CAA). The Cleveland area includes Cuyahoga, Geauga, Lake, Lorain, Medina, Portage, and Summit Counties. Ohio EPA submitted this request on December 8, 2025. The EPA is also proposing to approve, as a revision to the Ohio State Implementation Plan (SIP), the State's plan for maintaining the 2015 ozone NAAQS through 2038 in the Cleveland area. The EPA is also initiating the adequacy process and proposing to approve Ohio's 2032 and 2038 volatile organic compound (VOC) and oxides of nitrogen (NO_x) motor vehicle emissions budgets (budgets) for the Cleveland area. Additionally, the EPA is proposing to adjust the deadline for Ohio to submit Serious SIP revisions for the Cleveland area. Finally, the EPA is proposing to approve the Enhanced motor vehicle inspection and maintenance (I/M) program certification, clean fuel vehicle program (CFVP) certification, and enhanced monitoring plan (EMP) certification SIP revisions submitted by Ohio EPA on December 19, 2025, and January 12, 2026, pursuant to section 110 and part D of the CAA, because they satisfy Serious SIP requirements for the Cleveland area under the 2015 ozone NAAQS.

DATES: Comments must be received on or before May 11, 2026.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2025-3654 at <https://www.regulations.gov>, or via email to arra.sarah@epa.gov. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from the

docket. The EPA may publish any comment received to its public docket. Do not submit to the EPA's docket at <https://www.regulations.gov> any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI, PBI, or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT:

Cecilia Magos, Air and Radiation Division (AR18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, telephone number: (312) 886-7336, email address: magos.cecilia@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever "we," "us," or "our" is used, we mean the EPA. This supplementary information section is arranged as follows:

- I. What is the EPA proposing?
- II. What is the background for these actions?
- III. What are the criteria for redesignation?
- IV. What is the EPA's analysis of Ohio's redesignation request?
- V. Has the State adopted approvable motor vehicle emission budgets?
- VI. Adjustment of SIP Submittal Deadlines
- VII. Enhanced I/M
- VIII. Clean Fuel Vehicle Program
- IX. Enhanced Monitoring Program
- X. What action is the EPA taking?
- XI. Statutory and Executive Order Reviews

I. What is the EPA proposing?

The EPA is proposing to take several related actions. The EPA proposes to determine that the Cleveland area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA, and the EPA is thus proposing to change the legal designation of the Cleveland area from nonattainment to attainment for the 2015 ozone NAAQS. The EPA is also proposing to approve, as a revision to the Ohio SIP, the State's maintenance

plan for the area (such approval being one of the CAA criteria for redesignation to attainment status). The maintenance plan is designed to keep the Cleveland area in attainment of the 2015 ozone NAAQS through 2038. As a part of the maintenance plan, the EPA is initiating the adequacy process and proposing to approve the newly established 2032 and 2038 motor vehicle emissions budgets for the Cleveland area. Additionally, the EPA is proposing to adjust the deadline for Ohio to submit Serious SIP revisions for the Cleveland area to no later than December 5, 2026. Finally, the EPA is also proposing to approve several elements which meet section 110 and part D of the CAA and the EPA's regulations for an area which is classified as Serious nonattainment for the 2015 ozone NAAQS. These elements include Enhanced I/M certification, CFVP certification, and EMP certification SIP revisions submitted by Ohio EPA on December 19, 2025, and supplemented on January 12, 2026.

II. What is the background for these actions?

The EPA has determined that ground-level ozone is detrimental to human health. On October 1, 2015, the EPA promulgated a revised 8-hour ozone NAAQS of 0.070 parts per million (ppm). See 80 FR 65292 (October 26, 2015). Under the EPA's regulations at 40 CFR part 50, the 2015 ozone NAAQS is attained in an area when the 3-year average of the annual fourth highest daily maximum 8-hour average concentration is equal to or less than 0.070 ppm, when truncated after the thousandth decimal place, at all of the ozone monitoring sites in the area. See 40 CFR 50.19 and appendix U to 40 CFR part 50.

Upon promulgation of a new or revised NAAQS, section 107(d)(1)(B) of the CAA requires the EPA to designate as nonattainment any areas that are violating the NAAQS, based on the most recent three years of quality assured ozone monitoring data. The Cleveland area was designated as a Marginal nonattainment area for the 2015 ozone NAAQS on June 4, 2018 (83 FR 25776) (effective August 3, 2018). On October 7, 2022 (87 FR 60897), the EPA determined that the Cleveland area did not attain the standards by the Marginal

attainment date, and the area was reclassified as Moderate by operation of law. More recently, on December 17, 2024 (89 FR 101901), the EPA determined the area did not attain the standards by the Moderate attainment date, and the area was reclassified as Serious by operation of law. The EPA established Serious area SIP submission deadlines by rule at 40 CFR 51.1402(b)(1)(i). This set January 1, 2026, as the Serious area SIP submission deadline applicable to the Cleveland area. As noted in that regulatory provision, the default deadline for reclassified areas applies "unless the Administrator establishes a different deadline in a separate action."

III. What are the criteria for redesignation?

Section 107(d)(3)(E) of the CAA allows redesignation of an area to attainment of the NAAQS provided that: (1) the Administrator (EPA) determines that the area has attained the NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k) of the CAA; (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP, applicable Federal air pollutant control regulations, and other permanent and enforceable emission reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the CAA; and (5) the State containing the area has met all requirements applicable to the area for the purposes of redesignation under section 110 and part D of the CAA.

On April 16, 1992 (57 FR 13498), the EPA provided guidance on redesignations in the General Preamble for the Implementation of title I of the CAA Amendments of 1990 and supplemented this guidance on April 28, 1992 (57 FR 18070). The EPA has provided further guidance on processing redesignation requests in policy memoranda, including the September 4, 1992, memorandum from John Calcagni, Director, Air Quality Management Division, entitled "Procedures for Processing Requests to Redesignate

Areas to Attainment," (Calcagni Memorandum).

IV. What is the EPA's analysis of Ohio's redesignation request?

A. Has the Cleveland area attained the 2015 ozone NAAQS?

For redesignation of a nonattainment area to attainment, the CAA requires the EPA to determine that the area has attained the applicable NAAQS (CAA section 107(d)(3)(E)(i)). An area is attaining the 2015 ozone NAAQS if it meets the 2015 ozone NAAQS, as determined in accordance with 40 CFR 50.19 and appendix U of part 50, based on three complete, consecutive calendar years of quality-assured air quality data for all monitoring sites in the area. To attain the 2015 ozone NAAQS, the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations (ozone design values) at each monitor must not exceed 0.070 ppm. The air quality data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in the EPA's Air Quality System (AQS). Ambient air quality monitoring data for the 3-year period must also meet data completeness requirements. An ozone design value is valid if daily maximum 8-hour average concentrations are available for at least 90% of the days within the ozone monitoring seasons,¹ on average, for the 3-year period, with a minimum data completeness of 75% during the ozone monitoring season of any year during the 3-year period. See section 4 of appendix U to 40 CFR part 50.

On February 27, 2026 (91 FR 9800), the EPA proposed to determine that the Cleveland area attained the 2015 ozone NAAQS based on ozone monitoring data for the 2023–2025 period and to suspend certain planning requirements related to the attainment of the NAAQS (clean data determination or CDD). A summary of the monitoring data relied upon in that proposal is presented in Table 1. These data demonstrate that the Cleveland area is attaining the 2015 ozone NAAQS.

¹ The ozone season is defined by State in 40 CFR 58, appendix D. The ozone season for Ohio is March–October. See 80 FR 65292, 65466 through 65467 (October 26, 2015).

TABLE 1—ANNUAL FOURTH-HIGHEST DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS AND 3-YEAR AVERAGE OF THE FOURTH-HIGHEST DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS FOR THE CLEVELAND AREA

County	Monitor	2023 4th high (ppm)	2024 4th high (ppm)	2025 4th high (ppm)	2023–2025 average (ppm)
Cuyahoga	39–035–0034	0.068	0.072	0.070	0.070
	39–035–0060	0.062	0.065	0.068	0.065
	39–035–0064	0.075	0.065	0.068	0.069
Geauga	39–055–0004	0.066	0.066	0.069	0.067
Lake	39–085–0003	0.069	0.071	0.071	0.070
	39–085–0007	0.070	0.069	0.070	0.069
Lorain	39–093–0018	0.064	0.061	0.066	0.063
Medina	39–103–0004	0.072	0.065	0.068	0.068
Portage	39–133–1001	0.070	0.067	0.070	0.069
Summit	39–153–0026	0.071	0.069	0.066	0.068

The Cleveland area's 3-year ozone design value for 2023–2025 is 0.070 ppm,² which meets the 2015 ozone NAAQS.

The EPA will not take final action to redesignate the Cleveland area to attainment if the EPA fails to finalize the CDD or if the design value of a monitoring site in the area violates the NAAQS prior to final approval of the redesignation. As discussed in section IV.D.3. below, Ohio EPA has committed to continue monitoring ozone in this area to verify maintenance of the 2015 ozone NAAQS.

B. Has Ohio met all applicable requirements of section 110 and part D of the CAA for the Cleveland area, and does Ohio have a fully approved SIP for the area under section 110(k) of the CAA?

For redesignation of an area from nonattainment to attainment of a NAAQS, the CAA requires the EPA to determine that the State has met all applicable requirements under section 110 and part D of title I of the CAA (*see* section 107(d)(3)(E)(v) of the CAA) and that the State has a fully approved SIP under section 110(k) of the CAA (*see* section 107(d)(3)(E)(ii) of the CAA). The EPA proposes to find that Ohio has met all applicable SIP requirements for purposes of redesignation under section 110 and part D of title I of the CAA (requirements specific to nonattainment areas for the 2015 ozone NAAQS). In separate actions, the EPA is proposing approval of Ohio's source specific VOC and NO_x RACT determinations for sources at or above the Moderate major source threshold. Recognizing that these SIP elements must be approved on or before the date the EPA completes final rulemaking redesignating the area, the EPA proposes to determine that, providing this occurs, the EPA will have fully approved Ohio's SIP under section

110(k) of the CAA. In making these proposed determinations, the EPA ascertained which requirements are applicable for purposes of redesignation, and whether the required Ohio SIP elements are fully approved under section 110(k) and part D of the CAA. As discussed more fully below, SIPs must be fully approved only with respect to these applicable requirements of the CAA.

The EPA proposed in its CDD action to determine that the Cleveland area has attained the 2015 standard, under 40 CFR 51.1318. Providing that determination is finalized, the requirements to submit certain planning SIPs related to attainment, including attainment demonstration requirements (the reasonably available control measures (RACM) requirement of section 172(c)(1) of the CAA, the reasonable further progress (RFP) and attainment demonstration requirements of sections 172(c)(2) and (6) and 182(b)(1) of the CAA, and the requirement for contingency measures of section 172(c)(9) of the CAA) would not be applicable to the area as long as it continues to attain the NAAQS and would cease to apply upon redesignation. In addition, in the context of redesignations, the EPA has interpreted requirements related to attainment as not applicable for purposes of redesignation. For example, in the General Preamble, the EPA stated that:

“The section 172(c)(9) requirements are directed at ensuring RFP and attainment by the applicable date. These requirements no longer apply when an area has attained the standard and is eligible for redesignation. Furthermore, section 175A for maintenance plans provides specific requirements for contingency measures that effectively supersede the requirements of section 172(c)(9) for these areas.” (General Preamble, 57 FR 13498 at 13564, April 16, 1992).

See also Calcagni Memorandum at 6 (“The requirements for reasonable further progress and other measures needed for attainment will not apply for redesignations because they only have meaning for areas not attaining the standard”).

1. Ohio has met all applicable requirements of section 110 and part D of the CAA applicable to the Cleveland area for purposes of redesignation.

a. Section 110 General Requirements for Implementation Plans

Section 110(a)(2) of the CAA delineates the general requirements for a SIP. Section 110(a)(2) provides that the SIP must have been adopted by the State after reasonable public notice and hearing, and that, among other things, it must: (1) include enforceable emission limitations and other control measures, means or techniques necessary to meet the requirements of the CAA; (2) provide for establishment and operation of appropriate devices, methods, systems and procedures necessary to monitor ambient air quality; (3) provide for implementation of a source permit program to regulate the modification and construction of stationary sources within the areas covered by the plan; (4) include provisions for the implementation of part C prevention of significant deterioration (PSD) and part D new source review (NSR) permit programs; (5) include provisions for stationary source emission control measures, monitoring, and reporting; (6) include provisions for air quality modeling; and, (7) provide for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) of the CAA requires SIPs to contain measures to prevent sources in a State from significantly contributing to air quality problems in another State. To implement this provision, the EPA has required certain States to establish programs to address transport of certain

² The monitor ozone design value for the monitor with the highest 3-year averaged concentration.

air pollutants, for example, the NO_x SIP call, the Clean Air Interstate Rule (CAIR), and the Cross State Air Pollution Rule (CSAPR). Like many of the 110(a)(2) requirements, however, the section 110(a)(2)(D) SIP requirements are not linked with a particular area's ozone designation and classification. The EPA concludes that the SIP requirements linked with the area's ozone designation and classification are the relevant measures to evaluate when reviewing a redesignation request for the area. The section 110(a)(2)(D) requirements, where applicable, continue to apply to a State regardless of the designation of any one particular area within the State. Thus, we believe these requirements are not applicable requirements for purposes of redesignation. See 65 FR 37890 (June 15, 2000), 66 FR 53094 (October 19, 2001), 68 FR 25418, 25426 through 25427 (May 12, 2003).

In addition, the EPA believes that other section 110 elements that are neither connected with nonattainment plan submissions nor linked with an area's ozone attainment status are not applicable requirements for purposes of redesignation. The area will still be subject to these requirements after the area is redesignated to attainment of the 2015 ozone NAAQS. The section 110 and part D requirements which are linked with a particular area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. This approach is consistent with the EPA's existing policy on applicability (*i.e.*, for redesignations) of conformity requirements, as well as with section 184 ozone transport requirements. See Reading, Pennsylvania proposed and final rulemakings, 61 FR 53174 through 53176 (October 10, 1996) and 62 FR 24826 (May 7, 1997); Cleveland-Akron-Lorain, Ohio final rulemaking, 61 FR 20458 (May 7, 1996); and Tampa, Florida final rulemaking, 60 FR 62748 (December 7, 1995). See also the discussion of this issue in the Cincinnati, Ohio ozone redesignation (65 FR 37890, June 19, 2000), and the Pittsburgh, Pennsylvania ozone redesignation (66 FR 53094, October 19, 2001).

We have reviewed Ohio's SIP and propose to find that it meets the general SIP requirements under section 110 of the CAA, to the extent those requirements are applicable for purposes of redesignation. In any case, on August 11, 2021 (86 FR 43962), the EPA approved elements of the SIP submitted by Ohio to meet the requirements of section 110 for the 2015 ozone standard.

b. Part D Requirements

Section 172(c) of the CAA sets forth the basic requirements of air quality plans for States with nonattainment areas that are required to submit them pursuant to section 172(b). Subpart 2 of part D, which includes section 182 of the CAA, establishes specific requirements for ozone nonattainment areas depending on the areas' nonattainment classifications.

The Cleveland area is classified as Serious under subpart 2 for the 2015 ozone NAAQS. As such, the area is subject to the subpart 1 requirements contained in section 172(c) and section 176. Similarly, the area is subject to the subpart 2 requirements contained in section 182(a) (Marginal nonattainment area requirements) and section 182(b) (Moderate nonattainment area requirements), and section 182(c) (Serious nonattainment area requirements). A thorough discussion of the requirements contained in section 172(c) and 182 can be found in the *General Preamble for Implementation of Title I* (April 16, 1992, 57 FR 13498). However, as discussed in section VI below, the EPA is proposing to adjust the deadline for Ohio to submit Serious SIP revisions for the Cleveland area to no later than December 5, 2026. Providing the EPA finalizes this SIP submittal deadline adjustment and the redesignation of the Cleveland area prior to December 5, 2026, Serious SIP requirements would not be applicable requirements for purposes of redesignation, because they will not have become due.

i. Subpart 1 Section 172 Requirements

As provided in subpart 2, for ozone nonattainment areas such as the Cleveland area, the specific requirements of section 182 apply in lieu of the attainment planning requirements that would otherwise apply under section 172(c), including the attainment demonstration and RACM under section 172(c)(1), RFP under section 172(c)(2), and contingency measures under section 172(c)(9). 42 U.S.C. 7511a(a).

Section 172(c)(3) requires submission and approval of a comprehensive, accurate and current inventory of actual emissions. This requirement is superseded by the inventory requirement in section 182(a)(1) discussed below.

Section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified stationary sources in an area, and section 172(c)(5) requires source permits for the construction and

operation of new and modified major stationary sources anywhere in the nonattainment area. The EPA granted limited approval of approved Ohio's NSR program on September 8, 1993 (58 FR 47211) and granted final approval on January 10, 2003 (68 FR 1366). The EPA approved revisions to Ohio's NSR program on February 25, 2010 (75 FR 8496). Most recently, the EPA approved Ohio's certification that its SIP satisfies the nonattainment NSR requirements of the CAA for the 2015 ozone NAAQS on July 7, 2025 (90 FR 29742). Nonetheless, the EPA has determined that, since PSD requirements will apply after redesignation, areas being redesignated need not comply with the requirement that an NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR. A more detailed rationale for this view is described in the October 14, 1994, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, entitled, "Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment." See rulemakings for Detroit, Michigan (60 FR 12467 through 12468, March 7, 1995); Cleveland-Akron-Lorain, Ohio (61 FR 20458, 20469–20470, May 7, 1996); Louisville, Kentucky (66 FR 53665, October 23, 2001); and Grand Rapids, Michigan (61 FR 31834 through 31837, June 21, 1996). Ohio's PSD program will become effective in the Cleveland area upon redesignation to attainment. The EPA conditionally approved Ohio's PSD program on October 10, 2001 (66 FR 51570), fully approved Ohio's PSD program on January 22, 2003 (68 FR 2909), and most recently approved revisions to Ohio's PSD program on February 25, 2010 (75 FR 8496).

Section 172(c)(6) requires the SIP to contain control measures necessary to provide for attainment of the NAAQS. Because attainment has been reached, no additional measures are needed to provide for attainment.

Section 172(c)(7) requires the SIP to meet the applicable provisions of section 110(a)(2). As noted above, we believe the Ohio SIP meets the requirements of section 110(a)(2) for purposes of redesignation.

ii. Section 176 Conformity Requirements

Section 176(c) of the CAA requires that federally supported or funded projects conform to the applicable SIP. The requirement to determine conformity applies to transportation plans, programs and projects that are developed, funded or approved under

title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity) as well as to all other federally supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with Federal conformity regulations relating to consultation, enforcement and enforceability that the EPA promulgated pursuant to its authority under the CAA.

The EPA interprets the conformity SIP requirements³ as not applying for purposes of evaluating a redesignation request under section 107(d) because State conformity rules are still required after redesignation and Federal conformity rules apply where State conformity rules have not been approved. See *Wall v. EPA*, 265 F.3d 426 (6th Cir. 2001) (upholding this interpretation); see also 60 FR 62748 (December 7, 1995) (redesignation of Tampa, Florida). Nonetheless, Ohio has an approved conformity SIP for the Cleveland area. See 80 FR 11133 (March 2, 2015).

iii. Subpart 2 Section 182(a), Section 182(b), Section 182(c), and Section 182(f) Requirements

Section 182(a)(1) requires States to submit a comprehensive, accurate, and current inventory of actual emissions from sources of NO_x and VOC emitted within the boundaries of the ozone nonattainment area within two years of designation. The EPA approved Ohio's base year emissions inventory for the Cleveland area on March 3, 2021 (86 FR 12270) and July 7, 2025 (90 FR 29742).

Under section 182(a)(2)(A), States with ozone nonattainment areas that were designated prior to the enactment of the 1990 CAA amendments were required to submit, within six months of classification, all rules and corrections to existing VOC reasonably available control technology (RACT) rules that were required under section 172(b)(3) prior to the 1990 CAA amendments. The Cleveland area is not subject to the section 182(a)(2) RACT "fix up" requirement for the 2015 ozone NAAQS because it was designated as nonattainment for this standard after the enactment of the 1990 CAA amendments and, in any case, Ohio complied with this requirement for the Cleveland area under the prior 1-hour ozone NAAQS. See 59 FR 23796 (May

9, 1994) and 60 FR 15235 (March 23, 1995).

Section 182(a)(2)(B) requires each State with a Marginal ozone nonattainment area that implemented or was required to implement a vehicle I/M program prior to the 1990 CAA amendments to submit a SIP revision for an I/M program no less stringent than that required prior to the 1990 CAA amendments or already in the SIP at the time of the CAA amendments, whichever is more stringent. For the purposes of the 2015 ozone NAAQS and the consideration of Ohio's redesignation request for this standard, the Cleveland area is not subject to the section 182(a)(2)(B) requirement because the Cleveland area was designated as nonattainment for the 2015 ozone NAAQS after the enactment of the 1990 CAA amendments.

Regarding the source permitting and offset requirements of sections 182(a)(2)(C), 182(a)(4), and 182(b)(5), Ohio currently has a fully approved part D NSR program in place. The EPA granted limited approval of Ohio's NSR program on September 8, 1993 (58 FR 47211), and received final approval on January 10, 2003 (68 FR 1366). The EPA approved revisions to Ohio's NSR program on February 25, 2010 (75 FR 8496). Most recently, the EPA approved Ohio's certification that its SIP satisfies the nonattainment NSR requirements of the CAA for the 2015 ozone NAAQS on July 7, 2025 (90 FR 29742). In addition, the EPA conditionally approved Ohio's PSD program on October 10, 2001 (66 FR 51570), fully approved Ohio's PSD program on January 22, 2003 (68 FR 2909), and most recently approved revisions to Ohio's PSD program on February 25, 2010 (75 FR 8496). The State's PSD program will become effective in the Cleveland area upon redesignation to attainment.

Section 182(a)(3) requires States to submit periodic emission inventories and a revision to the SIP to require the owners or operators of stationary sources to annually submit emission statements documenting actual VOC and NO_x emissions. As discussed below in section IV.D.4. of this proposed rule, Ohio will continue to update its emissions inventory at least once every three years consistent with the requirements of 40 CFR part 51, subpart A, and in 40 CFR 51.122. The EPA approved Ohio's emission statement SIP for the Cleveland area for the 2015 ozone NAAQS on July 11, 2017 (82 FR 31913).

Section 182(b)(1) requires the submission of an attainment demonstration and RFP plan. Ohio submitted an attainment demonstration

and RFP plan for the Cleveland area on December 21, 2022. The EPA approved Ohio's RFP plan on July 7, 2025 (90 FR 29742). However, because attainment has been reached, section 182(b)(1) requirements are no longer considered to be applicable if the area continues to attain the standard. If the EPA finalizes approval of the redesignation of the area, the EPA will take no further action on the attainment demonstration submitted by Ohio.

Section 182(b)(2) requires States with Moderate nonattainment areas to implement VOC RACT with respect to each of the following: (1) all sources covered by a Control Technology Guideline (CTG) document issued between November 15, 1990, and the date of attainment; (2) all sources covered by a CTG issued prior to November 15, 1990; and (3) all other major non-CTG stationary sources. Ohio submitted a VOC RACT SIP to address the requirements applicable to Moderate nonattainment areas on March 30, 2022, and supplemented the submittal on February 1, 2023, and August 28, 2023. On January 20, 2026 (91 FR 2308) the EPA approved Ohio's submittal as satisfying the requirements of sections 182(b)(2)(A) and (B), that VOC RACT be implemented with respect to sources covered by a CTG and partially satisfying the requirement of section 182(b)(2)(C) that VOC RACT be implemented at all other major sources. Ohio subsequently submitted non-CTG VOC RACT determinations for sources at or above the Moderate major source threshold in the area on March 11, 2024, January 15, 2025, January 22, 2025, October 8, 2025, November 20, 2025, and November 25, 2025. The EPA is taking action on these VOC RACT determinations in separate rulemakings. The EPA will not finalize this redesignation unless the EPA has fully approved Ohio's Moderate VOC RACT SIP.

Section 182(b)(3) requires States to adopt Stage II gasoline vapor recovery regulations. On May 16, 2012 (77 FR 28772), the EPA determined that the use of onboard vapor recovery technology for capturing gasoline vapor when gasoline-powered vehicles are refueled is in widespread use throughout the highway motor vehicle fleet and waived the requirement that current and former ozone nonattainment areas implement Stage II vapor recovery systems on gasoline pumps.

Section 182(b)(4) requires a basic vehicle I/M program in each State with a moderate ozone nonattainment area. The EPA approved Ohio's basic I/M program of April 4, 1995 (60 FR 16986) and on January 6, 1997 (62 FR 646). The

³ CAA section 176(c)(4)(E) requires States to submit revisions to their SIPs to reflect certain Federal criteria and procedures for determining transportation conformity. Transportation conformity SIPs are different from SIPs requiring the development of motor vehicle emissions budgets, such as control strategy SIPs and maintenance plans.

EPA approved Ohio's I/M program certification for the Cleveland area for the Moderate classification under the 2015 ozone NAAQS on July 7, 2025 (90 FR 29742).

Section 182(c) contains the requirements for areas classified as Serious. As discussed in section VI, in this action the EPA is proposing to adjust the deadline for Ohio to submit Serious SIP revisions for the Cleveland area to no later than December 5, 2026. Provided the EPA finalizes this SIP submittal deadline adjustment and the redesignation of the Cleveland area prior to December 5, 2026, Serious SIP requirements would not be considered applicable requirements for purposes of redesignation because they will not have become due and thus are not a prerequisite to redesignation. Nonetheless, Ohio has already submitted many of the Serious SIP requirements, and the EPA is proposing to approve those submittals as follows.

Section 182(c)(1) of the CAA requires States with nonattainment areas classified Serious or higher to adopt and implement a program to improve air monitoring for ambient concentrations of ozone, NO_x and VOC. For the reasons discussed in section IX, EPA is proposing to approve the Ohio's EMP certification for the 2015 ozone NAAQS.

CAA section 182(c)(3) requires States with ozone nonattainment areas classified as Serious or higher to adopt and implement an Enhanced I/M program. For the reasons discussed in section VII, below, the EPA is proposing to approve the Ohio I/M certification as meeting the section 182(c)(3) Serious Enhanced I/M requirements for the Cleveland area under the 2015 ozone NAAQS.

CAA section 182(c)(4) requires States with ozone nonattainment areas classified as Serious or higher to submit a SIP revision describing implementation of a CFVP, as described in CAA title II part C (40 CFR 88). For the reasons discussed in section VIII, the EPA is proposing to approve Ohio's certification that its current CFVP meets the Serious CFVP requirements for the Ohio area for the 2015 ozone NAAQS.

Section 182(c) of the CAA also requires States with Serious nonattainment areas to implement the VOC RACT requirements of Section 182(b)(2) with the addition that a "major source" is one that emits, or has the potential to emit, at least 50 tons per year of volatile organic compounds. Ohio has submitted part of the Serious VOC RACT requirements for the Cleveland nonattainment area. The EPA is proposing to extend the deadlines for

those submittals, however, as described in section VI.

The remaining section 182(c) requirements for areas classified as Serious include: an attainment demonstration, RFP, RFP contingency measures, and a transportation control demonstration. These elements are not needed to redesignate the Ohio portion because the area has attained the 2015 ozone NAAQS. This rationale is outlined in 40 CFR 51.1318, the General Preamble, and the Calcagni memorandum at 6 ("The requirements for reasonable further progress and other measures needed for attainment will not apply for redesignations because they only have meaning for areas not attaining the standard."). The EPA believes it is reasonable to interpret these provisions as not requiring areas that are meeting the ozone standard to make the SIP submissions to the EPA described in the provisions as long as the areas continue to meet the standard. (If such an area were to monitor a violation of the standard prior to being redesignated to attainment, however, the area would have to address the pertinent requirements and submit the SIP revisions described in those provisions to the EPA.)

Section 182(f) of the CAA establishes NO_x requirements for ozone nonattainment areas. Section 182(f)(1) generally requires major sources of NO_x to be covered by the same levels of emission controls as required for major sources of VOC. Since section 182(b)(2)(C) of the CAA requires areas classified as Moderate (or above) to implement RACT for major VOC sources, these ozone nonattainment areas are also required to implement NO_x RACT for major sources of NO_x. Ohio submitted a NO_x RACT SIP at the Moderate major source threshold on March 30, 2022, and supplemented the submittal on February 1, 2023, and August 28, 2023. On January 20, 2026 (91 FR 2308), the EPA approved Ohio's SIP submissions as partially meeting the NO_x RACT requirements of sections 182(b)(2) and 182(f) of the CAA at the Moderate major source threshold. For the major sources not subject to category-specific NO_x RACT rules, Ohio subsequently submitted source specific NO_x RACT determinations on December 5, 2023, March 28, 2024, July 28, 2025, August 25, 2025, and November 20, 2025. The EPA is taking action on Ohio's source specific Moderate NO_x RACT determinations in separate rules. As noted below, providing the EPA finalizes the SIP submittal deadline adjustment and the redesignation of the Cleveland area prior to December 5, 2026, NO_x RACT at the Serious major

source threshold would not be an applicable requirement for purposes of redesignation because it will not have become due.

Thus, as discussed above, the EPA finds that the Cleveland, Ohio area satisfies all applicable requirements for purposes of redesignation under section 110 and part D of the CAA.

2. The Cleveland area has a fully approved SIP for purposes of redesignation under section 110(k) of the CAA.

At various times, Ohio has adopted and submitted, and the EPA has approved, provisions addressing the various SIP elements applicable for the ozone NAAQS. In separate actions, the EPA is proposing to approve Ohio's VOC and NO_x RACT submissions as meeting the requirements for Moderate nonattainment areas. Providing the EPA finalizes approval of these VOC and NO_x RACT submissions and finalizes the SIP submittal deadline adjustment and the redesignation of the Cleveland area prior to December 5, 2026, the EPA will have fully approved the Ohio SIP for the Cleveland area under section 110(k) for all requirements applicable for purposes of redesignation under the 2015 ozone NAAQS. The EPA may rely on prior SIP approvals in approving a redesignation request (*see* the Calcagni memorandum at page 3; *Southwestern Pennsylvania Growth Alliance v. Browner*, 144 F.3d 984, 989–990 (6th Cir. 1998); *Wall v. EPA*, 265 F.3d 426). Additional measures may also be approved in conjunction with a redesignation action (*see* 68 FR 25426 (May 12, 2003) and citations therein).

C. Are the air quality improvements in the Cleveland area due to permanent and enforceable emission reductions?

To redesignate an area from nonattainment to attainment, section 107(d)(3)(E)(iii) of the CAA requires the EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from the implementation of the SIP and applicable Federal air pollution control regulations and other permanent and enforceable emission reductions. The EPA proposes to determine that Ohio has demonstrated that the observed ozone air quality improvement in the Cleveland area is due to permanent and enforceable reductions in VOC and NO_x emissions resulting from State measures adopted into the SIP and Federal measures.

In making this demonstration, the State has calculated the change in emissions between 2017 and 2025. The reduction in emissions and the

corresponding improvement in air quality over this time period can be attributed to several regulatory control measures that the Cleveland area and upwind areas have implemented in recent years. In addition, Ohio provided an analysis to demonstrate the improvement in air quality was not due to unusually favorable meteorology. Based on the information summarized below, the EPA proposes to find that Ohio has adequately demonstrated that the improvement in air quality is due to permanent and enforceable emissions reductions.

1. Permanent and enforceable emission controls implemented.

a. Regional NO_x Controls

CAIR/CSAPR. Under the “good neighbor provision” of CAA section 110(a)(2)(D)(i)(I), States are required to address interstate transport of air pollution. Specifically, the good neighbor provision provides that each State’s SIP must contain provisions prohibiting emissions from within that State which will contribute significantly to nonattainment of the NAAQS, or interfere with maintenance of the NAAQS, in any other State.

On May 12, 2005 (70 FR 25152), the EPA published CAIR, which required eastern States, including Ohio, to prohibit emissions consistent with annual and ozone season NO_x budgets and annual sulfur dioxide (SO₂) budgets. CAIR addressed the good neighbor provision for the 1997 ozone NAAQS and 1997 fine particulate matter (PM_{2.5}) NAAQS and was designed to mitigate the impact of transported NO_x emissions, a precursor of both ozone and PM_{2.5}, as well as transported SO₂ emissions, another precursor of PM_{2.5}. The United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) remanded CAIR to the EPA for replacement in 2008. *North Carolina v. EPA*, 531 F.3d 896, *modified*, 550 F.3d 1176 (2008). While the EPA worked on developing a replacement rule, implementation of the CAIR program continued as planned with the NO_x annual and ozone season programs beginning in 2009 and the SO₂ annual program beginning in 2010.

On August 8, 2011 (76 FR 48208), acting on the D.C. Circuit’s remand, the EPA published CSAPR to replace CAIR and to address the good neighbor provision for the 1997 ozone NAAQS, the 1997 PM_{2.5} NAAQS, and the 2006 PM_{2.5} NAAQS. Through Federal Implementation Plans, CSAPR required electric generating units (EGUs) in eastern States, including Ohio, to meet annual and ozone season NO_x budgets

and annual SO₂ budgets implemented through new trading programs. After delays caused by litigation, the EPA started implementing the CSAPR trading programs in 2015, simultaneously discontinuing administration of the CAIR trading programs. On October 26, 2016 (81 FR 74504), the EPA published the CSAPR Update, which established, starting in 2017, a new ozone season NO_x trading program for EGUs in eastern States, including Ohio, to address the good neighbor provision for the 2008 ozone NAAQS. The CSAPR Update was estimated to result in a 20% reduction in ozone season NO_x emissions from EGUs in the eastern United States, a reduction of 80,000 tons in 2017 compared to 2015 levels. On April 30, 2021 (86 FR 23054), the EPA published the Revised CSAPR Update, which fully resolved the obligations of eastern States, including Ohio, under the good neighbor provision for the 2008 ozone NAAQS. The Revised CSAPR Update is estimated to reduce ozone season NO_x emissions from EGUs by 17,000 tons beginning in 2021, compared to emissions without the rule. The reduction in NO_x emissions from the implementation of CAIR and then CSAPR occurred by the attainment years.

b. Federal Emission Control Measures

Reductions in VOC and NO_x emissions have occurred statewide and in upwind areas as a result of Federal emission control measures, with additional emission reductions expected to occur in the future. Further details on the various Federal emission control measures are described in the redesignation request submittal included in the docket of this action. Some of the listed Federal emission control measures include the following:

Tier 2 Emission Standards for Vehicles and Gasoline Sulfur Standards. On February 10, 2000 (65 FR 6698), the EPA promulgated Tier 2 motor vehicle emission standards and gasoline sulfur control requirements. These emission control requirements result in lower VOC and NO_x emissions from new cars and light duty trucks, including sport utility vehicles. With respect to fuels, this rule required refiners and importers of gasoline to meet lower standards for sulfur, which were phased in between 2004 and 2006. By 2006, refiners and importers were required to meet a 30 ppm average sulfur level, with a maximum cap of 80 ppm. This reduction in fuel sulfur content ensures the effectiveness of low emission-control technologies. The Tier 2 tailpipe standards established in this rule were

phased in for new vehicles between 2004 and 2009. At the time of promulgation of Tier 2 standards, the EPA estimated that this rule would cut NO_x and VOC emissions from light-duty vehicles and light-duty trucks by approximately 76% and 28%, respectively. NO_x and VOC reductions from medium-duty passenger vehicles included as part of the Tier 2 vehicle program were estimated to be approximately 37,000 and 9,500 tons per year, respectively, when fully implemented. As projected by these estimates and demonstrated in the onroad emission modeling for the Cleveland area, a portion of these emission reductions occurred during the period 2017 through 2025, *i.e.*, after the area was designated nonattainment for the 2015 ozone NAAQS. As discussed below, the Tier 2 vehicle and gasoline sulfur standards were replaced by the Tier 3 emission standards for vehicles and gasoline sulfur standards beginning on January 1, 2017.

Tier 3 Emission Standards for Vehicles and Gasoline Sulfur Standards. On April 28, 2014 (79 FR 23414), the EPA promulgated Tier 3 motor vehicle emission and fuel standards to reduce both tailpipe and evaporative emissions and to further reduce the sulfur content in fuels. The rule was phased in between 2017 and 2025. Tier 3 sets new tailpipe standards for non-methane organic gases (NMOG) and NO_x, presented as NMOG+NO_x, and for particulate matter. The VOC and NO_x tailpipe standards for light-duty vehicles represent approximately an 80% reduction in fleet average NMOG+NO_x and a 70% reduction in per-vehicle particulate matter (PM) standards, relative to the fleet average at the time of phase-in. Heavy-duty tailpipe standards represent about a 60% reduction in both fleet average NMOG+NO_x and per-vehicle PM standards. The evaporative emissions requirements in the rule will result in approximately a 50% reduction from previous standards and apply to all light-duty and onroad gasoline-powered heavy-duty vehicles. Finally, the rule lowered the sulfur content of gasoline to an annual average of 10 ppm starting in January 2017. As projected by these estimates and demonstrated in the onroad emission modeling for the Cleveland area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period, as older vehicles are replaced with newer, compliant model years.

Heavy-Duty Diesel Engine Rules. On January 18, 2001 (66 FR 5002), the EPA

issued a rule for onroad heavy-duty diesel engines that includes standards limiting the sulfur content of diesel fuel. Emissions standards for NO_x, VOC and PM were phased in between model years 2007 and 2010. In addition, the rule reduced the highway diesel fuel sulfur content to 15 parts per million by 2007, leading to additional reductions in combustion NO_x and VOC emissions. The EPA has estimated future year emission reductions due to implementation of this rule. The EPA estimated that by 2015 NO_x and VOC emissions would decrease nationally by 1,260,000 tons and 54,000 tons, respectively, and that by 2030 NO_x and VOC emissions will decrease nationally by 2,570,000 tons and 115,000 tons, respectively. As projected by these estimates and demonstrated in the onroad emission modeling for the Cleveland area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period, as older vehicles are replaced with newer, compliant model years.

Nonroad Diesel Rule. On June 29, 2004 (69 FR 38958), the EPA issued a rule adopting emissions standards for nonroad diesel engines and sulfur reductions in nonroad diesel fuel. This rule applies to diesel engines used primarily in construction, agricultural, and industrial applications. Emission standards were phased in for the 2008 through 2015 model years based on engine size. The sulfur limits for nonroad diesel fuels were phased in from 2007 through 2012. The EPA estimates that when fully implemented, compliance with this rule will cut NO_x emissions from these nonroad diesel engines by approximately 90%. As projected by these estimates and demonstrated in the nonroad emission modeling for the Cleveland area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period.

Nonroad Spark-Ignition Engines and Recreational Engine Standards. On November 8, 2002 (67 FR 68242), the EPA adopted emission standards for large spark-ignition engines such as those used in forklifts and airport ground-service equipment; recreational vehicles such as off-highway motorcycles, all-terrain vehicles, and snowmobiles; and recreational marine diesel engines. These emission standards were phased in from model years 2004 through 2012. When fully implemented, the EPA estimates an overall 72% reduction in national VOC emissions from these engines and an

80% reduction in national NO_x emissions. As projected by these estimates and demonstrated in the nonroad emission modeling for the Cleveland area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period as older engines are replaced with newer, compliant model years.

Category 3 Marine Diesel Engine Standards. On April 30, 2010 (75 FR 22896), the EPA issued emission standards for marine compression-ignition engines at or above 30 liters per cylinder. Tier 2 emission standards apply beginning in 2011 and are expected to result in a 15 to 25% reduction in NO_x emissions from these engines. Final Tier 3 emission standards apply beginning in 2016 and are expected to result in approximately an 80% reduction in NO_x from these engines. As projected by these estimates and demonstrated in the nonroad emission modeling for the Cleveland area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period as older engines are replaced with newer, complaint model years.

In its submittal, Ohio included additional permanent and enforceable Federal emission control measures that contributed to NO_x and VOC emission reductions by the attainment years, and which will contribute to additional emission reductions throughout the maintenance period. Further information can be found in Chapter Five of Ohio's submittal.

c. Ohio Rules

Consumer Products Rules. On June 20, 2022, Ohio revised its consumer products rules to incorporate the Phase IV Ozone Transport Commission (OTC) model rule. Implementation was required by July 1, 2023.

Architectural and Industrial Maintenance (AIM) Coatings Rules. Effective December 16, 2022, Ohio revised its AIM rules to incorporate the OTC Phase II standards, with an implementation date of January 1, 2024.

VOC and NO_x RACT. While VOC and NO_x regulations have been in place in Ohio for many years, Ohio revised certain source categories to establish new or more stringent RACT controls. Revisions to Ohio's VOC and NO_x RACT rules became effective March 27, 2022, and March 25, 2022, respectively.

d. Cleveland Point Source NO_x Reductions.

The Avon Lake Power Plant (Facility ID: 0247030013) ceased operations in April 2022. In its submittal, Ohio EPA estimated this shutdown would reduce annual point source NO_x emissions by 1,069.10 tons.

2. Emission reductions.

Ohio is using a 2017 emissions inventory to represent nonattainment level emissions (nonattainment year inventory or nonattainment inventory), which is appropriate because it was a year the area monitored nonattainment due to an exceedance of the NAAQS, and it corresponds to the base year approved by the EPA on July 7, 2025 (90 FR 29742), for Ohio EPA's Moderate attainment demonstration request and RFP demonstration. Ohio is using a 2025 emissions inventory to represent attainment level emissions (attainment year inventory or attainment inventory), which is appropriate because it is one of the years in the 2023–2025 period used to demonstrate monitored attainment with the NAAQS.

For both 2017 and 2025, Ohio has provided inventories for point, nonpoint, onroad, and nonroad sources. The point source category includes facilities that report their emissions directly to Ohio EPA, as well as sources such as airports and rail yards. Nonpoint sources, sometimes called area sources, include emissions from sources that are more ubiquitous, such as consumer products or architectural coatings. Onroad sources are vehicles that are primarily used on public roadways, such as cars, trucks, and motorcycles. Nonroad sources include engine-based emissions that do not occur on roads, such as trains or boats.

For its onroad emissions inventory, Ohio submitted an analysis developed by Ohio's Department of Transportation (ODOT), the Akron Metropolitan Area Transportation Study (AMATS), and the Northeast Ohio Areawide Coordinating Agency (NOACA), in consultation with Ohio EPA and the EPA. This analysis used the EPA's Motor Vehicle Emission Simulator (MOVES) model to generate July weekday onroad emissions informing the inventories for both 2017 and 2025. However, Ohio EPA used 2026 modeled emissions as a conservative estimate for mobile emissions used in their demonstration to represent 2025 emissions. The MOVES5 model was the latest model version available at the time the inventory was developed. NOACA, AMATS, and ODOT's analysis relied on local travel inputs including demographic data, travel demand

forecasting, road types, Vehicle Miles of Travel (VMT), Vehicle Hours of Travel, vehicle population, and vehicle age, as well as meteorological data. In appendix C of its submittal, Ohio has included a detailed narrative of ODOT, AMATS, and NOACA's methods.

For its point, nonpoint, and nonroad emissions inventories, Ohio's primary data sources were the EPA's 2017gb emissions modeling platform based on the 2017 National Emissions Inventory (NEI)—Version 2 dataset, and the EPA's 2022v1 emissions modeling platform, based on the 2020 NEI. The 2017 NEI includes emissions data only for the year 2017, and the 2022v1 modeling platform includes emissions data for the years 2026, 2032, and 2038. The 2022v1 modeling platform and 2017 NEI have been quality-assured, and documentation regarding these datasets and their methods is available on the EPA's website.⁴

For the 2017 inventories, Ohio EPA used the 2017gb emissions modeling platform⁵ as the basis of its point, nonpoint, and nonroad inventories and these emissions are presented in terms of monthly or annual emissions.

To derive point inventories for 2025, Ohio EPA relied on 2023 actual point emissions to represent 2025 since at the time of the request, actual point emissions for 2024 and 2025 were not available. Ohio EPA determined that

2023 actual point source emissions would be a conservative estimate for 2025 actual point source emissions. Ohio EPA performed a review and did not find any new sources in the area and also reviewed to ensure any shutdown sources were removed. The 2023 actual point source inventory is submitted to the EPA's Emissions Inventory System (EIS). In appendix B of its submittal, Ohio has included a detailed listing of the facilities used to create the point source inventory for 2025. To derive nonpoint and nonroad inventories for 2025, Ohio EPA based 2025 emissions on 2026 projected emissions from the 2022v1 emissions modeling platform.

Ohio EPA summed the annual totals of NO_x and VOC emissions for each county and each source category in tons per ozone season day (TPOSD) using conversion factors derived from the EPA's 2017gb emissions modeling platform. The derived ozone season day emissions include weekend days. Ohio EPA determined that this is appropriate because ozone values measured on weekend days have a significant impact on the monitor design values in the Cleveland area. Monitoring data from 2017 through 2022 show the Cleveland nonattainment area had between 5 and 7 days with one or more monitors recording values over the 2015 ozone standard each year, with up to 3 of those days in a year falling on a weekend. In

addition, for each year from 2017 to 2022, between 5 and 18 of the 1st through 4th high values that contributed to the design value for a monitor occurred on a weekend day. As such, Ohio EPA determined that it was appropriate to include weekend emissions in the calculation of ozone season day emissions.

Ohio EPA derived ozone season day emissions in TPOSD emissions by dividing July emissions by the number of days in July where only monthly data was available. Where only annual data were available, Ohio EPA applied a conversion factor to annual emissions. Conversion factors were derived as a ratio of the 2017 average July day emissions to 2017 annual emissions, and then dividing by 31 to represent the number of days in July. Ohio EPA selected July as representative of the standard ozone season month as it is typically the warmest month and had the highest monthly emissions as a result of an analysis showing that July had the most days with high ozone values in recent years.

Using the inventories described above for all categories of sources, Ohio's submittal documents changes in NO_x and VOC emissions from 2017 to 2025 for the Cleveland area. Emissions data are shown in Table 2. Data are expressed in terms of tons per ozone season day.

TABLE 2—NO_x AND VOC EMISSIONS IN THE CLEVELAND AREA FOR THE 2017 NONATTAINMENT YEAR AND 2025 ATTAINMENT YEAR
[Tons per ozone season day]

	NO _x			VOC		
	2017	2025	Net change (2017–2025)	2017	2025	Net change (2017–2025)
Point	14.38	8.82	– 5.56	7.91	6.10	– 1.81
Nonpoint	16.49	17.18	0.69	116.60	95.78	– 20.82
Onroad	51.91	12.16	– 30.75	31.69	17.72	– 13.97
Nonroad	25.29	15.46	– 9.83	33.81	22.34	– 11.47
Total	108.07	62.62	– 45.45	190.01	141.94	– 48.07

As shown in Table 2, Ohio's inventories demonstrate that NO_x and VOC emissions in the Cleveland area declined by 45.45 tons per ozone season day and 48.07 tons per ozone season day, respectively, between 2017 and 2025.

3. Meteorology and temporary adverse economic conditions.

To further support Ohio EPA's demonstration that the improvement in air quality is due to permanent and

enforceable emission reductions, and not unusually favorable meteorology or temporary adverse economic conditions, the demonstration includes two analyses performed by the Lake Michigan Air Directors Consortium (LADCO).

The first LADCO analysis compared trends in ozone to trends in ozone season temperatures, examining the relationship between these two factors. LADCO utilized two different metrics of

ozone, the annual fourth-high daily maximum eight-hour average (MDA8) ozone value, and the number of days in a year with MDA8 ozone greater than 70 parts per billion (ppb) for the years 2005 to 2025. The ozone values were compared with two measures of “hotness” of an ozone season: (1) average May to September temperatures and (2) the number of days with a temperature exceeding 80 °F.

⁴ https://www.epa.gov/sites/default/files/2021-02/documents/nei2017_tsd_full_jan2021.pdf and <https://www.epa.gov/air-emissions-modeling/>

2022v1-emissions-modeling-platform-technical-support-document.

⁵ EPA, Technical Support Document (TSD): Preparation of Emission Inventories for the 2017

North American Emissions Modeling Platform, February 2022, https://www.epa.gov/system/files/documents/2022-03/2017_emismod_tsd_february2022_0.pdf.

LADCO conducted a meteorological analysis based on 22 years of data collected at the Cleveland-Hopkins International Airport, WBAN 14820 meteorological station, representative of the area conditions and used for New Source Review and Prevention of Significant Deterioration air quality permit modeling applications. LADCO analyzed ozone values for May, June, July, August, and September, for years 2005 to 2025. First, the annual fourth high MDA8 ozone concentration at the Eastlake Monitor (Site ID: 39-085-0003) was compared to the average May to September temperature at the airport. Second, LADCO examined the relationship between the number of days with temperatures over 80 °F and the number of days with MDA8 ozone above 70 ppb. The data with the ozone parameters was plotted against the temperature parameters and grouped into 7-year time periods. These analyses show that over the last 22 years, the amount of ozone production for a given level of “hotness” has decreased in each subsequent time period. In contrast, temperatures have increased, with the area showing an overall warming trend. Because the correlation between temperature and ozone formation is well established, these data suggest that reductions in precursors are responsible for the reductions in ozone concentrations in the area, and not unusually favorable summer temperatures.

To further support Ohio EPA’s demonstration that the improvement in air quality is not due to unusually favorable meteorology, a second analysis was performed by LADCO. A classification and regression tree (CART) analysis was conducted with 2001 through 2023 data from Cleveland area ozone sites. The goal of the analysis was to determine the meteorological and air quality conditions associated with ozone episodes, and construct trends for the days identified as sharing similar meteorological conditions. Regression trees were developed for the Cleveland area ozone data to classify each summer day by its ozone concentration and associated meteorological conditions. By grouping days with similar meteorology, the influence of meteorological variability on the underlying trend in ozone concentrations is partially removed and the remaining trend is presumed to be due to trends in precursor emissions or other non-meteorological influences. The CART analysis showed the resulting trends in ozone concentrations declining over the period examined, supporting the conclusion that the

improvement in air quality was not due to unusually favorable meteorology. In appendix D of its submittal, Ohio included a detailed report of LADCO’s analysis.

To determine attainment was not due to adverse economic conditions, the EPA analyzed Ohio employment status data taken from the U.S. Census Bureau’s American Community Survey from 2015 through 2023, noting an overall increasing trend in employment rates in the Cleveland area.⁶ Additionally, the gross domestic product (GDP) of the Cleveland metropolitan statistical area from 2013–2023 shows an increasing trend.⁷ Despite increases employment and GDP, ozone concentrations in the Cleveland area show a decreasing trend, leading to attainment of the 2015 ozone NAAQS and indicating attainment of the 2015 standard was not due to temporary adverse economic conditions.

As discussed above, Ohio identified numerous Federal rules that resulted in the reduction of VOC and NO_x emissions from 2017 to 2025. In addition, Ohio’s analyses of meteorological variables associated with ozone formation demonstrate that the improvement in air quality in the area between the year violations occurred and the year attainment was achieved is not due to unusually favorable meteorology. The EPA reviewed employment and GDP data for the Cleveland area to verify that emissions reductions were not due to temporary adverse economic conditions but rather were consistent with a longer-term trend of decreasing ozone concentrations. Therefore, the EPA proposes to find that Ohio has shown that the air quality improvements in the Cleveland area are due to permanent and enforceable emissions reductions.

D. Does Ohio have a fully approvable ozone maintenance plan for the Cleveland area?

To redesignate an area from nonattainment to attainment, section 107(d)(3)(E)(iv) of the CAA requires the EPA to determine that the area has a fully approved maintenance plan pursuant to section 175A of the CAA. Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from

nonattainment to attainment. Under section 175A, the maintenance plan must demonstrate continued attainment of the NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan which demonstrates that attainment of the NAAQS will continue for an additional 10 years beyond the initial 10-year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, as the EPA deems necessary, to assure prompt correction of the future NAAQS violation.

The Calcagni Memorandum provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five elements: (1) an attainment emission inventory; (2) a maintenance demonstration; (3) a commitment for continued air quality monitoring; (4) a process for verification of continued attainment; and (5) a contingency plan. In conjunction with its request to redesignate the Cleveland area to attainment for the 2015 ozone NAAQS, Ohio submitted a SIP revision to provide for maintenance of the 2015 ozone NAAQS through 2038, more than 10 years after the expected effective date of the redesignation to attainment. As discussed below, the EPA proposes to find that Ohio’s ozone maintenance plan includes the necessary components and to approve the maintenance plan as a revision of the Ohio SIP.

1. Attainment Inventory

In the CDD, the EPA proposed to determine that the Cleveland area has attained the 2015 ozone NAAQS based on monitoring data for the period of 2023–2025. See 91 FR 9771 (February 27, 2026). Ohio selected 2025 as the attainment emissions inventory year to establish attainment emission levels for VOC and NO_x. The attainment emissions inventory identifies the levels of emissions in the Cleveland area that are sufficient to attain the 2015 ozone NAAQS. The derivation of the attainment year emissions is discussed above in section IV.C.2. of this proposed rule. The emissions for the 2025 attainment year, by source category, are summarized in Table 2 above.

2. Has the State demonstrated maintenance of the ozone standard in the Cleveland area?

Ohio has demonstrated maintenance of the 2015 ozone NAAQS through 2038 by projecting that current and future emissions of VOC and NO_x for the

⁶ U.S. Census Bureau. “EMPLOYMENT STATUS.” *American Community Survey, Table S2301*.

⁷ U.S. Bureau of Economic Analysis, Total Gross Domestic Product for Cleveland-Elyria, OH (MSA) [NGMP17460], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/NGMP17460>, November 25, 2025.

Cleveland area remain at or below attainment year emission levels. A maintenance demonstration need not be based on modeling. *See Wall v. EPA*, 265 F.3d 426 (6th Cir. 2001), *Sierra Club v. EPA*, 375 F. 3d 537 (7th Cir. 2004). *See also* 66 FR 53094, 53099 through 53100 (October 19, 2001), 68 FR 25413, 25430–25432 (May 12, 2003).

Ohio is using emissions inventories for the years 2032 and 2038 to demonstrate maintenance. The year 2038 was selected because it is more than 10 years after the expected effective date of the redesignation to attainment, and 2032 was selected to demonstrate that emissions are not expected to spike in the interim between the 2025 attainment year and the 2038 final maintenance year.

To develop emissions inventories for the years 2032 and 2038, Ohio used the same data sources discussed above in section IV.C.2. of this proposed rule.

For its onroad emissions inventory, Ohio again relied upon the ODOT, AMATS, and NOACA's analysis, which used the EPA's MOVES5 model to generate July weekday onroad emissions for 2032 and 2038. This interagency analysis relied on local travel inputs including demographic data, travel demand forecasting, road types, VMT, Vehicle Hours of Travel, vehicle population, and vehicle age, as well as meteorological data. In appendix C of its submittal, Ohio has included a detailed narrative of ODOT, AMATS, and NOACA's methods.

For its point, nonpoint, and nonroad emissions inventories, Ohio again used

the EPA's 2022v1 emissions modeling platform for the 2025 attainment year, and the 2032 and 2038 projected inventories. Both the 2032 and 2038 emissions data for the area were derived from the EPA-projected 2032 and 2038 emissions from the 2022v1 modeling platform, version 2032hc and 2038hc respectively, without modification. For both the 2032 and 2038 inventories, to convert annual emissions totals into a value of tons per ozone season day, Ohio EPA calculated conversion factors using the same methodology described in section IV.C.2. of this proposed rule.

Emissions data for the 2017 nonattainment year, 2025 attainment year, 2032 interim year, and 2038 maintenance year are shown in Tables 3 and 4 below. Data are expressed in terms of tons per ozone season day.

TABLE 3—NO_x EMISSIONS IN THE CLEVELAND AREA FOR THE 2017 NONATTAINMENT YEAR, 2025 ATTAINMENT YEAR, 2032 INTERIM YEAR, AND 2038 MAINTENANCE YEAR

[Tons per ozone season day]

	2017	2025	2032	2038	Net change (2025–2038)
Point	14.38	8.82	10.51	9.91	+1.09
Nonpoint	16.49	17.18	16.47	16.75	– 0.43
Onroad	51.91	21.16	11.44	6.71	– 14.45
Nonroad	25.29	15.46	14.29	14.62	– 0.84
Total	108.07	62.62	52.17	47.99	– 14.63

TABLE 4—VOC EMISSIONS IN THE CLEVELAND AREA FOR THE 2017 NONATTAINMENT YEAR, 2025 ATTAINMENT YEAR, 2032 INTERIM YEAR, AND 2038 MAINTENANCE YEAR

[Tons per ozone season day]

	2017	2025	2032	2038	Net change (2025–2038)
Point	7.91	6.10	6.74	6.90	+0.80
Nonpoint	116.60	95.78	92.21	91.15	– 4.63
Onroad	31.69	17.72	12.17	8.35	– 9.37
Nonroad	33.81	22.34	22.29	22.37	+0.03
Total	190.01	141.94	133.41	128.77	– 13.17

As shown in Tables 3 and 4, NO_x and VOC emissions in the Cleveland area are projected to decrease by 14.63 tons per ozone season day and 13.17 tons per ozone season day, respectively, between the 2025 attainment year and 2038 maintenance year. Ohio's maintenance demonstration for the Cleveland area shows maintenance of the 2015 ozone NAAQS by providing emissions information to support the demonstration that future emissions of NO_x and VOC will remain at or below 2025 emission levels when considering both future source growth and implementation of future controls.

3. Continued Air Quality Monitoring

Ohio has committed to continue to operate its ozone monitors in the Cleveland area for the duration of the maintenance period. Ohio remains obligated to meet monitoring requirements, to continue to quality assure monitoring data in accordance with 40 CFR part 58, and to enter all data into the AQS in accordance with Federal guidelines.

4. Verification of Continued Attainment

Ohio has confirmed that it has the legal authority to enforce and implement the requirements of its SIP. Ohio has further committed that it has the authority to implement the

requested SIP revision, which would include the maintenance plan for the Cleveland area. This includes the authority to adopt, implement, and enforce any subsequent emission control measures determined to be necessary to correct future ozone attainment problems.

Verification of continued attainment is accomplished through operation of the ambient ozone monitoring network and the periodic update of the area's emissions inventory. Ohio will continue to operate the ozone monitors located in the Cleveland area. There are no plans to discontinue operation, relocate, or otherwise change the existing ozone monitoring network other than through

revisions in the network approved by the EPA.

In addition, to track future levels of emissions, Ohio will continue to develop and submit to the EPA updated emission inventories for all source categories at least once every three years, consistent with the requirements of 40 CFR part 51, subpart A, and in 40 CFR 51.122. The Consolidated Emissions Reporting Rule (CERR) was promulgated by the EPA on June 10, 2002 (67 FR 39602). The CERR was replaced by the Annual Emissions Reporting Requirements on December 17, 2008 (73 FR 76539). The most recent triennial inventory for Ohio was compiled for 2020, and 2023 is in progress. Point source facilities covered by Ohio's emission statement rule, Ohio Administrative Code Chapter 3745–24, will continue to submit VOC and NO_x emissions on an annual basis.

5. What is the contingency plan for the Cleveland area?

Section 175A of the CAA requires that the State adopt a maintenance plan as a SIP revision that includes such contingency measures as the EPA deems necessary to assure that the State will promptly correct a violation of the NAAQS that occurs after redesignation of the area to attainment of the NAAQS. The maintenance plan must identify: the contingency measures to be considered and, if needed for maintenance, adopted and implemented; a schedule and procedure for adoption and implementation; and a time limit for action by the State. The State should also identify specific indicators to be used to determine when the contingency measures need to be considered, adopted, and implemented. The maintenance plan must include a commitment that the State will implement all measures with respect to the control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d) of the CAA.

As required by section 175A of the CAA, Ohio has adopted a contingency plan for the Cleveland area to address possible future ozone air quality problems. The contingency plan adopted by Cleveland has two levels of response, a warning level response and an action level response.

In Ohio's plan, a warning level response will be triggered when an annual fourth-highest monitored value of 0.074 ppm or higher is monitored within the maintenance area. A warning level response will require Ohio to conduct a study. The study would assess whether the ozone value

indicates a trend toward a higher ozone value and whether emissions appear to be increasing. The study will evaluate whether the trend, if any, is likely to continue and, if so, the control measures necessary to reverse the trend, taking into account ease and timing of implementation, as well as economic and social considerations. Any implementation of necessary controls in response to a warning level response trigger will occur within 12 months of the conclusion of the most recent ozone season. Additionally, the warning level study will assess whether ozone values were recorded as a result of a wildfire or other event that would qualify for data exclusion under the EPA's exceptional events rule, and the appropriate action level response control measures to follow.

In Ohio's plan, an action level response would be triggered when the fourth-highest monitored value, averaged over two years of 0.071 ppm or higher is monitored within the maintenance area. The action level response will also be triggered by a violation of the NAAQS (a three-year average fourth high value exceeding 0.071 ppm). When an action level response is triggered and not found to be due to an exceptional event, malfunction, or noncompliance with a permit condition or rule requirement, Ohio in conjunction with the metropolitan organization or regional council of governments, will determine what additional control measures are needed to assure future attainment of the 2015 ozone NAAQS. Control measures selected will be adopted and implemented within 18 months from the close of the ozone season that prompted the action level. As part of this response strategy, Ohio may also consider whether new regulations not currently included as part of the maintenance provisions will be implemented in a timely manner and would thus constitute an adequate contingency measure response.

Ohio's plan has a prescriptive process for determining if an action level response was due to an exceptional event. The purpose of this process is to differentiate between exceedances that are not within the State's control (*i.e.*, exceedances that occur despite the implementation of reasonable measures), and exceedances that are within the State's control and should be included in the trigger calculation. It is important to note that, should Ohio EPA exclude an exceedance from the contingency trigger calculation using this process, it would not constitute the EPA's concurrence under 40 CFR 50.14 that the exceedance was caused by an

exceptional event. The exceedance will therefore continue to be included in design value calculations for the area unless Ohio EPA, following opportunity for public comment, submits a request for the EPA to concur on the exceedance as an exceptional event pursuant to 40 CFR 50.14, and the EPA reviews the submittal and formally concurs.

Under this process, following a contingency triggering event, Ohio EPA will review impacted monitoring data to determine if exceptional events occurred, transmit an initial notification to the EPA, prepare a report of any exceptional events, and provide that report to the EPA.⁸ Within 5 months of the conclusion of the ozone season, Ohio will complete and submit to the EPA a list of exceedances that occurred during that previous ozone season, and Ohio will designate proposed days as potential exceptional event exceedances, flag the relevant data, and provide initial event description in AQS.

Following submittal of the ozone season reports, the EPA will review the submitted information and notify Ohio if the submitted information is insufficient to support exclusion from the contingency plan trigger calculations, in which case Ohio will begin implementation of potential contingency measures described below. Ohio has the opportunity to provide additional information to the EPA. If the EPA finds this additional information is sufficient to support the conclusion that the exceedance meets the criteria for exclusion from the contingency plan trigger calculation, the EPA will notify Ohio that the trigger calculation will be adjusted. If the resulting value is less than 0.071 ppm, implementation of the contingency plan can be halted unless triggered in a subsequent ozone season.

The EPA proposes to find the contingency provisions of the Cleveland area clearly identify specific contingency measures, contain triggering mechanisms to determine when contingency measures are needed, contain description of the process recommending and implementing contingency measures, and contain specific and appropriate timelines for action. The EPA also proposes to find

⁸ The submitted report of additional information and analysis may include, but is not limited to, the following: ozone and ozone precursor concentration data from nearby monitoring sites, surface and upper air meteorology analyses, analysis of satellite imagery, Hazard Mapping System (HMS) smoke layer maps, HYSPLIT forward and back trajectory analyses, analysis of UW's GAM statistical modeling results, analysis of meteorology-adjusted ozone trends data, any other event-specific analyses necessary to determine the cause(s) of the monitored ozone concentrations.

that the contingency trigger screening process, including the associated the EPA review, is reasonably designed to distinguish between exceedances that are the type that have been deemed exceptional events in the past and exceedance for which new tightened control measures might be effective. The EPA's assessment indicates that the screening process is an appropriate element of the contingency plan for the Cleveland area due to the possibility of exceedances related to wildfire smoke events impacting this area. Thus, the EPA proposes to conclude that the contingency plan in the Cleveland redesignation request is adequate to ensure prompt correction of any violation of the 2015 ozone NAAQS that occurs after redesignation, as required by section 175A(d) of the CAA.

Ohio included the following list of potential contingency measures in its maintenance plan. Ohio may choose measures beyond those on this:

1. Tighten VOC or NO_x RACT rules for existing sources covered by Control Technique Guidelines issued after the 1990 CAA;
2. Application of VOC RACT on existing, smaller sources;
3. Alternative fuel and diesel retrofit programs for fleet vehicle operations;
4. VOC or NO_x control on new minor sources emitting less than 100 tons per year;
5. Increased ratio of emission offsets for new sources;
6. VOC or NO_x emission offsets for new and modified major sources;
7. Adoption of additional NO_x RACT for existing combustion sources;
8. Trip reduction programs;
9. Traffic flow and transit improvements; and
10. New or innovative transportation measures that local governments deem appropriate that are not yet widely implemented.

To qualify as a contingency measure, emissions reductions from that measure must not be factored into the emissions projections used in the maintenance plan. Ohio EPA also included a list of potential VOC and NO_x sources subject to further future control under VOC RACT and NO_x RACT. Control measures are subject to necessary administrative and legal processes such as publication of notices, public

comment period, and other measures as required by Ohio law for rulemaking.

The EPA has concluded that Ohio's maintenance plan adequately addresses the five basic components of a maintenance plan: attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan. In addition, as required by section 175A(b) of the CAA, Ohio has committed to submit to the EPA an updated ozone maintenance plan eight years after redesignation of the Cleveland area to cover an additional ten years beyond the initial 10-year maintenance period. Thus, the EPA finds that the maintenance plan SIP revision submitted by Ohio for the Cleveland area meets the requirements of section 175A of the CAA, and the EPA proposes to approve it as a revision to the Ohio SIP.

V. Has the State adopted approvable motor vehicle emission budgets?

A. Motor Vehicle Emission Budgets

Under section 176(c) of the CAA, new transportation plans, programs, or projects that receive Federal funding or support, such as the construction of new highways, must "conform" to (*i.e.*, be consistent with) the SIP. Conformity to the SIP means that transportation activities will not cause or contribute to any new air quality violations, increase the frequency or severity of any existing air quality problems, or delay timely attainment or any required interim emissions reductions or any other milestones. Regulations at 40 CFR part 93 set forth the EPA policy, criteria, and procedures for demonstrating and ensuring conformity of transportation activities to a SIP. Transportation conformity is a requirement for nonattainment and maintenance areas.

Under the CAA, States are required to submit, at various times, control strategy SIPs for nonattainment areas and maintenance plans for areas seeking redesignations to attainment of the ozone standard and maintenance areas. See the SIP requirements for the 2015 ozone standard in the EPA's December 6, 2018 (83 FR 62998), implementation rule. These control strategy SIPs (including RFP and attainment plans) and maintenance plans must include motor vehicle emissions budgets for

criteria pollutants, including ozone, and their precursor pollutants (VOC and NO_x) to address pollution from onroad transportation sources. The budgets are the portion of the total allowable emissions that are allocated to highway and transit vehicle use that, together with emissions from other sources in the area, will provide for attainment or maintenance. See 40 CFR 93.101.

Under 40 CFR part 93, a budget for an area seeking a redesignation to attainment must be established, at a minimum, for the last year of the maintenance plan. A State may adopt budgets for other years as well. The budget serves as a ceiling on emissions from an area's planned transportation system. The budget concept is further explained in the preamble to the November 24, 1993 (58 FR 62188), Transportation Conformity Rule. The preamble also describes how to establish the budget(s) in the SIP and how to revise the budget(s), if needed, after initially establishing a budget in the SIP.

As discussed earlier, Ohio's maintenance plan includes NO_x and VOC budgets for the Cleveland area for 2032, which is an interim year, as well as 2038, which is the last year of the maintenance period. The EPA has reviewed Ohio's NO_x and VOC budgets for the area and, in this action, is proposing to approve them.⁹ We are also starting the adequacy review process for these budgets to determine if they meet the adequacy criteria in the transportation conformity regulations (40 CFR 93.118(e)(4)). Ohio's December 8, 2025, maintenance plan submission, including the budgets for this area, is available for public comment via this proposed rulemaking. The submission was endorsed by the Governor's designee and Ohio provided opportunity for a public hearing. The budgets were developed as part of an interagency consultation process which includes Federal, State, and local agencies. The budgets were clearly identified and precisely quantified. These budgets, when considered together with all other emissions sources, are consistent with maintenance of the 2015 ozone NAAQS.

⁹ See 40 CFR 93.118(f)(2) for requirements associated with making adequacy findings through rulemaking on a submitted SIP.

TABLE 5—MOTOR VEHICLE EMISSIONS BUDGETS FOR THE CLEVELAND AREA FOR THE 2032 INTERIM YEAR AND 2038 MAINTENANCE YEAR

[Tons per ozone season day]

	2032 Interim year			2038 Maintenance year		
	Projected onroad emissions	Safety margin allocation	Total budget	Projected onroad emissions	Safety margin allocation	Total budget
NO _x	11.44	1.72	13.16	6.71	1.01	7.72
VOCs	12.60	1.89	14.49	8.63	1.29	9.92

As shown in Table 5, the 2032 and 2038 budgets exceed the estimated 2032 and 2038 onroad sector emissions. To accommodate future variations in VMT in the area, Ohio EPA allocated to the mobile sector a portion of the safety margin, as described further below.¹⁰ Ohio has demonstrated that the Cleveland area can maintain the 2015 ozone NAAQS in the 2038 maintenance year with mobile source emissions of 7.72 tons per ozone season day of NO_x and 9.92 tons per ozone season day of VOCs. Similarly, the Cleveland area can maintain the 2015 ozone NAAQS in the 2032 interim year with mobile source emissions of 13.16 tons per ozone season day of NO_x and 14.49 tons per ozone season day of VOCs. Despite partial allocation of the safety margin, emissions will remain under emission levels in the 2025 attainment year.

The EPA is initiating the adequacy process and proposing to approve the budgets for use to determine transportation conformity in the Cleveland area, because the EPA has determined that the area can maintain attainment of the 2015 ozone NAAQS for the relevant maintenance period with mobile source emissions at the levels of the budgets.

B. What is a safety margin?

A “safety margin” is the amount by which the total projected emissions from all sources of a given pollutant are less than the total emissions that would satisfy the applicable requirement for maintenance. 40 CFR 93.101. As noted in Tables 3 and 4, the emissions in the Cleveland area are projected to have safety margins of 14.63 tons per ozone season day for NO_x and 13.17 tons per ozone season day for VOC in 2038 (the difference between emissions in the 2025 attainment year, and projected emissions in the 2038 maintenance year, for all sources in the Cleveland area). Similarly, there is a safety margin of 10.45 tons per ozone season day for

NO_x and 8.53 tons per ozone season day for VOC in 2032. Even if emissions exceeded projected levels by the full amount of the safety margin, the counties would still demonstrate maintenance since emission levels would equal those in the attainment year.

As shown in Table 5 above, Ohio is allocating a portion of that safety margin to the mobile source sector. Specifically, in 2032, Ohio is allocating 1.72 tons per ozone season day and 1.39 tons per ozone season day of the NO_x and VOC safety margins, respectively. In 2038, Ohio is allocating 1.01 tons per ozone season day and 1.29 tons per ozone season day of the NO_x and VOC safety margins, respectively. Ohio is not requesting allocation to the budgets of the entire available safety margins reflected in the demonstration of maintenance. In fact, the amount allocated to the budgets represents only a portion of the 2032 and 2038 safety margins. Therefore, even though the State is requesting budgets that exceed the projected onroad mobile source emissions for 2032 and 2038 contained in the demonstration of maintenance, the increase in onroad mobile source emissions that can be considered for transportation conformity purposes is within the safety margins of the ozone maintenance demonstration. Further, once allocated to mobile sources, these safety margins will not be available for use by other sources.

VI. Adjustment of SIP Submittal Deadlines

A. Sixth Circuit Court of Appeals decision in *Sierra Club v. EPA*

As discussed in III., section 107(d)(3)(E) of the CAA contains the criteria for redesignation. CAA section 107(d)(3)(E)(v) specifically requires that “the State containing such area has met all requirements applicable to the area under section [110] of this title and part D of this subchapter.” The EPA’s interpretation of that provision since passage of the 1990 CAA Amendments has been that requirements with submission deadlines occurring after the

State’s submission of its redesignation request are not “applicable” under CAA section 107(d)(3)(E)(v) for purposes of evaluating the approvability of the redesignation.

On May 19, 2023, the EPA redesignated the Detroit area to attainment of the 2015 ozone NAAQS. The EPA relied on its longstanding interpretation of the CAA section 107(d)(3)(E)(v) in finding that Michigan had satisfied that requirement, because the State had met all applicable requirements that were due as of the time of the State’s submission requesting redesignation. The EPA’s redesignation of the Detroit ozone nonattainment area was challenged, partially based on the argument that the CAA required Michigan to have met all applicable requirements due as of the time the EPA issued the final redesignation, rather than the requirements due as of the time Michigan submitted its redesignation application.

On December 5, 2025, the Sixth Circuit Court of Appeals vacated the EPA’s redesignation of the Detroit area. The Court held that Michigan was required to have met all requirements due at the time of the EPA’s redesignation action, not just the requirements that had been due as of the time of submittal of the redesignation request. *See Sierra Club v. EPA*, 161 F.4th 934 (6th Cir. 2025).

B. Proposed Adjustment of Serious SIP Submittal Deadlines

As noted, the EPA’s interpretation of CAA section 107(d)(3)(E)(v) has informed State and Federal implementation of redesignations for more than three decades. Preparation of a redesignation request requires many months, and sometimes years, of State resources. Technical information supporting the change in designation must be assembled, including development of appropriate emission inventories and/or modeling, an implementation plan providing for the area’s continued maintenance must be prepared, and the request itself must be

¹⁰ Allocation of a safety margin to an area’s motor vehicle emissions budgets is provided for by the transportation conformity rule. *See* 40 CFR 93.124(a).

drafted and assembled. Ohio had already devoted considerable resources towards preparing its request to redesignate the Cleveland nonattainment area to attainment when the 6th Circuit issued its decision. And, understandably, it had done so under the long-standing pre-*Sierra Club* framework that had governed redesignations and the expectations of what States were required to submit in order for areas to have their redesignation requests granted. Therefore, the redesignation request submitted to the EPA on December 8, 2025, did not address Serious area SIP requirements, because the deadline for those requirements was January 1, 2026, a date which fell after the submission of the State's request.

The EPA is therefore taking these circumstances into account in proposing to adjust the deadline for certain Serious area SIP requirements for the Cleveland area. The Agency has previously made similar adjustments to implementation deadlines in response to an adverse court decision. See 79 FR 31566 (June 2, 2014). In that instance, the EPA had for many years implemented particulate matter standards under subpart 1 of the CAA, and the D.C. Circuit held that the Agency had erred in doing so, and that the CAA required the implementation of those standards to be governed by subpart 4 instead. In response to that adverse decision, rather than find that States were immediately in default of subpart 4 obligations, the EPA established prospective, relatively expedited deadlines for States to comply with any outstanding subpart 4 requirements. See 78 FR 69806, 69809 (Nov. 21, 2013) (proposing a SIP submission deadline of December 31, 2014 on the basis that it “provides a relatively brief but reasonable amount of time for States to ascertain whether and to what extent any additional submissions are needed for a [particulate matter] nonattainment area, and to develop, adopt and submit any such SIPs”). The D.C. Circuit found that the Agency acted within its authority in establishing new deadlines “in the novel circumstances of this case, [where] all affected parties have been long acting on the mistaken assumption that a different framework . . . controls.” *Wildearth Guardians v. EPA*, 830 F.3d 529, 539 (D.C. Cir. 2016).

In establishing new deadlines in the PM_{2.5} rule at issue in *Wildearth Guardians*, the EPA relied upon its general rulemaking authority under CAA section 301(a), which authorizes the Administrator to promulgate such regulations as are necessary to carry out his functions under the CAA. The Court

held that the rule represented “a reasonable exercise of the EPA’s gap-filling authority” in that it retained the CAA’s attainment deadline for the areas, “even though that date was fast approaching by the time of the Rule’s promulgation,” and “[m]oreover, the agency’s plan submission deadline . . . was less than two years after the *NRDC* decision [requiring implementation of the PM_{2.5} NAAQS under subpart 4] and some six months after the [final publication of] the Rule.” *Id.* at 541. The Court noted that the “short timeframe suggests a reasonable effort to expedite compliance with the Subpart 4 framework without imposing unfair obligations on states.” *Id.*

Here, the EPA is proposing to alter deadlines for reasons similar to the EPA’s action establishing new deadlines for PM_{2.5} SIPs. Additionally, the EPA has specific authority over reclassified ozone nonattainment areas under CAA section 182(i) to “adjust any applicable deadlines (other than attainment dates) to the extent such adjustment is necessary or appropriate to assure consistency among the required submissions.” The January 1, 2026, Serious area SIP submission deadline applicable to the Cleveland area was established by rule at 40 CFR 51.1402(b)(1)(i).¹¹ As noted in that regulatory provision, the default deadline for reclassified areas applies “unless the Administrator establishes a different deadline in a separate action.”

The EPA is therefore proposing under its statutory and regulatory authority to establish a different Serious SIP submission deadline for the Cleveland area. This one-time adjustment of the Serious area SIP submission deadline for the reclassified Cleveland ozone nonattainment area is necessary and appropriate to address Ohio’s reasonable expectations, based on the existing framework of CAA required submissions since the passage of the 1990 CAA Amendments, that it had prepared a complete and approvable redesignation request prior to the Serious area SIP submittal deadline. This proposed adjustment will allow the State to make any submissions it determines necessary. The EPA proposes to adjust the deadline for Ohio to submit Serious SIP revisions for the Cleveland area to no later than December 5, 2026, one year after the Sixth Circuit’s decision.

¹¹ 40 CFR 51.1402(b)(1)(i) establishes the SIP revision deadline for reclassified areas as 18 months after the effective date of the relevant reclassification or January 1 of the attainment year, whichever is earlier. In this case, January 1, 2026, was the earlier date.

VII. Enhanced I/M

A. Requirements and Background

CAA section 182(c)(3) requires States with ozone nonattainment areas classified as Serious to implement an Enhanced motor vehicle I/M program. The goal of I/M programs is to identify and ensure repair of high-emitting vehicles operating in nonattainment areas in order to reduce emissions of ozone precursors and support attainment of the NAAQS.¹² The CAA generally requires I/M programs for areas across the country that meet certain criteria such as air quality status, population, and/or geographic location. The CAA also directed the EPA to establish minimum performance standards for Enhanced I/M programs. States have flexibility to design their own Basic and Enhanced I/M programs if they can show that their program is as effective as the model program used in the respective performance standard. The EPA’s requirements for Enhanced I/M programs are found in 40 CFR part 51, subpart S.

As a result of the Cleveland area’s reclassification to Serious effective January 16, 2025 (89 FR 101901), Ohio is required to implement an Enhanced I/M program meeting requirements of CAA section 182(c)(3).

The EPA approved the Cleveland area’s I/M program as contained in “I/M Program Rules and Regulations”, Title 3745, Chapter 26 of the Ohio Administrative Code (OAC 3745–26) as part of a state-wide I/M program approval on April 4, 1995, 60 FR 16989, and approved revisions to the program on January 6, 1997, 62 FR 646. OAC 3745–26–12 requires that beginning January 1, 1996, the Ohio EPA Director implement and supervise an Enhanced I/M program to comply with the CAA in the necessary counties of each ozone nonattainment area across the State. Ohio’s I/M SIP identifies Cleveland-area counties designated for the area’s Enhanced I/M program known as “E-Check”.

B. Ohio’s I/M Program Components

Consistent with the I/M regulations at 40 CFR 51.351, a State with an existing I/M program needs to conduct and submit a performance standard modeling analysis as well as make any necessary program revisions as part of their Serious area SIP submission to ensure their I/M program operates at or above the Enhanced I/M performance

¹² For more information, see *Overview of Vehicle Inspection and Maintenance (I/M) Programs* (EPA–420–F–21–067, October 2021) at <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P1013CC0.pdf>.

standard level for the 2015 ozone NAAQS. In addition to passenger vehicles, the State must demonstrate that its Enhanced I/M program includes inspection of on-board diagnostic (OBD) systems for all subject OBD-equipped light-duty vehicles and light-duty trucks, consistent with CAA section 182(c)(3)(C)(vii) and 40 CFR 51.373. In addition, the State needs to demonstrate that it meets the Enhanced I/M requirement to conduct supplemental onroad testing of at least 0.05% of the subject vehicle population. The State must also demonstrate that it meets the biennial performance evaluation reporting requirement for Enhanced I/M programs. Lastly, the State must demonstrate that its Enhanced I/M program waiver repair expenditures meet or exceed the applicable Enhanced I/M minimum expenditure threshold established under 40 CFR 51.360.

The State may determine through the performance standard modeling analysis that an existing SIP-approved program would meet the applicable performance standard for purposes of the 2015 ozone NAAQS without modification. In its December 19, 2025, submittal, Ohio EPA certified that the existing SIP-approved I/M program at OAC 3745–26 meets the Enhanced I/M program requirements of CAA section 182(c)(3) and 40 CFR part 51, subpart S for the

Cleveland Serious nonattainment area under the 2015 ozone NAAQS. Our review of Cleveland's Enhanced I/M program demonstration will be discussed in the next section.

C. Evaluation of Ohio's I/M Certification

1. Enhanced I/M Performance Standard

Ohio continues to implement the SIP-approved Enhanced vehicle I/M program in the Cleveland–Akron–Lorain nonattainment area. Ohio utilized the EPA's October 2022 guidance, "Performance Standard Modeling for New and Existing Vehicle Inspection and Maintenance (I/M) Programs Using the MOVES Mobile Source Emissions Model," to demonstrate that their program operates at or above the Enhanced I/M performance standard. Accordingly, because the Cleveland area is required to implement an Enhanced I/M program for the 2015 ozone NAAQS as a result of its reclassification to Serious effective January 16, 2025 (89 FR 101901, December 17, 2024), Ohio must demonstrate that its existing SIP-approved program operates at or above the Enhanced I/M performance standard specified in 40 CFR 51.351(i).

Ohio conducted an Enhanced I/M performance standard modeling (PSM) analysis comparing emission rates produced by Ohio's existing I/M program with those produced by the

Federal model Enhanced I/M program specified in 40 CFR 51.351(i). To meet the Enhanced I/M performance standard, the emission rates produced by the actual I/M program must be equal to or less than those of the Federal model program, within the allowable compliance margin of 0.02 grams per mile (gpm) for VOC and NO_x.

The Cleveland area's Serious attainment date is August 3, 2027. Ohio selected analysis year 2026 for its PSM analysis, which corresponds to the ozone season immediately preceding the attainment date and is consistent with the EPA's October 2022 PSM guidance. Ohio conducted the modeling analysis using MOVES5.0.0, which was the most current version of the EPA's mobile source emissions model available when the analysis was initiated.

In consultation with the EPA, Ohio selected Lorain County and Summit County as representative counties for the Cleveland–Akron–Lorain nonattainment area. Lorain County represents the NOACA portion of the area, which includes Cuyahoga, Geauga, Lake, Lorain, and Medina Counties. Summit County represents the AMATS portion of the area, which includes Portage and Summit Counties. This representative-county approach is consistent with the EPA guidance.

TABLE 6—ENHANCED I/M PERFORMANCE STANDARD COMPARISON
[Analysis Year]

County	Pollutant	OH I/M program VOC emission rate	Enhanced I/M VOC performance standard benchmark	Enhanced I/M VOC performance standard benchmark plus allowable buffer	Does existing program meet enhanced I/M performance standard?
Lorain	VOC	0.2631	0.2624	0.2824	Yes.
	NO _x	0.1103	0.1077	0.1277	Yes.
Summit	VOC	0.2169	0.2163	0.2363	Yes.
	NO _x	0.0967	0.0943	0.1143	Yes.

Table 6 summarizes the comparison between emission rates produced by Ohio's existing Enhanced I/M program and the Federal model Enhanced I/M performance standard benchmark for analysis year 2026. As shown in Table 6, the emission rates produced by Ohio's Enhanced I/M program are within the allowable 0.02 gpm compliance margin of the Federal model Enhanced I/M performance standard benchmark for both VOC and NO_x. Therefore, Ohio's modeling results demonstrate that its existing SIP-approved Enhanced I/M program operates at or above the Enhanced I/M performance standard specified in 40

CFR 51.351(i) for the 2015 ozone NAAQS.

Based on our review of Ohio's modeling methodology, input assumptions, and results, the EPA proposes to find that Ohio satisfies the Enhanced I/M performance standard requirements of CAA section 182(c)(3) and 40 CFR part 51, subpart S for the Cleveland Serious ozone nonattainment area under the 2015 ozone NAAQS.

2. Onroad Testing

One of the obligations of an Enhanced I/M program is to perform supplemental onroad testing of in-use vehicles for a small percentage of the area's fleet of motor vehicles. CAA section

182(c)(3)(B)(i) directs the EPA to establish "a performance standard achievable by a program combining emission testing, including onroad emission testing. . . ." Additionally, for Enhanced I/M areas, CAA section 182(c)(3)(C)(i) requires States' Enhanced I/M programs to include "onroad testing devices" as a necessary element. CAA requirements for onroad testing devices are established at 40 CFR 51.531(b), which defines onroad testing as ". . . testing of vehicles for conditions impacting the emission of HC, CO, NO_x, and/or CO₂ emissions on any road or roadside in the nonattainment area or the I/M program area" and that 0.5% of the subject fleet . . . or 20,000 vehicles,

whichever is less, per inspection cycle” must be tested. In its December 19, 2025, submittal, Ohio provided Ohio EPA contract requirements demonstrating that Envirotec, the current inspection contractor, is contractually required to conduct supplemental onroad testing in the Cleveland area consistent with 40 CFR 51.351(b), which requires testing of at least 0.5% of the subject fleet or 20,000 vehicles per inspection cycle, whichever is less. Ohio’s submittal provided the E-Check contract indicating that Envirotec currently exceeds the 0.5% onroad testing minimum.

3. Biennial Performance Evaluation

CAA section 182(c)(3)(C) requires that all States subject to Enhanced I/M must “. . . biennially prepare a report to the Administrator which assesses the emission reductions achieved by the program required under this paragraph based on data collected during inspection and repair of vehicles. The methods used to assess the emission reductions shall be those established by the Administrator.” Specific Enhanced I/M biennial program evaluation requirements are established in 40 CFR 51.353. 40 CFR 51.353(c) requires a State to quantify the emission reduction benefits of the program and to determine if the program is meeting the CAA Enhanced I/M requirements on a biennial basis. Further, 40 CFR 51.366(e) requires States to report any changes made in program design, funding, personnel levels, procedures, regulations, and legal authority, and to report any identified weaknesses or problems in the program within the two-year reporting period along with any corrective measures taken to resolve those issues.

Ohio’s December 19, 2025, submittal demonstrates that the State meets the CAA requirements for biennial program evaluation in its latest 2023–2024 Ohio E-Check Biennial Report.¹³ The biennial report was conducted in accordance with the EPA’s technical guidance “Guidance on Biennial Performance Evaluation Requirements for Enhanced Vehicle Inspection and Maintenance (I/M) Programs”, EPA–420–B–22–042, December 2022.¹⁴ Ohio performed its biennial Enhanced I/M program evaluation using the EPA’s MOVES3 mobile source emissions model, which is in accordance with the EPA’s technical guidance. Ohio’s 2023–2024

biennial program evaluation reported no changes to its program design, funding, personnel levels, procedures, regulations, or legal authority over the reporting time period. Ohio’s 2023–2024 biennial program evaluation reported no weaknesses or problems identified over the reporting period. The EPA’s review of Ohio’s December 19, 2025, submittal finds that Ohio meets the CAA biennial program evaluation requirements for an Enhanced I/M program under the Serious 2015 ozone NAAQS.

4. I/M Test Repair Waivers

40 CFR 51.360 requires States to provide for issuance of I/M test waivers to motorists under certain criteria, provided that the motorist has made repair expenditures that meet the cost thresholds outlined in paragraphs (6) and (7) of the rule. Ohio’s December 19, 2025, submittal demonstrates that the State has the authority to issue I/M test waivers to motorists that meet the required cost thresholds consistent with 40 CFR 51.360. Therefore, the EPA’s review of Ohio’s December 19, 2025, submittal finds that Ohio meets the CAA requirements for Enhanced I/M test repair waivers.

5. Enhanced I/M Program Demonstration Conclusion

Based on our review of Ohio’s December 19, 2025, submission, including the performance standard modeling demonstration, onroad testing documentation, biennial evaluation report, and waiver provisions, the EPA proposes to find that Ohio’s current SIP-approved Enhanced I/M program satisfies the requirements of CAA section 182(c)(3) and 40 CFR part 51, subpart S for the Cleveland Serious ozone nonattainment area under the 2015 ozone NAAQS.

VIII. Clean Fuel Vehicle Program

CAA section 182(c)(4) requires States with ozone nonattainment areas classified as Serious or higher to submit a SIP revision describing implementation of a CFVP, as described in CAA title II part C (40 CFR 88). CAA section 182(c)(4) included numerical standards for the CFVP that were intended to encourage innovation and reduce emissions for fleets of motor vehicles in certain nonattainment areas as compared to conventionally fueled vehicles available at the time. As originally adopted, those Clean Fuel Fleet standards were substantially more stringent than the standards that applied to vehicles and engines generally. Now that the EPA has begun implementing Tier 3 emission standards in 40 CFR part 86, subpart S, the Clean Fuel Fleet

standards are either less stringent than or equivalent to the standards that apply to vehicles and engines generally. On July 29, 2021 (86 FR 34308), the EPA published a final rule in which the EPA determined that vehicles and engines certified to current emission standards under 40 CFR part 86 or 1036 are deemed to also meet the Clean Fuel Fleet standards as Ultra Low-Emission Vehicles. Since vehicle emission standards have only become more stringent since the EPA issued that determination, the CAA section 182(c)(4) CFVP requirements remain satisfied without the need for further action by the State. The currently approved ozone SIP for the Cleveland area meets the Clean Fuel Fleets requirement based on the EPA’s June 29, 2021, rulemaking. Ohio demonstrated that a CFVP does not need to be implemented in the Cleveland area. The EPA agrees with Ohio and proposes to find that Ohio meets the Clean Fuel Fleets requirement for Serious ozone areas.

IX. Enhanced Monitoring Program

Section 182(c)(1) of the CAA requires States with nonattainment areas classified serious or higher adopt and implement a program to improve air monitoring for ozone, NO_x, and VOC. The EPA initiated the Photochemical Assessment Monitoring Stations (PAMS) program in February 1993 to meet this CAA requirement. The PAMS program required the establishment of an enhanced monitoring network in all ozone nonattainment areas classified as serious, severe, or extreme.

Since that time, the EPA concluded that requiring enhanced monitoring for ozone nonattainment areas classified as moderate or above is appropriate for the purposes of monitoring ambient air quality and better understanding ozone pollution. In the EPA’s revision to the ozone standard on October 26, 2015, the EPA relied on the authority provided in sections 103(c), 110(a)(2)(B), 114(a) and 301(a)(1) of the CAA to expand the PAMS applicability to areas other than those that are serious or above ozone nonattainment and substantially revise the PAMS requirements in 40 CFR part 58 appendix D (80 FR 65292). Specifically, this rule required States with moderate and above ozone nonattainment areas to develop and implement an EMP. These plans should detail enhanced ozone and ozone precursor monitoring activities to be performed to better understand area-specific ozone issues.

To meet this requirement, Ohio submitted its Cleveland ozone EMP as part of the 2024–2025 Ohio EPA Air

¹³ https://dam.assets.ohio.gov/image/upload/epa.ohio.gov/Portals/27/echeck/docs/2023-Biennial-Report_Final.pdf.

¹⁴ <https://www.epa.gov/system/files/documents/2022-12/420b22042.pdf>.

Monitoring Network Plan, which has been approved by the EPA. As stated in their December 19, 2025, submittal, Ohio will continue to meet the CAA 182(c)(1) EMP requirements by including the plan in subsequent Ambient Air Monitoring Network Plans and to update the plan as necessary. These network plans are subject to the EPA's review and approval on an annual basis. Therefore, the EPA is proposing to approve Ohio EPA's certification that the Cleveland area has satisfied the EMP requirements of the CAA section 182(c)(1) for the 2015 ozone NAAQS.

X. What action is the EPA taking?

The EPA will not take final action to redesignate the Cleveland area to attainment if the EPA fails to finalize the CDD or if the design value of a monitoring site in the area violates the NAAQS prior to final approval of the redesignation. The EPA is proposing to determine that, with the EPA's approval of the CDD and Ohio's moderate RACT submittals, the Cleveland area will have met the requirements for redesignation under section 107(d)(3)(E) of the CAA. The EPA is thus proposing to change the legal designation of the Cleveland area from nonattainment to attainment for the 2015 ozone NAAQS in accordance with Ohio EPA's December 8, 2025, request. The EPA is proposing to approve the State's plan for maintaining the 2015 ozone NAAQS in the Cleveland area through 2038 (such approval being one of the CAA criteria for redesignation to attainment status). As part of the maintenance plan, the EPA is initiating the adequacy process and proposing to approve the newly established 2032 and 2038 motor vehicle emissions budgets for the Cleveland area. The EPA is also proposing to adjust the deadline for Ohio to submit Serious SIP revisions for the Cleveland area to no later than December 5, 2026. Finally, pursuant to section 110 and part D of the CAA, the EPA is proposing to approve the Enhanced I/M certification, CFVP certification, and EMP certification SIP revisions submitted by Ohio EPA on December 19, 2025, and supplemented on January 12, 2026.

XI. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those

imposed by State law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, the proposed actions to approve Ohio's SIP submissions merely approve State law as meeting Federal requirements and do not impose additional requirements beyond those imposed by State law. For these reasons, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rulemaking does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as

specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: March 30, 2026.

Anne Vogel,

Regional Administrator, Region 5.

[FR Doc. 2026-06943 Filed 4-9-26; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R05-OAR-2024-0461; EPA-R05-OAR-2025-0222; FRL-13226-01-R5]

Air Plan Approval and Air Quality Designation; Ohio; Attainment Plan and Redesignation of the Canton Area to Attainment of the 2008 Lead Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the State of Ohio's attainment plan for the Canton Nonattainment Area for the 2008 Lead (Pb) National Ambient Air Quality Standards (NAAQS). Additionally, the EPA is proposing to determine that the Canton Nonattainment Area has attained the 2008 Pb NAAQS and to approve Ohio's maintenance plan for continued attainment. With these approvals, the EPA is also proposing to approve Ohio's comprehensive Pb emissions inventory and to act in accordance with Ohio Environmental Protection Agency's (Ohio EPA) request to redesignate the Canton Nonattainment Area from nonattainment to attainment of the 2008 Pb NAAQS. The EPA is taking these actions in accordance with the Clean Air Act (CAA) and the EPA's implementation regulations regarding the 2008 Pb NAAQS.

DATES: Comments must be received on or before May 11, 2026.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-

OAR–2024–0461 (attainment demonstration) and EPA–R05–OAR–2025–0222 (redesignation and maintenance plan) at <https://www.regulations.gov>, or via email to langman.michael@epa.gov. For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. Do not submit to the EPA's docket at <https://www.regulations.gov> any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI, PBI, or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Alisa Liu, Air and Radiation Division (AR18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, telephone number: (312) 353–3193, email address: liu.alisa@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever “we,” “us,” “our,” or “Agency” is used, we mean the EPA.

I. Background

A. Summary of Events and Proposed Actions

The EPA redesignated the Canton-Stark County, Ohio area from an unclassifiable/attainment area to a nonattainment area for the 2008 Pb NAAQS pursuant to CAA section 107(d)(3), effective April 10, 2023. The redesignation was based on ambient air quality monitoring that resulted in a 2019–2021 design value of 0.40 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$), exceeding the 2008 Pb NAAQS of 0.15 $\mu\text{g}/\text{m}^3$. The ambient air quality data was provided by a source-oriented monitor near a plant owned and operated by

Republic Steel in Canton, Ohio (Republic Steel—Canton Plant), which manufactured leaded steel and other steel products at the time.¹

The redesignation of the Canton, Ohio area from unclassifiable/attainment to nonattainment for the 2008 Pb NAAQS imposed certain planning requirements on the State of Ohio to reduce Pb concentrations within this area. 88 FR 14920, March 10, 2023. These included the requirement under CAA sections 191(a) and 192(a) to submit, within 18 months of the redesignation to nonattainment, a revision to the Ohio State Implementation Plan (SIP) which demonstrates attainment of the 2008 Pb NAAQS as expeditiously as practicable, but no later than 5 years after April 10, 2023, the effective date of redesignation to nonattainment.²

On August 10, 2023, the parent company of Republic Steel, Grupo Simec, publicly announced the Republic Steel—Canton Plant would be idled indefinitely.

On September 10, 2023, Grupo Simec announced the Republic Steel—Canton Plant would permanently close, and all associated air permits were terminated effective July 26, 2024.

On September 19, 2024, Ohio EPA submitted a revision to its SIP for the 2008 Pb NAAQS in the Canton Nonattainment Area, which was comprised of an attainment plan with ambient air monitoring data, emissions inventory, attainment demonstration, and contingency measures. (Ohio's 2024 Canton Pb SIP Revision)

By the end of 2024, ambient air monitoring demonstrated that airborne Pb levels had declined to 0.00 $\mu\text{g}/\text{m}^3$ and that the three-year design value for 2022–2024 for the Canton Nonattainment Area had achieved 0.15 $\mu\text{g}/\text{m}^3$, thereby meeting the 2008 Pb NAAQS.

Then, on April 25, 2025, Ohio EPA provided the first 10-year maintenance plan for keeping the Canton Nonattainment Area in attainment of the 2008 Pb NAAQS as required under CAA section 175A and submitted a request to the EPA to redesignate the Canton Nonattainment Area from nonattainment to attainment. (Ohio's 2025 Canton Pb Maintenance Plan and Redesignation Request)

In this rulemaking, the EPA is proposing to approve all of Ohio's required SIP elements simultaneously in conjunction with proposing to act in accordance with Ohio's request to redesignate the Canton Nonattainment

Area from nonattainment to attainment of the 2008 Pb NAAQS. Specifically, the EPA is proposing the following separate, but related, actions:

1. To approve Ohio's September 19, 2024, Canton Pb SIP Revision as meeting the applicable requirements of CAA sections 110(a)(2)(D)(i)(I), 110(a)(2)(I), 110(a)(2)(K), 110(I), 172, 191, and 192(a) and 40 CFR 51 subparts F and G. (See section II.D. of this preamble.)

2. To determine that the Canton Nonattainment Area is attaining the 2008 Pb NAAQS. (See section III.A. of this preamble.)

3. To approve Ohio EPA's comprehensive Pb emissions inventory for the Canton Nonattainment Area as meeting the applicable requirements of CAA section 172(c)(3). (See section II.A.2.e. of this preamble.)

4. To approve Ohio's 2025 Canton Pb Maintenance Plan as meeting the applicable requirements of CAA section 175A. (See section III.B. of this preamble.)

5. To determine that Ohio's 2024 Canton Pb SIP Revision as well as Ohio's 2025 Canton Pb Maintenance Plan and Redesignation Request have met the applicable requirements for the EPA to redesignate the Canton Nonattainment Area from nonattainment to attainment of the 2008 Pb NAAQS under CAA section 107(d)(3)(E). (See section IV.C. of this preamble.)

6. To act in accordance with Ohio's April 25, 2025 Canton Pb Redesignation Request and to redesignate the Canton Nonattainment Area from nonattainment to attainment of the 2008 Pb NAAQS in accordance with CAA section 107(d)(3)(E)(i)–(v). (See section IV.C. of this preamble.)

In proposing these separate actions, we note that the EPA has previously determined that approval actions on SIP elements for a nonattainment area and the associated redesignation may occur simultaneously.^{3 4} Information supporting each of these actions is further summarized and discussed in the EPA's December 11, 2025, Technical Support Document (TSD) for this

³ See section 2 of “Procedures for Processing Requests to Redesignate Areas to Attainment,” Memorandum from John Calcagni, Director, EPA Air Quality Management Division, September 4, 1992, (1992 Calcagni Redesignations Memo).

⁴ See 66 FR 53096, October 19, 2001 (Pittsburgh-Beaver Valley, Pennsylvania); 65 FR 37879, June 19, 2000 (Cincinnati-Hamilton, Ohio); 61 FR 20458, May 7, 1996 (Cleveland-Akron-Lorain, Ohio); 60 FR 37366, July 20, 1995 and 61 FR 31832–31833, June 21, 1996 (Grand Rapids, MI); 68 FR 25413, May 12, 2003 and 68 FR 25418, May 12, 2003 (St. Louis, MO).

¹ 88 FR 14920, March 10, 2023.

² See also CAA section 172(a)(2) and 73 FR 66964; 67038, November 12, 2008.

proposed rulemaking, which is included in the docket.

B. Concerns About Pb

Lead (Pb) is a metal found naturally in the environment, as well as in some manufactured products. Industrial sources of Pb emissions include industrial, commercial, and institutional boilers as well as utility boilers, iron and steel foundries, and primary Pb smelters.^{5 6 7} The major sources of Pb for air emissions have historically been from fuels used in industrial sources and on-road motor vehicles, such as cars and trucks. As a result of the EPA's regulatory efforts to remove Pb from on-road motor vehicle gasoline, emissions of Pb from the transportation sector declined by 95 percent between 1980 and 1999, and levels of Pb in the air generally decreased by 98 percent between 1980 and 2014.⁸ More recently, the predominant sources of Pb emissions in the ambient air are from ore and metals processing as well as piston-engine aircraft operating on leaded aviation fuel.⁹

Pb is generally emitted in the form of particles, which can end up being deposited in water, soil, and dust. This deposited Pb, when disturbed, may be re-entrained into the ambient air. People may be exposed to Pb by inhaling it or by ingesting Pb-contaminated food, water, soil, or dust. Pb may have serious public health effects and, depending on the level of exposure, can adversely affect the nervous system, kidney function, immune system, cardiovascular system, as well as reproductive and developmental systems. Infants and young children are especially sensitive to even low levels of Pb, which may contribute to behavioral problems, learning deficits, and lowered intelligence quotient.^{10 11}

C. 2008 Pb NAAQS

On November 12, 2008 (73 FR 66964), the EPA established the 2008 primary

and secondary Pb NAAQS at 0.15 µg/m³ based on a maximum arithmetic three-month mean concentration for a three-year period. 40 CFR 50.16. The EPA refers to this maximum rolling three-month average over a three-year period as the “design value,” and the design value is to be rounded to two significant figures using conventional rounding methodology. A violation of the 2008 Pb NAAQS occurs if any arithmetic three-month mean concentration is greater than 0.15 µg/m³. See 72 FR 71488; 71541, December 17, 2007. See also 40 CFR 50.16.

D. Area Designations for the 2008 Pb NAAQS in the Canton, Ohio Area

After setting or revising any NAAQS, the EPA is required by CAA section 107(d) to designate areas throughout the nation as attaining or not attaining the NAAQS. The EPA initially designated all areas of the country as “unclassifiable,” “unclassifiable/attainment,” or “nonattainment” for the 2008 Pb NAAQS in two rounds on November 16, 2010, based on air quality monitoring data for 2007–2009, and on November 8, 2011, based on monitoring data for 2008–2010.¹²

In the November 8, 2011 action, the EPA originally designated Stark County, Ohio, including the Canton area, along with the remaining areas of Ohio, as unclassifiable/attainment based on monitoring data for 2008–2010.¹³

Effective April 10, 2023, the EPA redesignated a defined area within Canton, Stark County, Ohio as nonattainment for the 2008 Pb NAAQS pursuant to CAA section 107(d)(3).¹⁴ The redesignation was based on ambient air quality monitoring from the Republic Steel monitoring site (Air Quality System (AQS) ID 39–151–0024) that resulted in a Pb 2019–2021 design value of 0.40 µg/m³, exceeding the 2008 Pb NAAQS of 0.15 µg/m³.

The Canton Nonattainment Area for the 2008 Pb NAAQS surrounds the Republic Steel—Canton Plant located at 2633 Eighth Street NE in Canton, Ohio. The boundaries of the Canton Nonattainment Area for the 2008 Pb NAAQS encompass the portions of Stark County that are bounded on the north by State Route OH–153 (12th Street NE; Mahoning Road), on the east by Broadway Avenue, on the south by State Route OH–172 (Tuscarawas Street E; Lincoln Street E), and the west by State Route OH–43—Northbound

(Cherry Avenue NE). The jurisdictional boundaries in Ohio comprise a portion of the city of Canton, a portion of the city of Louisville, a portion of Canton Township, a portion of Osnaburg Township, a portion of Nimishillen Township, and a portion of Plain Township.

E. Actions Taken That Addressed Pb Emissions and Pb Air Quality in the Canton Nonattainment Area

Both before and after the Canton area was designated as nonattainment for the 2008 Pb NAAQS, Ohio EPA, Canton APC,¹⁵ Republic Steel, Stark County Court of Common Pleas, United States District Court for the Northern District of Ohio, and the EPA took various actions that addressed Pb emissions from the Republic Steel—Canton Plant and the ambient air quality in the Canton area.

In the first of these actions, Ohio EPA issued permit modifications on December 2, 2016, and October 18, 2017, to set federally enforceable restrictions on Pb emissions, and required Republic Steel to submit a written proposal of actions if Pb monitoring reached 0.11 µg/m³ or greater as a three-month average. Ohio EPA also issued Director's Final Findings and Orders to Republic Steel on June 29, 2018, April 30, 2019, May 14, 2019, and February 26, 2021, as well as a letter on June 11, 2021, which included various requirements including suspending leaded steel production, submitting an investigative report on elevated Pb concentrations, providing an action plan to reduce Pb emissions, evaluating options to control fugitive Pb emissions, and taking specific actions based on certain daily monitored Pb levels.¹⁶ In April 2022, Ohio EPA and Canton APC installed a second monitoring site across the street from the Republic Steel—Canton Plant known as the Republic Community monitoring site (AQS ID 39–151–0025).

On November 3, 2021, the EPA issued a notice of violation to the Republic Steel—Canton Plant for violating the terms of the facility's air permit regarding the FlexCast Vacuum Tank Degasser by exceeding the permitted emissions limit for Pb during Pb degassing, failing to perform an emissions test for Pb, and failing to

⁵ 73 FR 29184; 29190, May 20, 2008.

⁶ 75 FR 71033; 71035, November 22, 2010.

⁷ EPA, Office of Air Quality Planning and Standards, “Locating and Estimating Air Emissions from Sources of Lead and Lead Compounds,” May 1998, EPA454/R–98–006.

⁸ Copies of web pages with the cited information are included in the docket for this rulemaking.

⁹ 75 FR 71033; 71035, November 22, 2010.

¹⁰ 73 FR 29184; 29270, May 20, 2008, and 75 FR 71033; 71035, November 22, 2010. For more information regarding the health effects of Pb exposure, see 73 FR 66964, November 12, 2008, and <https://www.epa.gov/lead/learn-about-lead>.

¹¹ IQ is a score created by dividing a person's mental age score, obtained by administering an intelligence test, by the person's chronological age, both expressed in terms of years and months. “Glossary of Important Assessment and Measurement Terms,” Philadelphia, PA: National Council on Measurement in Education. 2016.

¹² 75 FR 71033, November 22, 2010; 76 FR 72097, November 22, 2011.

¹³ 76 FR 72097, November 22, 2011.

¹⁴ 87 FR 26147, May 3, 2022, and 88 FR 14920, March 10, 2023.

¹⁵ Canton City Public Health Department, Air Pollution Control Division (Canton APC) is Ohio EPA's contracted local air agency in Stark County, Ohio. See Ohio's 2024 Canton Pb SIP Revision, Appendices D and N.

¹⁶ The Director's Final Findings and Orders for Republic Steel dated June 29, 2018, April 30, 2019, May 14, 2019, February 26, 2021, and June 11, 2021 are available in the docket for this rulemaking.

perform parametric monitoring and recordkeeping.¹⁷ On March 10, 2023, the EPA then redesignated the area in Canton surrounding the Republic Steel—Canton Plant property from unclassifiable/attainment to nonattainment for the 2008 Pb NAAQS.¹⁸

On August 10, 2023, the parent company of Republic Steel, Grupo Simec, publicly announced the Republic Steel—Canton Plant would be idled indefinitely. On September 10, 2023, Grupo Simec announced the Republic Steel—Canton Plant would permanently close. The permanent and enforceable closure of the Canton Plant was subsequently required by a Final Consent Order and Final Judgment Entry that was filed in the Stark County Court of Common Pleas on December 12, 2023.¹⁹ In this Final Consent Order, Republic Steel agreed to an enforceable, permanent cessation of operations and to submit to Ohio EPA a request for the permanent shutdown and termination of all air permits associated with the facility within 30 days.

In a letter dated January 11, 2024, Republic Steel requested the permanent shutdown of all emission units requiring air permits and the termination of the associated air permits at the Republic Steel—Canton Plant, except for those associated with the temporary use of certain emission units in connection with the facility shutdown activities. Ohio EPA and Canton APC approved this request on January 22, 2024. On July 26, 2024, Republic Steel requested the permanent shutdown of all remaining emission units requiring air permits and the termination of the associated air permits at the Republic Steel—Canton Plant. Ohio EPA and Canton APC also approved this request and terminated the remaining associated air permits effective July 26, 2024.

On September 17, 2024, Ohio EPA issued Director's Final Findings and Orders²⁰ requiring Republic Steel or any subsequent owner or operator of the Canton Plant to take certain actions to control fugitive dust if the Republic Steel or Republic Community monitoring sites recorded Pb daily average concentrations of 0.75 µg/m³ or greater or 1-month average concentrations of 0.10 µg/m³ or greater.

These Orders also required Republic Steel or any subsequent owner or operator to provide a plan to Ohio EPA for approval for sitewide control of fugitive dust prior to undertaking any activities related to demolition or deconstruction of any portion of the facility.

II. Requirements for Pb Nonattainment Areas and the EPA's Review of Ohio's 2024 Canton Pb SIP Revision

A. CAA Requirements

All States must submit SIPs or SIP revisions to show they have the basic air quality management program components in place to implement a new or revised NAAQS, as specified in CAA section 110(a)(1). These plans are called "infrastructure SIPs."

For areas designated nonattainment for a specific NAAQS, States must also submit "nonattainment plans" that outline the strategies and emissions control measures and demonstrate how the area will improve in air quality as well as attain and maintain the NAAQS.^{21 22} Nonattainment plans must meet the applicable requirements of the CAA, specifically CAA title I, section 110 and part D. The EPA's regulations governing SIP submissions are set forth at 40 CFR part 51 with general procedural requirements under subpart F and specific control strategy requirements under subpart G for attaining and maintaining the NAAQS.

1. CAA Section 110 Requirements

CAA section 110 contains the general requirements for SIPs for attaining and maintaining the national and primary and secondary NAAQS.

a. Infrastructure SIPs

Under CAA sections 110(a)(1) and (2), States are required to submit "infrastructure SIPs" to ensure that they have the basic air quality management program components in place to provide for implementation, maintenance, and enforcement of the NAAQS, including the 2008 Pb NAAQS. In this regard, the EPA approved Ohio's infrastructure SIP for the 2008 Pb NAAQS on September 22, 2014, and on February 17, 2015.^{23 24 25} For the 2008 Pb NAAQS,

Ohio's infrastructure SIP addressed CAA sections 110(a)(2)(A) through (H), and (J) through (M) except the Prevention of Significant Deterioration (PSD) and New Source Review (NSR) requirements in CAA sections 110(a)(2)(C), (D)(i)(II), and (J), as well as the visibility protection portion of (J). CAA sections 110(a)(2)(I) and (K), which specifically address the nonattainment plan provisions, are addressed in sections II.B and II.D of this preamble and in sections 4.1, 4.2, and 4.4 of the TSD.

b. Transport SIPs

As part of the broader set of the infrastructure requirements, CAA section 110(a)(2)(D) requires SIPs to contain measures to prevent sources of emissions within the State from significantly contributing to air quality problems in another State or internationally as well as from interfering with programs to prevent significant deterioration of air quality or to protect visibility at mandatory Class I Federal areas in any other State. The EPA has historically referred to these as "transport SIPs." Within CAA section 110(a)(2)(D)(i), there are four so-called "prongs." CAA section 110(a)(2)(D)(i)(I) contains prongs 1 and 2, while CAA section 110(a)(2)(D)(i)(II) includes prongs 3 and 4.

With respect to prongs 1 and 2, analyses in Ohio's 2011 Infrastructure SIP and 2024 Canton Pb SIP Revision found no Pb sources in Ohio that would interfere with attainment or maintenance of the 2008 Pb NAAQS in a neighboring State. As such, consistent with the EPA's guidance²⁶ and prior actions,²⁷ the EPA proposes to find that Ohio's September 19, 2024 and April 25, 2025, SIP Revisions meet the

Calcagni SIP Actions Memo: "Regions should not reconsider those things that have already been approved and for which the Clean Air Act Amendments did not alter what is required." See also *Southwestern Pennsylvania Growth Alliance v. Browner*, 144 F.3d 984, 989–990 (6th Cir. 1998): "In addition, Congress explicitly codified the same principle in 42 U.S.C. 7410(n)(1)." See also *Wall v. EPA*, 265 F.3d 426 (6th Cir. 2001)).

²⁶ See 2011 Guidance on Infrastructure SIPs for 2008 Pb NAAQS, p. 7–8.

²⁷ EPA's rationale and explanation for approving the applicable interstate transport requirements under section 110(a)(2)(D)(i)(I) for the 2008 Pb NAAQS, consistent with EPA's interpretation of the 2011 Guidance on Infrastructure SIPs for 2008 Pb NAAQS, can be found in, among other instances, the proposed approval and a subsequent final approval of interstate transport SIPs submitted by Illinois, Michigan, Minnesota, and Wisconsin. See 79 FR 27241 at 27249 (May 13, 2014) and 79 FR 41439 (July 16, 2014). See also 83 FR 15336, April 10, 2018, Vermont Infrastructure SIP for 2010 SO₂ Proposed Rule.

¹⁷ EPA's November 4, 2021, Press Release is included in the docket for this rulemaking.

¹⁸ 88 FR 14920, March 10, 2023.

¹⁹ The December 12, 2023, Final Consent Order and Final Judgment Entry is included in appendix D of Ohio's 2024 Canton Pb SIP Revision.

²⁰ The September 17, 2024, Director's Final Findings and Orders are included as appendix N to Ohio's 2024 Canton Pb SIP Revision.

²¹ See CAA section 172(c).

²² Although CAA section 172(c) refers to "nonattainment plans," we refer to Ohio's 2024 Canton Pb SIP submission as including an "attainment plan."

²³ Ohio's October 12, 2011, Infrastructure SIP submission is publicly available under docket EPA–R05–OAR–2011–0888.

²⁴ See Proposed Rule at 79 FR 43338 (July 25, 2014), and Final Rules at 79 FR 60075 (October 6, 2014) and 80 FR 10591 (February 27, 2015).

²⁵ EPA may rely on prior SIP approvals in approving a redesignation request. See 1992

requirements of CAA section 110(a)(2)(D)(i)(I).

With respect to prong 3 in addressing measures to prevent significant deterioration of air quality, the EPA previously approved Ohio's PSD permitting program²⁸ and NSR program in nonattainment areas²⁹ for all new major sources and major modifications in Ohio to help achieve the 2008 Pb NAAQS.³⁰

With respect to prong 4 and CAA section 110(a)(2)(J), the EPA guidance^{31 32} explains that the visibility impairment from Pb emissions in mandatory Class I Federal areas would be negligible and these requirements may be satisfied by a State's approved regional haze SIP revision.³³ In this regard, the EPA previously approved Ohio's regional haze SIP revisions for the first and second implementation periods.^{34 35}

c. Public Notice and Anti-Backsliding

CAA section 110(l) contains two main provisions applicable to SIPs, including nonattainment plans.

First, CAA section 110(l) requires that each SIP revision submitted by a State must be adopted by a State after reasonable notice and public hearing. To meet this requirement, on July 8, 2024, Ohio EPA notified the public and provided an opportunity for public comment and hearing on its proposed Pb SIP revision for an attainment plan³⁶ and attainment demonstration for the Canton Pb Nonattainment Area. The public comment period closed on August 7, 2024, and no comments were received during this time. However, on August 8, 2024, Republic Steel requested an additional comment period until August 21, 2024, which was granted by Ohio EPA. With no hearing

requested, Ohio submitted its Pb SIP revision for an attainment plan and attainment demonstration for the Canton Pb Nonattainment Area to the EPA on September 19, 2024, which included the comments received and Ohio EPA's responses in appendix P. Then, on March 17, 2025, Ohio EPA notified the public and provided an opportunity for public comment and hearing on its proposed redesignation request and proposed Pb SIP revision for a maintenance plan for the Canton Nonattainment Area. The public comment period closed on April 18, 2025, and, with no hearing requested or comments received, Ohio submitted its redesignation request and Pb SIP revision to the EPA on April 25, 2025. As such, the EPA proposes to find that Ohio has met this requirement of CAA section 110(l) with its September 19, 2024, and April 18, 2025, SIP revisions.

Second, under CAA section 110(l), the EPA may not approve a SIP if it would interfere with any applicable requirement concerning NAAQS attainment, reasonable further progress toward attainment, or any other applicable requirement of the CAA. This requirement is often referred to the "anti-backsliding" provision of the CAA. As demonstrated in sections II.A.2.c, II.B, III.A of this preamble and in sections 4.1.2.3, 4.2.2, and 5.1 of the TSD, Ohio's September 19, 2024, and April 18, 2025, SIP Revisions are not a relaxation of any existing requirements and are expected to preserve or improve the ambient air quality in the Canton Nonattainment Area as it existed when the area was designated as nonattainment on April 10, 2023. Thus, the EPA proposes to find that Ohio's September 19, 2024, and April 18, 2025, SIP revisions meet the anti-backsliding provisions of CAA sections 110(l).

d. Nonattainment Plans

The EPA does not expect infrastructure SIP submittals to include regulations or emission limits developed specifically for attaining a particular NAAQS. To address plan requirements for nonattainment areas, there are two elements of CAA section 110(a)(2) pertaining to part D in title 1 of the CAA that are outside the scope of infrastructure SIPs. The first is CAA section 110(a)(2)(C) to the extent it refers to a permit program known as "nonattainment new source review" (nonattainment NSR) under part D of title I of the CAA, and the second is CAA section 110(a)(2)(I) in its entirety.³⁷

For the first of these two elements, the EPA previously approved Ohio's SIP revisions comprising the State's rules for nonattainment NSR procedures on December 6, 2001.³⁸ For the second of these two elements, the EPA's "SIP Lean Toolkit for Collaboration Between EPA and Air Agencies," December 6, 2019 (2019 SIP Lean Toolkit)³⁹ identifies CAA sections 172, 191, and 192 as the applicable planning requirements specific to Pb nonattainment areas. Each of these are discussed below.

2. CAA Section 172 Requirements

In areas designated as not attaining a particular NAAQS, CAA section 172 includes nonattainment plan provisions that require States to submit SIPs which demonstrate the affected area will attain the relevant NAAQS as expeditiously as practicable, but no later than the applicable statutory attainment date. To support such an attainment demonstration for Pb nonattainment plans, the EPA's 2019 SIP Lean Toolkit specifies the applicable provisions of the CAA as sections 172(a)(2), (b), (c)(1) through (c)(6), and (c)(9). As discussed in sections II.A.2.a.–h. of this preamble and in sections 4.1.2.1–4.1.2.8 of the TSD, the EPA is proposing to find that Ohio's 2024 Canton Pb SIP Revision meets each of these applicable provisions of CAA section 172.

a. CAA Section 172(a)(2)—Attainment Dates for Nonattainment Areas

For a nonattainment area, CAA section 172(a)(2) establishes that the attainment date shall be the date by which attainment can be achieved as expeditiously as practicable, but no later than 5 years from the date the area was designated nonattainment, unless the Administrator determines an extension of up to 10 years is appropriate. The effective date of the redesignation of the Canton area to nonattainment was April 10, 2023,⁴⁰ and 5 years from that date would be April 10, 2028. The EPA proposes to find that Ohio EPA appropriately oriented the attainment demonstration in its 2024 Canton Pb SIP Revision, as discussed in section II.B. of this preamble and in sections 4.1.2.1 and 4.2.2 of the TSD, to ensure attainment of the 2008 Pb NAAQS as expeditiously as practicable and earlier than the April 10, 2028, date by projecting an attainment date of July 1, 2025. In section III.A. of this preamble and in section 5.1 of the TSD, the EPA

²⁸ 66 FR 51570, October 10, 2001, and 68 FR 2909, January 22, 2003.

²⁹ 68 FR 1366, January 10, 2003.

³⁰ See Ohio's 2024 Canton Pb SIP submission, p. 3–4.

³¹ EPA's October 14, 2011, guidance document entitled "Guidance on Infrastructure State Implementation Plan (SIP) Elements Required Under Sections 110(a)(1) and 110(a)(2) for the 2008 Lead (Pb) National Ambient Air Quality Standards (NAAQS)" (2011 Guidance on Infrastructure SIPs for 2008 Pb NAAQS).

³² EPA's September 13, 2013, memorandum entitled "Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2)." (2013 Guidance on Infrastructure SIPs).

³³ See 2011 Guidance on Infrastructure SIPs for 2008 Pb NAAQS, p. 15. See also 2013 Guidance on Infrastructure SIPs, p. 32–34, 54–55.

³⁴ 83 FR 21719, May 10, 2018.

³⁵ 90 FR 29993, July 8, 2025.

³⁶ Although CAA section 172(c) refers to "nonattainment plans," we refer to Ohio's 2024 Canton Pb SIP submission as including an "attainment plan."

³⁷ See 2011 Guidance on Infrastructure SIPs for 2008 Pb NAAQS, p. 2. See also 2013 Guidance on Infrastructure SIPs, p. 4.

³⁸ 67 FR 7954, February 21, 2002.

³⁹ EPA's "State Implementation Plan (SIP) Lean Toolkit for Collaboration Between EPA and Air Agencies," dated December 6, 2019 (2019 SIP Lean Toolkit).

⁴⁰ 88 FR 14920, March 10, 2023.

also examines the actual monitored Pb concentrations and proposes to determine that, as of the end of 2024, the Canton Nonattainment Area achieved attainment of the 2008 Pb NAAQS as expeditiously as practicable, approximately 1.5 years after the April 10, 2023, effective date of the redesignation, and earlier than the April 10, 2028, date based on the full 5 years allowed under CAA section 172(a)(2).

b. CAA Section 172(b)—Schedule for Plan Submissions

Under CAA section 172(b) and consistent with CAA section 191(a), the Administrator required Ohio to submit a SIP revision for the Canton Nonattainment Area within 18 months of the April 10, 2023, effective date of the nonattainment redesignation.⁴¹ The EPA proposes to find that Ohio EPA met this requirement by submitting its SIP revision for an attainment plan in the Canton Nonattainment Area on September 19, 2024, which was sooner than 18 months from the April 10, 2023, effective date of the nonattainment designation.

c. CAA Section 172(c)(1)—Reasonably Available Control Measures/Reasonably Available Control Technology

CAA section 172(c)(1) requires plans for all nonattainment areas to provide for the implementation of all reasonably available control measures (RACM), including reasonably available control technology (RACT) for existing sources, as expeditiously as practicable and to provide for attainment of the NAAQS.

Ohio's 2024 Canton Pb SIP Revision identified two stationary sources of Pb emissions located within the boundaries of the Canton Nonattainment Area that report to Ohio EPA's Emissions Inventory System and the National Emissions Inventory: (1) Republic Steel—Canton Plant and (2) United Rolls, Inc. Ohio's 2024 Canton Pb SIP Revision describes United Rolls, Inc. as an iron and steel roll manufacturing facility located at 1400 Grace Avenue Northeast, Canton, Ohio. Based on emissions data from 2017 to 2023, only the Republic Steel—Canton Plant met the EPA's recommended threshold of 0.5 tons per year (tpy) for a RACT analysis.^{42, 43} As such, Ohio EPA considered potential RACM

applications for this facility as identified in the 2012 Pb RACM Guidance¹ for fugitive dust control.

Ohio EPA documented the decline in Pb emissions from the Republic Steel—Canton Plant from 4.3561 tons in 2020, to 0.8249 tons in 2021, to 0.1398 tons in 2022, to 0.0672 in 2023.⁴⁴ Ohio EPA also documented the corresponding sharp decrease in monitored Pb concentrations and improvement in air quality. The three-month rolling average Pb concentrations measured at the Republic Steel monitoring site have decreased significantly from 0.40 µg/m³ in 2021 to 0.00 µg/m³ in 2024. Over the course of one month, between the time that Republic Steel was idled in August 2023 to the time the shutdown was announced in September 2023, the three-month rolling average Pb concentrations declined from 0.11 µg/m³ to 0.03 µg/m³. Further decreases occurred over the next two months with Pb concentrations decreasing from 0.01 µg/m³ in October 2023 to 0.00 µg/m³ in November 2023, where the ambient air concentrations have remained since.⁴⁵ The EPA notes that Ohio fully demonstrated that these improvements in ambient air quality are due to permanent and enforceable reductions in emissions resulting from the permanent shutdown of all emission units requiring air permits and the termination of the associated air permits at the Republic Steel—Canton Plant, which became effective July 26, 2024. Additionally, Ohio EPA documented that no source of Pb emissions would be allowed to construct, reopen, modify, or reconstruct without meeting all applicable NSR requirements in Ohio's SIP at 40 CFR 51.1870(c) as a new source.

Given the permanent shutdown of all emission units requiring air permits at the Republic Steel—Canton Plant, Ohio EPA reasoned that any fugitive Pb-bearing dust control measures implemented outside of activities associated with potential cleanup, shutdown, deconstruction, and/or remediation at the facility would likely have no significant impact on monitored ambient Pb concentrations at the Republic Steel or Republic Community monitoring sites. Consistent with the 2008 Pb NAAQS Final Rule,⁴⁶ Ohio determined, and the EPA agrees, that no

RACM exists that would appreciably reduce fugitive dust emissions from the Republic Steel—Canton Plant or expedite attainment of the 2008 Pb NAAQS as this time.

However, to meet the requirements of CAA section 172(c)(9) and 175A, Ohio EPA is requiring that the Republic Steel—Canton Plant implement certain contingency measures, similar to the measures identified in the 2012 Pb RACM Guidance, during cleanup and/or remediation activities if either the Republic Steel or Republic Community monitoring sites measure ambient Pb concentrations above specific trigger levels. These contingency measures are set forth in the Ohio EPA Director's Final Findings and Orders, effective September 17, 2024,⁴⁷ and are addressed in sections II.A.2.h. and III.B. of this preamble and in sections 4.1.2.8 and 5.2.5 of the TSD.

As discussed above and consistent with the 2008 Pb NAAQS final rule, the EPA is proposing to find that Ohio's 2024 Canton Pb SIP Revision has met the RACM provisions of CAA section 172(c)(1).

d. CAA Section 172(c)(2)—Reasonable Further Progress

CAA section 172(c)(2) sets forth that nonattainment plans must require reasonable further progress (RFP)⁴⁸ in annual incremental reductions of emissions to ensure attainment by the attainment date. While the EPA believes that RFP for Pb nonattainment areas should yield significant emission reductions under an ambitious compliance schedule, the Canton Nonattainment Area has already achieved significant permanent and enforceable reductions in Pb emissions, declining from 4.4224 tpy in 2020 to 0.1508 tpy in 2023 as shown in Table 1 and discussed in section III.B. of this preamble and in sections 4.1.2.3 and 5.2.2 of the TSD. These reductions have led to sustained monitored ambient Pb concentrations below the 2008 Pb NAAQS substantially earlier than the applicable attainment date, as demonstrated in Tables 4 and 5 of the TSD. With the permanent and enforceable emission reductions already achieved resulting in sustained ambient Pb concentrations below the 2008 Pb NAAQS, the EPA is proposing to find

⁴¹ 88 FR 14920; 14921, March 10, 2023.

⁴² See EPA, Office of Air Quality Planning and Standards, "Implementation of the 2008 Lead National Ambient Air Quality Standards: Guide to Developing Reasonably Available Control Measures (RACM) for Controlling Lead Emissions", March 2012, EPA-457/R-12-001 (2012 Pb RACM Guidance).

⁴³ See the 2008 Pb NAAQS Proposed Rule, 73 FR 29184, May 20, 2008.

⁴⁴ Data is provided in Ohio's 2024 Canton Pb SIP Revision, appendix C.

⁴⁵ See Table 1 and Figure 2 of Ohio's 2024 Canton Pb SIP Revision and Table 1 of Ohio's 2025 Canton Pb Redesignation Request depicting three-month rolling average Pb data from 2017–2024 at the Republic Steel and Republic Community ambient air quality monitors.

⁴⁶ 73 FR 66964; 67038, November 12, 2008.

⁴⁷ See appendix N of Ohio's 2024 Canton Pb SIP Revision and appendix E of Ohio's 2025 Canton Pb Redesignation Request.

⁴⁸ RFP is defined in CAA section 171(1) as "such annual incremental reductions in emissions of the relevant air pollutant as are required by part D or may reasonably be required by EPA for the purpose of ensuring attainment of the applicable NAAQS by the applicable attainment date."

that RFP has already been made and that Ohio 2024 Canton Pb SIP Revision has met the RFP provisions of CAA section 172(c)(2).

e. CAA Section 172(c)(3)—Emissions Inventory

CAA section 172(c)(3) requires SIPs for nonattainment areas to include a comprehensive, accurate, and current inventory of actual emissions from all sources of the relevant pollutants in the nonattainment areas. In terms of Pb emissions inventories, the threshold level of the emissions inventory reporting requirement for point sources in Pb SIP inventories is 0.5 tpy

consistent with the 2008 Pb NAAQS Final Rule,⁴⁹ 40 CFR 51.117(e)(1), the Air Emissions Reporting Requirements (AERR),⁵⁰ and 40 CFR part 58 appendix D. As shown in Table 1, Ohio's 2024 Canton Pb SIP Revision included a comprehensive Pb emissions inventory for the Canton Nonattainment Area for the years 2017 through 2023, which accounted for emissions from the Republic Steel—Canton Plant, which was the only source in the Canton Nonattainment Area with Pb emissions of 0.5 tpy or greater, as well as United Rolls, Inc. even though its emissions were below the inventory threshold.⁵¹ Ohio clarified that no area, mobile, non-

road, or marine/air/rail sources of Pb emissions contribute to nonattainment in the Canton Nonattainment Area. The EPA is proposing to approve the Pb emissions inventory for the Canton Nonattainment Area that was submitted by Ohio EPA in Table 2 and appendix C of the 2024 Canton Pb SIP Revision and in Table 3 of the 2025 Canton Pb Redesignation Request, including the 2020 base year Pb emission inventory, as fully meeting the comprehensive emissions inventory requirement of CAA section 172(c)(3) for sources that emit more than 0.5 tpy Pb as required by 40 CFR 51.117(e)(1).

TABLE 1—Pb EMISSIONS INVENTORY IN THE CANTON NONATTAINMENT AREA FROM 2017–2023

Year	Facility Pb emissions (tons)								
	Republic Steel—Canton Plant			United Rolls, Inc.			Canton nonattainment area (combined facility Pb emissions)		
	Stack	Fugitive	Total	Stack	Fugitive	Total	Stack	Fugitive	Total
2017	0.6502	0.1600	0.8103	0.0290	0.0320	0.0610	0.6792	0.1921	0.8713
2018	0.6402	0.0220	0.6623	0.0585	0.0031	0.0616	0.6987	0.0251	0.7239
2019	0.6918	0.0200	0.7119	0.0588	0.0031	0.0619	0.7506	0.0231	0.7738
2020	1.7357	2.6204	4.3561	0.0630	0.0033	0.0663	1.7987	2.6237	4.4224
2021	0.4478	0.3771	0.8249	0.0715	0.0038	0.0753	0.5193	0.3809	0.9002
2022	0.0578	0.0820	0.1398	0.0822	0.0043	0.0865	0.1400	0.0863	0.2263
2023	0.0297	0.0375	0.0672	0.0793	0.0042	0.0835	0.1091	0.0417	0.1508

f. CAA Section 172(c)(4) and (c)(5)—Identification and Quantification of Emissions and Nonattainment New Source Review Permits

CAA section 172(c)(4) requires the identification and quantification of emissions from any new or modified stationary source in the nonattainment area and a demonstration that such emissions will not interfere with attainment by the applicable attainment date. CAA section 172(c)(5) requires permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. In this regard, as addressed in section II.A.1.a. of this preamble and in section 4.1.1.1 of the TSD, the EPA previously approved Ohio's PSD permitting program⁵² and NSR permitting program for nonattainment areas⁵³ for all new major sources and major modifications in Ohio to help achieve the 2008 Pb NAAQS.⁵⁴ Therefore, Ohio has already met the applicable requirements of CAA sections 172(c)(4) and (c)(5).

g. CAA Section 172(c)(6)—Other Measures

CAA section 172(c)(6) requires the nonattainment plan to include enforceable emission limitations and other control measures, means, or techniques, as well as schedules and timetables for compliance as necessary to provide for attainment by the attainment date.

To account for control measures that were put into place as expeditiously as possible, Ohio's 2024 Canton Pb SIP Revision fully documented the permanent shutdown of all emission units requiring air permits at the Republic Steel—Canton Plant and the termination of all associated air permits effective July 26, 2024. Additionally, as discussed in section II.A.2.h. of this preamble and in section 4.1.2.8 of the TSD, Ohio's 2024 Canton Pb SIP Revision contains contingency measures that would be enacted within specified timeframes in the event ambient air monitoring exceeds certain Pb levels to ensure attainment of the 2008 Pb

NAAQS by the attainment date. As such, Ohio ensured appropriate enforceable control measures and timetables were put into place as expeditiously as practicable to result in three years of monitored clean data by the attainment date. Therefore, the EPA is proposing that Ohio's 2024 Canton Pb SIP Revision has met the applicable requirements of CAA section 172(c)(6) for the Canton Nonattainment Area.

h. CAA Section 172(c)(9)—Contingency Measures

CAA section 172(c)(9) requires that nonattainment plans contain contingency measures that take effect without further action by the State or the Administrator if the nonattainment area fails to make RFP or attain the NAAQS by the attainment date.

Ohio's 2024 Canton Pb SIP Revision contains contingency measures consistent with the EPA's examples⁵⁵ and 2012 Pb RACM Guidance for fugitive Pb-bearing dust that are geared toward ensuring attainment by the

⁴⁹ See 73 FR 66964; 67042, November 12, 2008.

⁵⁰ See 80 FR 8787, February 19, 2015.

⁵¹ See Ohio's 2024 Canton Pb SIP Revision, Table 2 and appendix C.

⁵² 66 FR 51570, October 10, 2001, and 68 FR 2909, January 22, 2003.

⁵³ 68 FR 1366, January 10, 2003.

⁵⁴ See Ohio's 2024 Canton Pb SIP submission, p. 3–4.

⁵⁵ See 58 FR 67748; 67752, appendix 1, December 22, 1993. Some examples of contingency measures for controlling area sources of fugitive Pb-bearing dust include paving more roads, stabilizing more storage piles, and increasing the frequency of street cleaning.

attainment date, including additional watering, additional cleaning, building/equipment repairs, additional closing of building openings, updated work practices, and/or application of chemical suppressant to control fugitive dust from the facility. These contingency measures would be triggered if monitored Pb concentrations at either the Republic Steel or Republic Community monitoring sites exceed certain levels and would require certain actions by Republic Steel or any subsequent owner or operator of the Canton Plant. Ohio EPA placed these contingency measures in the December 12, 2023, Final Consent Order and Final Judgment Entry as well as the September 17, 2024, Ohio EPA Director's Final Findings and Orders.

Under the contingency measures of the December 12, 2023, Final Consent Order, the action level responses are triggered in the event the individual daily value exceeds $0.75 \mu\text{g}/\text{m}^3$ and/or the three-month average Pb concentration exceeds the 2008 Pb NAAQS of $0.15 \mu\text{g}/\text{m}^3$. The required responses include both immediate actions to cease activities possibly contributing to the NAAQS exceedance as well as certain other actions within 14 days.

The September 17, 2024, Director's Final Findings and Orders set forth an additional action level for measured ambient Pb concentrations at $0.10 \mu\text{g}/\text{m}^3$, which would trigger these contingency measures. These Orders also require a sitewide plan to be approved by Ohio EPA prior to undertaking activities related to demolition or deconstruction to further ensure control of fugitive Pb-bearing dust. Importantly, since ownership of the Canton Plant may one day be transferred, the EPA reiterates that the contingency measures contain legally binding assurances that the obligations contained therein apply to Republic Steel or any subsequent owner or operator of the Canton Plant. For all these reasons and as further addressed in section 4.1.2.8 of the TSD, the EPA is proposing to find that Ohio's contingency measures in the 2024 Canton Pb SIP Revision satisfy the applicable requirements of CAA section 172(c)(9).

3. CAA Section 176(c) Requirements

CAA section 176(c) requires States to establish criteria and procedures in the applicable SIPs to ensure that federally supported or funded activities are consistent with ("conform to") the NAAQS air quality planning goals. The requirements of CAA 176(c) apply to transportation plans, programs and

projects developed, funded or approved under title 23 of the U.S. Code and the Federal Transit Act⁵⁶ (transportation conformity) as well as to all other federally supported or funded projects (general conformity). In this regard, the EPA approved Ohio's general conformity SIP on February 12, 1996. 61 FR 9644; 9646, March 11, 1996. In the 2008 Pb NAAQS Final Rule, the EPA determined that "In light of the elimination of Pb additives from gasoline, transportation conformity does not apply to the Pb NAAQS." 73 FR 66964; 67043, November 12, 2008.

4. CAA Sections 191 and 192 Requirements

CAA section 191(a) directs States to submit SIPs to the EPA for areas designated as nonattainment with respect to the primary NAAQS for sulfur oxides, nitrogen dioxide, or Pb within 18 months of the effective date of the designation. The EPA proposes to find that Ohio EPA met this requirement by submitting its attainment plan and attainment demonstration for the Canton area on September 19, 2024, which was sooner than 18 months from the April 10, 2023, effective date of the nonattainment designation.

CAA section 192(a) requires that SIPs for nonattainment areas must provide for attainment of the relevant NAAQS as expeditiously as practicable, but no later than 5 years from the effective date of the nonattainment designation. Ohio's 2024 Canton Pb SIP Revision includes an attainment demonstration for the Canton Nonattainment Area that demonstrated attainment of the 2008 Pb NAAQS as expeditiously as practicable, by July 1, 2025, and in less than 5 years from the April 10, 2028, effective date. As such, the EPA is proposing to find that Ohio's 2024 Canton Pb SIP Revision meets the applicable requirements of CAA section 192(a).

B. Attainment Demonstration

To demonstrate future attainment of the NAAQS by predicting the effect of air emissions on ambient air quality, States may be required, under CAA section 110(a)(2)(K), to include air quality modeling and the associated data in a SIP submittal.

To demonstrate that Ohio's control strategy will provide for timely attainment of the 2008 Pb NAAQS as expeditiously as practicable, but no later than the April 10, 2028, attainment date, Ohio EPA's attainment demonstration included a modeling analysis, which followed the procedures in the EPA's

Guideline on Air Quality Models.⁵⁷ Although all emission units requiring permits at the Republic Steel—Canton Plant have been permanently shut down, Ohio EPA performed an atmospheric dispersion modeling analysis using AERMOD which accounted for potential cleanup and/or remediation efforts at the site in the future. As discussed in more detail in section 4.2.2 of the TSD and in appendix M of Ohio's 2024 Canton Pb SIP Revision, the model predicted a maximum three-month rolling average Pb concentration for the Canton Nonattainment Area of $0.099440 \mu\text{g}/\text{m}^3$, a value below $0.15 \mu\text{g}/\text{m}^3$ that demonstrates attainment of the 2008 Pb NAAQS will be attained by April 10, 2028. Based on results of the modeling and Ohio EPA's approach, the EPA proposes to find that Ohio's attainment demonstration satisfies the requirements under CAA section 110(a)(2)(K) by performing appropriate air quality modeling and providing the associated data.

C. 40 CFR 51 Requirements

The EPA's regulations governing the preparation, adoption, and submittal of SIPs are set forth at 40 CFR part 51.

Subpart F⁵⁸ contains the general procedural requirements for all SIPs that cover definitions, stipulations, public hearings, submission of plans, revisions, and approval of plans. How Ohio's 2024 Canton Pb SIP Revision met the State's obligations under these general procedural requirements is addressed under the discussion of CAA section 110(l) in section II.A. of this preamble and in section 4.1.1 of the TSD.

Subpart G⁵⁹ addresses the control strategy generally applicable to SIPs as well as specific additional requirements for Pb nonattainment areas. How Ohio's 2024 Canton Pb SIP Revision addressed each of the applicable requirements of subpart G in 40 CFR 51.110 through 51.117, including specific requirements for Pb nonattainment areas, is described in section II.C. of this preamble and in section 4.3 of the TSD. Based on this information, the EPA is proposing to find that Ohio's 2024 Canton Pb SIP Revision adequately addressed each of the requirements of 40 CFR 51.110 through 51.117.

D. The EPA's Proposed Approval of Ohio's 2024 Canton Pb SIP Revision

Based on the EPA's review and evaluation of the information in sections

⁵⁷ Guideline on Air Quality Models, appendix W to 40 CFR 51.

⁵⁸ See 40 CFR 51.100–51.105.

⁵⁹ See 40 CFR 51.110–51.126.

⁵⁶ 79 U.S. Code 1601.

II.A.–II.C. of this preamble of this preamble and in sections 4.1–4.3 of the TSD, the EPA is proposing to find that Ohio’s 2024 Canton Pb SIP Revision satisfies the applicable requirements of CAA sections 110(a)(2)(D)(i)(I), 110(a)(2)(I), 110(a)(2)(K), 110(l), 172, 191, and 192(a) to fully address the nonattainment plan provisions for the Canton Nonattainment Area.

III. Attainment and Maintenance of the 2008 Pb NAAQS and the EPA’s Review of Ohio’s 2025 Canton Pb Maintenance Plan and Redesignation Request

A. Determination That the Area Is Attaining

As shown in Table 2, Ohio’s 2025 Canton Pb Maintenance Plan and Redesignation Request documented the Canton Nonattainment Area had monitored attainment and achieved a design value of 0.15 µg/m³ for the most recent three-year period 2022–2024,

thereby attaining the 2008 Pb NAAQS of 0.15 µg/m³. Furthermore, data in AQS for 2025 (January through September) indicate that the area continues to show concentrations consistent with attainment of the 2008 Pb NAAQS. The complete, quality-assured, and certified ambient air monitoring data from the Republic Steel monitoring site along with the three-month rolling averages and the associated design values are included in Ohio’s 2025 Canton Pb Redesignation Request as appendix D as well as Tables 4, 5, and 6 of the TSD.

TABLE 2—THREE-MONTH ROLLING AVERAGE Pb CONCENTRATIONS FROM 2022–2024 IN THE CANTON NONATTAINMENT AREA

Monitoring site	Three-month period	Three-month rolling average (µg/m ³)		
		2022	2023	2024
AQS ID 39–151–0024, Republic Steel Monitoring Site, 3150 Georgetown Rd. NE, Canton, Ohio.	November–January	0.07	0.06	0.00
	December–February	0.06	0.06	0.00
	January–March	0.07	0.06	0.00
	February–April	0.03	0.10	0.00
	March–May	0.04	0.09	0.00
	April–June	0.07	0.15	0.00
	May–July	0.09	0.12	0.00
	June–August	0.12	0.11	0.00
	July–September	0.10	0.03	0.00
	August–October	0.11	0.01	0.00
	September–November	0.10	0.00	0.00
	October–December	0.11	0.00	0.00

Based on a review of the data in accordance with the 40 CFR part 50, appendix R, and 40 CFR part 58, and the design value for 2022–2024, the EPA is proposing to determine that the Canton Nonattainment Area is attaining the 2008 Pb NAAQS.

B. Maintenance Plan for Continued Attainment

Since the Canton Nonattainment Area has monitored attainment of the 2008 Pb NAAQS as discussed in section III.A. of this preamble and in section 5.1 of the TSD, Ohio’s April 25, 2025 SIP Revision included a maintenance plan for continued attainment (2025 Canton Pb Maintenance Plan) as required by CAA section 175A. CAA section 175A(a) requires such maintenance plans to provide for maintenance of the NAAQS for at least 10 years after the redesignation and to contain measures that may be necessary to ensure such maintenance. To address the possibility of future NAAQS violations, the maintenance plans must contain contingency provisions, as required by CAA section 175A(d), to assure the State will promptly correct any violation of the NAAQS which occurs after the area is redesignated to attainment. Then, 8 years after the redesignation, CAA section 175A(b) requires States to

submit a SIP revision with a revised maintenance plan to continue maintaining the NAAQS for another 10 years following the initial 10-year maintenance period.

The EPA has identified the following list of five core provisions to ensure maintenance of the relevant NAAQS in an area for which a State is seeking redesignation from nonattainment to attainment: attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, and contingency plan.⁶⁰

For the attainment inventory, as discussed in section 5.2.1 of the TSD, the EPA proposes to find that Ohio’s attainment inventory appropriately identified the 2024 level of Pb emissions in the Canton Nonattainment Area at the time the monitoring data showed attainment, a level which is considered sufficient to attain the 2008 Pb NAAQS.⁶¹

For the maintenance demonstration, as discussed in section 5.2.2 of the TSD, the EPA proposes to find that Ohio fully documented that the improvement in air quality is based on permanent and enforceable emission reductions as well

as NSR provisions that will ensure continued attainment. To demonstrate the NAAQS will be maintained for 10 years following the redesignation, Ohio effectively showed that future emissions would not exceed the level of the 2024 attainment inventory and that modeling of its control strategy demonstrated the future mix of sources will not cause a violation of the 2008 Pb NAAQS through 2037.⁶²

For the monitoring network, as discussed in section 5.2.3 of the TSD, the EPA proposes to find that Ohio’s 2025 Canton Pb Maintenance Plan appropriately provides a commitment to continue monitoring and reporting the ambient Pb levels at both the Republic Steel and Republic Community monitoring sites to ensure continued maintenance of the 2008 Pb NAAQS as well as a commitment to consult with the EPA prior to making any changes to the State’s approved air monitoring network.

For the verification of continued attainment, as discussed in section 5.2.4 of the TSD, the EPA proposes to find that Ohio EPA met this provision by committing to track future Pb emissions inventories and compare them with the Pb inventories for the 2020 base year,

⁶⁰ See September 4, 1992 Calcagni Memo, section 5.

⁶¹ See 1992 Calcagni Redesignations Memo, p. 8.

⁶² See 1992 Calcagni Redesignations Memo, p. 9.

2024 attainment year, and 2037 future maintenance year to assess emission trends and to ensure continued compliance with the 2008 Pb NAAQS.

For the contingency plan, as discussed in section 5.2.5 of the TSD, Ohio EPA carried forward the contingency measures from the September 17, 2024, Director's Final Findings and Orders into Ohio's 2025 Canton Pb Maintenance Plan that set action levels for measured Pb ambient concentrations to trigger certain responses. These contingency measures require Republic Steel or any subsequent owner or operator of the Canton Plant to take certain actions if the Republic Steel or Republic Community monitoring sites reach Pb daily average concentrations of 0.75 µg/m³ or 1-month average concentrations of 0.10 µg/m³. These actions include additional watering, additional cleaning, building/equipment repairs, additional closing of building openings, updated work practices, and/or application of chemical suppressant to control fugitive Pb-bearing dust from the Canton Plant within 14 days of being notified of the monitoring results. Additionally, these Orders require Republic Steel or any subsequent owner or operator to submit to Ohio EPA a plan for approval for sitewide control of fugitive Pb-bearing dust at least 30 days prior to undertaking any activities related to demolition or deconstruction of any portion of the facility. These Orders also require that any subsequent owner assume all obligations with these Orders if the Canton Plant changes ownership. Based on these measures, the EPA proposes to find that Ohio has fully satisfied the requirement for contingency provisions for a maintenance plan under CAA section 175A(d).

Based on the information in sections 5.2.1–5.2.5 of the TSD, the EPA is proposing to approve Ohio's 2025 Canton Pb Maintenance Plan as containing all these necessary provisions to maintain the 2008 Pb NAAQS for the initial 10 years under CAA section 175A as well as a commitment from the State to review the maintenance plan 8 years after redesignation for the next 10 years.

IV. Criteria for Redesignation to Attainment and the EPA's Review of Ohio's SIP Revisions

A. CAA Criteria for Redesignation to Attainment

As noted above, on April 25, 2025, Ohio requested the EPA redesignate the Canton Nonattainment Area from nonattainment to attainment of the 2008

Pb NAAQS since the area has achieved a design value of 0.15 µg/m³ for the most recent three-year period 2022–2024, thereby meeting the 2008 Pb NAAQS of 0.15 µg/m³.

While the EPA is proposing to determine that the Canton Nonattainment Area has monitored attainment of the 2008 Pb NAAQS in section III.A. of this preamble and section 5.1 of the TSD, the EPA notes that this, in and of itself, does not constitute a redesignation to attainment.⁶³ There are five criteria for redesignating an area from nonattainment to attainment that are found in CAA section 107(d)(3)(E):

(i) the Administrator determines that the area has attained the NAAQS;

(ii) the Administrator has fully approved the applicable implementation plan for the area under CAA section 110(k);

(iii) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions;

(iv) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of CAA section 175A; and

(v) the State containing such area has met all requirements applicable to the area under CAA section 110 and part D of CAA title 1.

How Ohio's submittals met each of these five criteria for redesignation of the Canton Nonattainment Area to attainment is addressed in section IV.B. of this preamble and section 6.2 of the TSD.

B. How Ohio's Submittals Met the CAA Criteria for Redesignation to Attainment

In reviewing Ohio's 2024 Canton Pb SIP Revision and 2025 Canton Pb Maintenance Plan and Redesignation Request, the EPA addresses each of the five criteria under CAA section 107(d)(3)(E) for redesignating an area from nonattainment to attainment in turn below.

In acting upon a redesignation request, the EPA may rely on any prior SIP approvals plus any additional approvals it may perform in conjunction with acting on the redesignation. The 1992 Calcagni Redesignations Memo and 1992 Calcagni SIP Actions Memo

both note, “[A]pproval action on SIP elements and the redesignation request may occur simultaneously,” and the EPA has frequently taken this approach in its redesignation actions.⁶⁴ As such, the EPA is proposing to approve all required SIP elements simultaneously in conjunction with acting in accordance with Ohio EPA's request to redesignate the Canton Nonattainment Area from nonattainment to attainment of the 2008 Pb NAAQS.

1. CAA Section 107(d)(3)(E)(i)—Attainment of the 2008 Pb NAAQS

Based on the information presented in section III.A. of this preamble and in section 5.1 of the TSD, the EPA is proposing to determine that, as of the end of 2024, the Canton Nonattainment Area achieved attainment of the 2008 Pb NAAQS as expeditiously as practicable, approximately 1.5 years after the April 10, 2023, effective date of the redesignation, and earlier than the April 10, 2028, date based on the full 5 years allowed under CAA section 172(a)(2).

2. CAA Section 107(d)(3)(E)(ii)—Approval of Implementation Plan Under CAA Section 110(k) That Meets All Applicable Requirements of Title 1 of the CAA

As summarized in section II.D. of this preamble and in section 4.4 of the TSD, the EPA is proposing to fully approve Ohio's 2024 Canton Pb SIP Revision under CAA section 110(k) as satisfying all the applicable requirements of title 1 under CAA sections 110(a)(2)(D)(i)(I), 110(a)(2)(I), 110(a)(2)(K), 110(l), 172, 191, and 192(a) as well as 40 CFR 51 Subparts F and G.

3. CAA Section 107(d)(3)(E) (iii)—Improvement in Air Quality Due to Permanent and Enforceable Measures

From the time the Republic Steel—Canton Plant shutdown and all air permits were terminated in July 2024, Ohio documented the corresponding sharp decrease in monitored Pb concentrations and improvement in air quality. Based on the information presented in sections II.A.2.c. and III.A. of this preamble and in sections 4.1.2.3 and 5.1 of the TSD, the EPA proposes to determine that the improvement in ambient air quality is due to permanent and enforceable reductions in Pb emissions resulting from the permanent

⁶³ “A determination that an area has attained by the applicable attainment date does not constitute a redesignation to attainment.” 90 FR 31906; 31908, July 16, 2025.

⁶⁴ See 66 FR 53096, October 19, 2001 (Pittsburgh-Beaver Valley, Pennsylvania); 65 FR 37879, June 19, 2000 (Cincinnati-Hamilton, Ohio); 61 FR 20458, May 7, 1996 (Cleveland-Akron-Lorain, Ohio); 60 FR 37366, July 20, 1995 and 61 FR 31832 through 31833, June 21, 1996 (Grand Rapids, MI); 68 FR 25413, May 12, 2003 and 68 FR 25418, May 12, 2003 (St. Louis, MO).

shutdown of all emission units requiring air permits and the termination of the associated air permits at the Republic Steel—Canton Plant.

4. CAA Section 107(d)(3)(E)(iv)—Approval of Maintenance Plan Under CAA Section 175A

As addressed in section III.B. of this preamble and in section 5.2 of the TSD, the EPA is proposing to approve Ohio's 2025 Canton Pb Maintenance Plan under CAA section 175A as effectively addressing each of the five core provisions identified by the EPA to maintain the 2008 Pb NAAQS for the initial 10 years (attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, and contingency plan) as well as providing a commitment from the State to review the maintenance plan 8 years after redesignation for the next 10 years.

5. CAA Section 107(d)(3)(E)(v)—Approval of Applicable Requirements for Purposes of Redesignation Under CAA Section 110 and Part D of Title 1

Based on the information addressed in sections III.A. and III.B. of this preamble and in section 6.2.5 of the TSD, the EPA is proposing to determine that Ohio's 2025 Canton Pb Maintenance Plan and Redesignation Request have satisfied all the applicable requirements for the purposes of redesignation under CAA section 110 and part D of title 1.

For CAA section 110, the EPA previously approved Ohio's Infrastructure and Transport SIPs, and the EPA is proposing to find that Ohio's 2024 Canton Pb SIP Revision satisfies the applicable requirements under CAA sections 110(a)(2)(D)(i)(I), 110(a)(2)(I) and 110(a)(2)(K) that specifically address the nonattainment plan provisions for the Canton Nonattainment Area as well as the anti-backsliding provisions of CAA section 110(l).

For CAA part D of title I, the EPA is proposing to find that Ohio's 2024 Canton Pb SIP Revision, which was comprised of an attainment plan with monitoring data, emissions inventory, attainment demonstration, and contingency measures to demonstrate attainment as expeditiously as practicable and no later than five years after the April 10, 2023 effective date of the nonattainment designation, meets each of the applicable provisions of CAA sections 172, 191(a), and 192(a).

C. The EPA's Proposed Redesignation of the Canton Nonattainment Area From Nonattainment to Attainment of the 2008 Pb NAAQS

Based on the EPA's proposed findings and approvals in the synopsis in section IV.B. of this preamble and in section 6.2 of the TSD, the EPA is proposing to determine that Ohio's 2024 Canton Pb SIP Revision as well as Ohio's 2025 Canton Pb Maintenance Plan and Redesignation Request have met the requirements for the EPA to redesignate the Canton Nonattainment Area from nonattainment to attainment under CAA section 107(d)(3)(E). As such, the EPA is proposing to approve Ohio's April 25, 2025 Canton Pb Maintenance Plan and to act in accordance with Ohio's request to redesignate the Canton Nonattainment Area from nonattainment to attainment of the 2008 Pb NAAQS in accordance with CAA sections 107(d)(3)(E)(i) through (v).

V. The EPA's Proposed Actions

The EPA is proposing to approve all of Ohio's required SIP elements simultaneously in conjunction with proposing to act in accordance with Ohio's request to redesignate the Canton Nonattainment Area from nonattainment to attainment of the 2008 Pb NAAQS. Specifically, the EPA is proposing the following separate, but related, actions:

1. To approve Ohio's September 19, 2024 Canton Pb SIP Revision as meeting the applicable requirements of CAA sections 110(a)(2)(D)(i)(I), 110(a)(2)(I), 110(a)(2)(K), 110(l), 172, 191, and 192(a) and 40 CFR 51 Subparts F and G;
2. To determine that the Canton Nonattainment Area is attaining the 2008 Pb NAAQS;
3. To approve Ohio EPA's comprehensive Pb emissions inventory for the Canton Nonattainment Area as meeting the applicable requirements of CAA section 172(c)(3);
4. To approve Ohio's 2025 Canton Pb Maintenance Plan as meeting the applicable requirements of CAA section 175A;
5. To determine that Ohio's 2024 Canton Pb SIP Revision as well as Ohio's 2025 Canton Pb Maintenance Plan and Redesignation Request have met the applicable requirements for the EPA to redesignate the Canton Nonattainment Area from nonattainment to attainment of the 2008 Pb NAAQS under CAA section 107(d)(3)(E); and thus
6. To act in accordance with Ohio's April 25, 2025 Canton Pb Redesignation Request and to redesignate the Canton Nonattainment Area from

nonattainment to attainment of the 2008 Pb NAAQS in accordance with CAA section 107(d)(3)(E)(i) through (v).

VI. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
 - Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review under Executive Order 12866;
 - Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
 - Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
 - Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
 - Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
 - Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
 - Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
 - Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.
- In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rulemaking does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as

specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: March 27, 2026.

Cheryl Newton,

Acting Regional Administrator, Region 5.

[FR Doc. 2026-06937 Filed 4-9-26; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R05-OAR-2023-0635; FRL-13222-01-R5]

Air Plan Approval; Michigan; Redesignation and Maintenance Plan for the Partial St. Clair 2010 1-Hour Sulfur Dioxide (SO₂) NAAQS Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to redesignate the St. Clair nonattainment area in southeast Michigan to attainment for the 2010 sulfur dioxide (SO₂) National Ambient Air Quality Standard (NAAQS). The EPA is also proposing to approve Michigan's maintenance plan for the St. Clair SO₂ nonattainment area and emissions limits for the DTE Belle River Power Plant. Michigan submitted the request for approval of the St. Clair area redesignation and maintenance plan on December 15, 2023, with a supplement to the request on July 24, 2025.

DATES: Comments must be received on or before May 11, 2026.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2023-0635 at <https://www.regulations.gov>, or via email to arra.sarah@epa.gov. For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket.

Do not submit to the EPA's docket at <https://www.regulations.gov> any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI, PBI, or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Throughout this document whenever "we," "us," or "our" is used, we mean the EPA.

I. Background

On June 22, 2010 (75 FR 35520), the EPA established a new 1-hour SO₂ NAAQS of 75 parts per billion (ppb), which can be met at an ambient air quality monitoring site (or in the case of dispersion modeling, at an ambient air quality receptor location) when the 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations is less than or equal to 75 ppb, as determined in accordance with appendix T of 40 CFR part 50. 40 CFR 50.17(a)-(b).

On September 12, 2016 (81 FR 45039), the EPA designated part of St. Clair County, Michigan as nonattainment for the 2010 SO₂ NAAQS based on computer modeling that incorporated SO₂ data from Continuous Emissions Monitors (CEM) at the DTE Belle River and St. Clair power plants.

Section 191 of the CAA directs States to submit a State Implementation Plan (SIP) for an area designated as nonattainment for the 2010 SO₂ NAAQS to the EPA within 18 months of the

effective date of the designation. The SIP must demonstrate that the State will achieve the NAAQS for the nonattainment area as expeditiously as practicable, but no later than five years from the effective date of designation. As a result, Michigan was required to submit a nonattainment SIP to the EPA by March 12, 2018, to bring the St. Clair area into attainment by the attainment date of September 12, 2021. Michigan did not submit a nonattainment SIP for the St. Clair area by the March 12, 2018, deadline, instead relying on the EPA's Clean Data Policy, described in more detail below, to address the requirement.

On July 24, 2020, Michigan submitted a request that the EPA make a Clean Data Determination (CDD) under the CAA and the EPA's Clean Data Policy, based on both local monitored air quality data and a new dispersion modeling analysis, demonstrating that the St. Clair nonattainment area attained the 2010 SO₂ NAAQS. When a nonattainment area is attaining the 2010 SO₂ NAAQS based on the most recent available data, the EPA may issue a CDD suspending certain planning requirements for as long as the area continues to attain the NAAQS. On June 30, 2021, Michigan submitted the St. Clair area's emissions inventory and nonattainment new source review (NNSR) verification required by CAA section 172 to the EPA. The EPA issued a CDD for the St. Clair area on December 7, 2021 (86 FR 69173), and approved Michigan's submittal of the emissions inventory and NNSR elements on February 9, 2022 (87 FR 7387). Additionally, to address requirements under CAA section 179(c), the EPA made a determination of attainment by the attainment date, finding that the St. Clair nonattainment area attained the 2010 SO₂ NAAQS for the relevant period associated with the attainment date of September 12, 2021 (89 FR 104884, December 26, 2024).

II. Evaluation of Michigan's Redesignation Request and Maintenance Plan

Michigan submitted a request for redesignation and a maintenance plan for the St. Clair nonattainment area on December 15, 2023, and supplemented the request on July 24, 2025. In addition to information addressing CAA redesignation and maintenance plan requirements, the submittal addresses the DTE Energy St. Clair Power Plant closure and the reduction of SO₂ emissions from the DTE Belle River Power Plant.

Under section 107(d)(3)(E) of the CAA, the EPA may not promulgate a

redesignation of a nonattainment area (or portion thereof) unless:

1. The EPA has determined that the area has attained the NAAQS;
2. The EPA has fully approved the applicable implementation plan for the area under section 110(k) of the CAA;
3. The EPA has determined that improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollution control regulations and other permanent and enforceable reductions;
4. The EPA has fully approved a maintenance plan for the area under section 175A of the CAA; and
5. The State containing such area has met all requirements applicable to the area under section 110 of the CAA and part D.

The EPA's evaluation of Michigan's redesignation request and maintenance plan was based on consideration of the five redesignation criteria provided under CAA section 107(d)(3)(E) and is described in the remainder of this section.

A. Criterion (1)—The St. Clair SO₂ Nonattainment Area Has Attained the 2010 SO₂ NAAQS

In accordance with CAA section 107(d)(3)(E)(i), to redesignate a nonattainment area to attainment, the

EPA must determine that the area has attained the applicable NAAQS. An area is attaining the 2010 SO₂ standard when the three-year average of the annual 99th percentile of daily maximum 1-hour average concentrations is less than or equal to 75 ppb consistent with 40 CFR 50.17 and appendix T of Part 50. If dispersion modeling is used to make this determination, an area is attaining the 2010 SO₂ NAAQS when the modeled concentration is at or below the one-hour SO₂ NAAQS of 196.4 micrograms per cubic meter (or 75 ppb).

As stated in the EPA's April 23, 2014, *Guidance for 1-Hour SO₂ Nonattainment Area SIP Submissions* (April 2014 SO₂ Guidance), there are two components needed to support an attainment determination: (1) a review of representative air quality monitoring data; and (2) a further analysis, where there are no monitors, or the monitors are not located in the area of maximum concentration, using air quality dispersion modeling, which will generally be needed to estimate SO₂ concentrations throughout the nonattainment area to demonstrate that the entire area is attaining the applicable NAAQS, based on current actual emissions or the fully implemented control strategy. Michigan's redesignation request submission for the St. Clair nonattainment area provides a

demonstration that the area is attaining based on ambient air monitoring data and a dispersion modeling analysis for the nonattainment area.

Per component (1), ambient air monitoring data was collected from 2017 to 2021 by two SO₂ monitors located in the nonattainment area: the Remer monitor near the St. Clair Power Plant and the Mills monitor near the Belle River Power Plant. Because of the nonattainment designation, DTE installed these two on-site SO₂ monitoring and meteorology stations in late 2016. A Michigan Air Quality Division SO₂ monitor, known as the Port Huron monitor, is located approximately 12 miles north of the power plants but is outside the nonattainment area; this monitor is addressed in the Technical Support Document (TSD) accompanying this action.

Monitoring data at the two DTE SO₂ monitors for the period from 2017 through 2019 showed attainment of the SO₂ NAAQS and served as justification for Michigan's July 24, 2020, CDD submittal to the EPA. The DTE monitors continued to collect SO₂ data through the end of 2022 showing that the NAAQS continued to be met. Table 1 details the attaining values of ambient air monitoring data in the St. Clair area in accordance with 40 CFR 50.17(b).

TABLE 1—MONITORING DATA FOR THE SO₂ NONATTAINMENT AREA

[Annual 99th percentile and design values in ppb]

Site ID	Power plant	Monitor site name	99th Percentile values					3-Year design values		
			2017	2018	2019	2020	2021	2017–2019	2018–2020	2019–2021
DTE	Belle River	Mills	46	50	40	28.8	62.2	45	39.6	43.6
DTE	St. Clair	Remer	51	65	45	24.5	41.1	53.6	44.8	46.8

Per component (2), Michigan conducted air quality dispersion modeling in accordance with 40 CFR part 51, appendix W to demonstrate attainment of the 2010 SO₂ NAAQS for the St. Clair nonattainment area based on the fully implemented control strategy. A more in-depth discussion of the EPA's modeling requirements, including an assessment of longer-term average limits, as well as Michigan's modeling analysis is included in the TSD for this action.

Michigan's modeled demonstration of attainment of the SO₂ NAAQS relies upon the permanent and enforceable SO₂ emission limits for the Belle River Power Plant established in Permit to Install 51–22 and the shutdown of the St. Clair Power Plant, which ceased

operation in 2022. Permit to Install 51–22, which implemented revised lower emissions limits for the Belle River facility in April 2022, includes limits for each of the Belle River Power Plant boilers of 0.680 pounds per million British thermal units (lbs/MMBtu) for a 30-day rolling average emission rate and 1.2 pounds per lbs/MMBtu based upon any 3-hour average. The EPA is proposing to incorporate Permit to Install 51–22 into Michigan's SIP in this action.

The April 2014 SO₂ Guidance states that a demonstration that the control strategy in the SIP has been fully implemented is relevant when making an attainment determination based on modeling. Pursuant to the Belle River Renewable Operating Permit, (ROP) MI–

ROP–B2796–2024, the facility submitted quarterly Opacity Excess Emissions Reports containing monthly SO₂ emission rate averages for 2023–2024 to Michigan. These monthly emission rate averages are all within the SO₂ emission limits set forth in Permit to Install 51–22.

Michigan's modeling analysis demonstrates that the SO₂ emission limits contained in Permit to Install 51–22, governing Belle River Power Plant SO₂ emissions, in combination with the St. Clair Power Plant shutdown and background concentrations, yield a maximum SO₂ concentration of 62.8 ppb, which is below the 2010 SO₂ NAAQS of 75 ppb. Therefore, the EPA proposes to conclude that the dispersion modeling analysis demonstrates that the

St. Clair nonattainment area has attained the 2010 SO₂ NAAQS.

B. Criterion (2) and Criterion (5)—Michigan Has Met All Applicable Requirements Under CAA Section 110 and Part D of the CAA, and the EPA Has Fully Approved the Applicable Implementation Plan Under CAA Section 110(K)

In order to be redesignate a nonattainment area to attainment under a NAAQS, a State must have met all applicable requirements of section 110 and part D of the CAA (CAA section 107(d)(3)(E)(v)), and the EPA must have fully approved the applicable implementation plan (CAA section 107(d)(3)(E)(ii)). The EPA's long-standing interpretation of the CAA is that not every requirement under CAA section 110 and part D is applicable for purposes of CAA section 107(d)(3)(E)(ii) and (v). The Agency's interpretation of the statute limiting evaluation of section 110 and part D requirements to only those requirements that are applicable for purposes of redesignation was first articulated shortly after the passage of the 1990 Amendments to the CAA in Agency guidance documents, and has been consistently applied in notice-and-comment redesignation actions over the last three decades.

Many of the CAA section 110 elements that are unrelated to an area's SO₂ attainment status are not applicable requirements for purposes of redesignation. The area will still be subject to these requirements after the area is redesignated to attainment of the 2010 1-hour primary SO₂ NAAQS.

The EPA is proposing to determine that Michigan has met the part D requirements and the EPA has fully approved those requirements that are applicable for purposes of redesignation. Part D is comprised of the general nonattainment area plan requirements in subpart 1 (CAA section 172) as well as pollutant-specific subparts, including CAA section 191 (or subpart 5), which applies to areas designated nonattainment for SO₂, nitrogen dioxide, or lead. In lieu of an attainment SIP for St. Clair, Michigan submitted a CDD consistent with the Clean Data Policy that determined the nonattainment area has attained the 2010 SO₂ NAAQS. In designated nonattainment areas where monitored data demonstrate that the NAAQS have been achieved, the EPA interprets certain requirements of the CAA as no longer applicable for so long a time as air quality continues to meet the standard. Under the Clean Data Policy, the EPA may issue a determination of attainment after notice and comment

rulemaking determining that a specific area is attaining the relevant standard. For such areas, the requirement to submit to the EPA those SIP elements related to attaining the NAAQS is suspended for as long as the area continues to attain the standard; these planning elements include reasonable further progress requirements, attainment demonstrations, reasonably available control measures, contingency measures, and other State planning requirements related to attainment of the NAAQS. In the April 2014 SO₂ Nonattainment Area Guidance, the EPA provides guidance and a rationale for the application of the Clean Data Policy to the 2010 SO₂ NAAQS.

The EPA approved Michigan's CDD request in lieu of an attainment SIP, and the determination became effective December 7, 2021 (86 FR 69173). The EPA's final determination suspended the requirements for Michigan to submit an attainment demonstration and other associated nonattainment planning requirements for the St. Clair nonattainment area as long as the St. Clair area continues to attain the 2010 SO₂ NAAQS. Michigan was still required to submit an emissions inventory under CAA section 172(c)(3) and a nonattainment new source review program under CAA section 172(c)(5). Michigan submitted the St. Clair area's emissions inventory and NNSR verification to the EPA on June 30, 2021, which were approved on February 9, 2022 (87 FR 7387).

CAA sections 172(c)(1) and 172(c)(6) direct States with areas designated as nonattainment to demonstrate that the submitted plan and its emission limitations and control measures provide for attainment of the NAAQS. 40 CFR part 51, subpart G further delineates the control strategy requirements that SIPs must meet, and the EPA has long required that all SIPs and control strategies reflect the four fundamental principles of quantification, enforceability, replicability, and accountability. See "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," (General Preamble) published on April 16, 1992 (57 FR 13498), at 13567 through 13568. SO₂ attainment plans must consist of two components: (1) enforceable emission limits and other control measures that assure implementation of permanent, enforceable and necessary emission controls, and (2) a modeling analysis which meets the requirements of 40 CFR part 51, appendix W. As discussed above in section II.A., Criterion (1), of this document, Michigan's redesignation request

addresses both components, because it includes permanent and enforceable emission reductions for the SO₂ sources in the area and a modeling analysis that demonstrates that Michigan's control strategy provides for attainment of the 2010 SO₂ NAAQS. The EPA is proposing to incorporate Permit to Install 51–22, governing Belle River Power Plant SO₂ emissions, into Michigan's SIP in this action, which will render it Federally enforceable.

Based on the above details and the approval of Michigan's CDD, the EPA is proposing to find that Michigan has met the applicable requirements of section 110 and part D of the CAA for purposes of the redesignation of the St. Clair nonattainment area.

C. Criterion (3)—The EPA Has Determined That Improvement in Air Quality Is Due to Permanent and Enforceable Reductions in Emissions Resulting From Implementation of the Applicable Implementation Plan and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Reductions

To redesignate an area from nonattainment to attainment, section 107(d)(3)(E)(iii) of the CAA requires the EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from the implementation of the SIP and applicable Federal air pollution control regulations and other permanent and enforceable emission reductions.

Permanent and enforceable improvements in air quality for the St. Clair area were focused on the two large sources in the area: the St. Clair Power Plant, which shut down in 2022, and the Belle River Power Plant, which implemented lower emission limits that took effect in April 2022. There are no other sources of significant size emitting SO₂ in the area. Michigan's redesignation request contains permanent and enforceable SO₂ strategies for both DTE power plants. As discussed above in section II.A., Criterion (1), of this document, the reduced emission limits at the Belle River facility are contained within Permit to Install 51–22, which the EPA is proposing to incorporate into Michigan's SIP in this action. The Belle River Power Plant will be required to operate emissions controls following redesignation of the area unless such a change is first approved by the EPA as a revision to Michigan's SIP consistent with section 110(l) of the CAA. As part of the closure of the St. Clair Power Plant, the Acid Rain permit for the

facility was revoked by the State on December 15, 2022.

If the area is redesignated to attainment, CAA Prevention of Significant Deterioration (PSD) Requirements for permitting any new sources or modifications to sources in the area will apply.

Michigan’s computer modeling analysis assesses nonattainment years (pre-2022) and the modeled attainment year (2022) for the Belle River and St. Clair Power Plants. In this analysis, the State modeled nonattainment (pre-2022) allowable emissions of 38,798 pounds per hour (lbs/hr) which declined to 9,268 lbs/hr after permanent and enforceable reductions were put in place for the area. The dispersion modeling analysis demonstrates that the St. Clair area is attaining the 2010 NAAQS with the closure of the St. Clair Power Plant and implementation of lower emission limits at the Belle River Power Plant. The TSD, which is included in the docket for this action, contains further detail on Michigan’s modeling analysis.

The EPA is proposing to find that the St. Clair area modeling results demonstrate attainment and continued maintenance of the 2010 SO₂ NAAQS and that the air quality improvement in the St. Clair nonattainment area is due to permanent and enforceable reductions in emissions.

D. Criterion (4)—The EPA Has Fully Approved a Maintenance Plan for the Area Under Section 175A of the CAA

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the nonattainment area is redesignated to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan demonstrating that attainment will continue to be maintained for the ten years following the initial ten-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures as the EPA deems necessary to ensure prompt correction of any future violations of the 2010 SO₂ NAAQS.

Specifically, the maintenance plan should address five requirements: the attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a contingency plan. The EPA is proposing to determine that Michigan’s redesignation request contains all the necessary components and commitments. The EPA is further proposing to approve the maintenance plan as part of Michigan’s federally enforceable SIP.

As part of a State’s maintenance plan, the EPA’s Redesignation Guidance requires States to identify the level of emissions in an affected area sufficient to attain and maintain the NAAQS. In its redesignation request, Michigan provided modeled SO₂ emissions of the emission units in the nonattainment area for 2022, a year in which the permanent and enforceable reductions reduced the emission rates for the two large facilities in St. Clair. As discussed above in section II.A., Criterion (1), of this document, the Belle River facility lowered its allowable limits in revised Permit to Install 51–22, and the St. Clair Power Plant shut down, causing allowable emissions in the area to decline heavily. The pre-2022 total emissions were 39,798 lbs/yr from both large SO₂ emitting facilities, with 2019–2021 design values from the near monitors of 43.7 ppb at DTE Mills Compressor Station Monitor and 37.0 ppb at DTE Remer Road Monitor. The emissions then decreased to 9,268 lbs/yr for the post-2022 modeled rates, summarized in Table 2 of this document below. Michigan’s modeling analysis, based on the post-2022 emission rates in Table 2, resulted in a design value of 62.8 ppb, below the SO₂ NAAQS of 75 ppb. Michigan’s modeling analysis is discussed further in the TSD, which is included in the docket for this action.

TABLE 2—MODELED SO₂ EMISSION RATES BEFORE AND AFTER PERMANENT REDUCTIONS IN 2022

Modeled source	Emission unit	Pre-2022 (lbs/hr)	Post-2022 (lbs/hr)
Belle River Power Plant	Boiler 1	8176	4634
	Boiler 2	8176	4634
St. Clair Power Plant	Unit 1	2355	0
	Unit 2	2355	0
	Unit 3	2355	0
	Unit 4	2355	0
	Unit 6	5186	0
	Unit 7	7840	0

The EPA’s “Procedures for Processing Requests to Redesignate Areas to Attainment” describes two ways for a State to demonstrate maintenance of the NAAQS following the redesignation of the area: (1) the State can show that future emissions of a pollutant will not exceed the level of the attainment inventory, or (2) the State can model to show that the future mix of sources and emission rates will not cause a violation of the standard. In both instances, the demonstration should be for a period of 10 years following the redesignation.

Furthermore, the plan should contain a summary of air quality concentrations resulting from control measures implemented in instances where modeling is relied upon to demonstrate maintenance. Michigan’s maintenance demonstration consists of modeling showing total 1-hour SO₂ concentration values (*i.e.*, maximum 1-hour SO₂ concentrations added to background concentration values) now in effect in the St. Clair area which meet attainment of the 2010 SO₂ NAAQS. The modeling was based on maximum allowable rates

that are protective of the SO₂ NAAQS. Because there are no large sources of SO₂ projected to enter the St. Clair area, the St. Clair Power Plant closed in 2022, and the Belle River facility plans to convert from coal to natural gas by 2027, the nonattainment area can be expected to demonstrate attainment of the standard for the requisite 10 years and beyond. Table 3 below shows Michigan’s base year inventory and attainment year inventory to demonstrate that the area will remain in attainment to projected year 2035.

TABLE 3—SOURCE BASE YEAR INVENTORY AND ATTAINMENT YEAR INVENTORY

Modeled source	Emission unit	2017 (tpy)	2023 (tpy)	2035 (tpy)
Belle River facility	Boiler 1	12,790.03	8,831.2	0
	Boiler 2	9,766.03	7,961.3	0
St. Clair facility	Unit 1	2,443.21	0	0
	Unit 2	2,294.02	0	0
	Unit 3	2,374.14	0	0
	Unit 4	0	0	0
	Unit 6	5,974.07	0	0
	Unit 7	1,274.03	0	0

While the State's maintenance plan submission expressly documents that the area's emissions inventories will remain below the attainment year inventories through 2035, emissions are projected to continue to remain below attainment levels into 2036 and beyond due to the 2022 closure of the St. Clair facility and the projected 2027 conversion of the Belle River facility to natural gas. Along with Table 3 of this document above, Michigan provides additional support within its Permit to Install APP-2024-0273, which shows that the conversion to natural gas from coal will continue to allow the St. Clair area to meet attainment. Detailed within the permit, the baseline actual emissions of the highest consecutive 24-month period from the Belle River facility was calculated at 21,470 tons per year (tpy). After its conversion to natural gas, the Belle River facility's actual emissions are projected to decline to 24 tpy. Therefore, even if the redesignation action is finalized in 2026, the maintenance plan provides continued maintenance for at least ten years after redesignation in accordance with the requirements of section 175A.

DTE voluntarily installed and operated two SO₂ monitors in the nonattainment area and within the vicinity of the two power plants in late 2016 until the end of 2022 to determine whether the modeled violations of SO₂ in fact reflected ambient SO₂ impacts. In 2022, DTE discontinued its monitors due to cost, consistent attainment, and the fact that modeling shows NAAQS attainment will be maintained into the future. The monitoring data showed that monitored SO₂ consistently stayed well below the SO₂ NAAQS for the six years that the monitors were in operation. Additionally, Michigan has long implemented air rules, including the New Source Review (NSR) and PSD programs that aim to prevent new sources and major modifications from significantly contributing to air quality violations and to continue to protect public health and welfare. Both programs look to safeguard economic

growth in a manner consistent with the preservation of existing clean air resources. The NSR and PSD programs will ensure attainment of the SO₂ NAAQS is maintained within the St. Clair area.

For continued verification, Michigan has committed to periodically reevaluate the modeling assumptions and input data used in the redesignation SIP development, as well as to monitor contingency plan indicators and triggers. As Michigan's SO₂ monitoring network does not include a monitor in the St. Clair County nonattainment area, Michigan commits to providing the EPA with an annual emissions report for the Belle River Power Plant in order to provide ongoing verification of attainment in the manner required by the EPA's SO₂ Data Requirements Rule (80 FR 51052, August 21, 2015).

Section 175A(d) of the CAA provides that a maintenance plan must also contain contingency provisions that will promptly correct any violation of the SO₂ NAAQS after the area is redesignated to attainment. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation, and a time limit for action by the State. A State should also identify specific indicators to be used to determine when the contingency measures need to be implemented. The maintenance plan must also include a requirement that a State will implement all measures with respect to control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d). Unlike CAA section 172(c)(9), section 175A of the CAA does not explicitly require that contingency measures must take effect without further action by the air agency in order for the maintenance plan to be approved. However, the maintenance plan's contingency plan would become an enforceable part of the SIP and should ensure that contingency measures are adopted and implemented

as expeditiously as practicable once they are triggered.¹

In the General Preamble, the EPA provides further discussion of contingency measures for SO₂. This guidance states that in many cases, attainment revolves around compliance of a single source or a small set of sources with emission limits shown to provide for attainment. Although this guidance applies to contingency measures under section 172(c)(9), the EPA applies a similar policy with respect to contingency measures for SO₂ required in maintenance plans under section 175A(d). The requirement to submit contingency measures in accordance with section 175A of the CAA can be adequately addressed for SO₂ by the operation of a comprehensive enforcement program,² which can quickly identify and address sources that might be causing NAAQS exceedances.

Michigan's enforcement program is active and capable of prompt action to remedy compliance issues. Additionally, Michigan commits to the implementation of necessary contingency measures in the event of future violations of the 2010 SO₂ NAAQS. Michigan will consider various contingency measures which will be selected from a comprehensive list of measures deemed appropriate. Listed below are example measures that may be considered, but not a complete comprehensive list:

- Require alternative fuel
- Require SO₂ emissions add-on control technologies for existing emission units
- Require reduced operating hours
- Require SO₂ emission offsets for new and modified major sources
- Require SO₂ emission offsets for new and modified minor sources

All of the listed contingency measures are potentially effective or proven methods of obtaining significant reductions of SO₂ emissions. Because it

¹ See April 2014 SO₂ Guidance, page 74.

² See April 2014 SO₂ Guidance, pages 41 and 42.

is not possible at this time to determine what control measure(s) will be appropriate at an unspecified time in the future, the list of contingency measures outlined is not comprehensive. The selection of measures will be based upon cost-effectiveness, emission reduction potential, economic and social considerations, or other factors that Michigan deems appropriate. Michigan will solicit input from all interested and affected persons in the maintenance area prior to selecting appropriate contingency measures. Additionally, no contingency measure shall be implemented without providing the opportunity for full public participation during which the relative costs and benefits of individual measures, at the time they are under consideration, can be fully evaluated. Based on the foregoing, the EPA proposes to find that Michigan has addressed the contingency measure requirement.

The EPA is proposing to find that the Michigan maintenance plan adequately addresses the five components of a maintenance plan necessary to attain the NAAQS in the St. Clair nonattainment area. Therefore, the EPA proposes to find that the maintenance plan submitted by Michigan for the St. Clair SO₂ nonattainment area meet the requirements of section 175A of the CAA and proposes to approve this plan.

III. What action is the EPA taking?

The EPA is proposing to take several related actions. The EPA is proposing to redesignate the St. Clair area from nonattainment to attainment for the 2010 SO₂ NAAQS in accordance with Michigan's December 15, 2023, request for redesignation. The EPA has determined that the area is attaining the 2010 SO₂ NAAQS and has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. The EPA is also proposing to approve Michigan's maintenance plan, which is designed to ensure that the area will continue to maintain attainment of the SO₂ NAAQS. Additionally, the EPA is proposing to approve into the Michigan SIP Permit to Install 51–22, governing Belle River Power Plant SO₂ emissions.

IV. Incorporation by Reference

In this rulemaking, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference Michigan Permit to Install 51–22, approved April 26, 2022 and revised May 25, 2023, discussed in sections II and III of this preamble. The EPA has made, and will continue to make, these documents generally available through www.regulations.gov and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by State law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For these reasons, this action:

- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and

- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

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

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: March 31, 2026.

Anne Vogel,

Regional Administrator, Region 5.

[FR Doc. 2026–06941 Filed 4–9–26; 8:45 am]

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Notices

Federal Register

Vol. 91, No. 69

Friday, April 10, 2026

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–SC–25–0520]

United States Standards for Grades of Frozen Asparagus

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: The Agricultural Marketing Service (AMS) of the Department of Agriculture (USDA) is proposing to revise the United States Standards for Grades of Frozen Asparagus by updating and defining new style requirements related to percent head material for the “cut spears or cuts and tips” style of frozen asparagus. In addition, AMS proposes to change the definition of a head when it applies to the “cut spears or cuts and tips” style. These changes would align the grade standards with modern harvesting practices and provide guidance for the effective utilization of this commodity.

DATES: Comments must be submitted on or before June 9, 2026.

ADDRESSES: Interested persons are invited to submit comments by mail to the Standardization Branch, Specialty Crops Inspection Division, Specialty Crops Program, Agricultural Marketing Service, U.S. Department of Agriculture, National Training and Development Center; 100 Riverside Parkway, Suite 101, Fredericksburg, Virginia 22406; by fax at (540) 361–1199; or via the internet at <https://www.regulations.gov>. Comments should reference the docket number and the date and page numbers of this issue of the **Federal Register**. All comments submitted in response to this notice will become a part of the public record and be made available to the public, including any personal information submitted with your

comment, at <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Andrew Buss at the address above or by phone at (231) 260–5913, or fax at (540) 361–1199, or email at andrew.buss@usda.gov. Copies of the proposed United States Standards for Grades of Frozen Asparagus are available at <https://www.regulations.gov>. Copies of the current United States Standards for Grades of Frozen Asparagus are available at <https://www.ams.usda.gov/grades-standards/frozen-asparagus-grades-and-standards>.

SUPPLEMENTARY INFORMATION: Section 203(c) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(c)), as amended, directs and authorizes the Secretary of Agriculture “[t]o develop and improve standards of quality, condition, quantity, grade, and packaging, and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices.” AMS is committed to carrying out this authority in a manner that facilitates the marketing of agricultural commodities.

The United States Standards for Grades of Fruits and Vegetables no longer appear in the Code of Federal Regulations (CFR) but are maintained by USDA, AMS, Specialty Crops Program at the following website: <https://www.ams.usda.gov>. AMS also makes copies of official standards available upon request. AMS is proposing revisions to the United States Standards for Grades of Frozen Asparagus using the procedures that appear in part 36 of title 7 of the CFR (7 CFR part 36).

Background

On August 25, 2025, AMS received a petition from the Michigan Agricultural Cooperative Marketing Association, Inc. (MACMA), an organization that represents asparagus and apple members in Michigan. The petitioners represent nearly 100 percent of the frozen asparagus growers, processors, and producers in the United States. In their petition, MACMA expressed a desire to change style requirements for head material and indicated the requested changes are due to the rising costs of labor, which result in less frequent picking of fields, longer asparagus spears, and ultimately decreased head material (when cut) due to the increase in length of the stalk.

AMS worked closely with MACMA throughout the development of the proposed revisions, soliciting their comments and suggestions about the standards through discussion drafts, phone calls, and email communications. These revisions seek to align the standards with current industry practices.

AMS is proposing three revisions to the United States Standards for Grades of Frozen Asparagus. First, AMS proposes to change the style requirements for the “cut spears or cuts and tips” style so that there is only one requirement for average head material. Currently, section 52.383(c) has two categories depending on the length of cut. AMS proposes to remove the two categories and establish a single new average percent head material requirement for “cut spears or cuts and tips” style for all cuts one-half inch to 2 inches in length: “Cut spears or cuts and tips style consists of the head and portions of the shoot cut transversely into units 2 inches or less but not less than one-half inch in length. To be considered of this style, head material of not less than 15 percent (average), by count, of all cuts shall be present.”

Second, in line with the first change, AMS is proposing to change the lot acceptance for percent head material in the style of “cut spears or cuts and tips” so that there is only one requirement for individual sample percent head material. Currently, section 52.392 has two categories depending on the length of cut. AMS proposes to remove the two categories and establish a single new individual sample requirement for lot acceptance of percent head material in the style of cut spears: “The percent, by count, of heads is determined by averaging the percentage of heads in all of the sample units comprising the sample. Provided, that no individual sample unit may contain less than 8 percent, by count, of heads.”

Lastly, AMS proposes to change the definition of a head in section 52.384(d)(2) from “An upper portion of a shoot which possesses a substantial amount of compact head material” to “An upper portion of a shoot which possesses at least one-half inch of compact head material.”

The proposed revisions to the grade standards would help ease the hardships currently faced by asparagus growers and better reflect the current

marketing of frozen asparagus in the “cut spears or cuts and tips” style.

A 60-day period is provided for interested persons to submit comments on the proposed grade standards. Copies of the proposed revised standards are available on the internet at <https://www.regulations.gov>. After the 60-day comment period, AMS would proceed in accordance with 7 CFR 36.3(a)(1–3).

Authority: 7 U.S.C. 1621–1627.

Erin Morris.

Administrator, Agricultural Marketing Service.

[FR Doc. 2026–06966 Filed 4–9–26; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–SC–25–0056, SC–25–328]

Revising U.S. Standards for Grades of Mushrooms

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: The Agricultural Marketing Service (AMS) of the Department of Agriculture (USDA) proposes to revise the U.S. Standards for Grades of Mushrooms. The proposed changes would add a grade for portabella mushrooms, remove size from the criteria for each grade and create a separate section for size, and revise the tolerances for defects, consistent with modern production and handling practices. In addition, AMS proposes to update terminology, definitions, and defect scoring guides.

DATES: Comments must be submitted on or before June 9, 2026.

ADDRESSES: Interested persons are invited to submit comments by mail to the USDA, Specialty Crops Inspection Division, 100 Riverside Parkway, Suite 101, Fredericksburg, Virginia 22406; via fax to (540) 361–1199; or online at <https://www.regulations.gov>. Comments should reference the date and page numbers of this issue of the **Federal Register**. Comments will be posted without change, including any personal information provided. All comments received within the comment period will become part of the public record maintained by the Agency and will be made available to the public via <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Andrew Buss at the address above, or by phone at (540) 361–1120; or fax at (540) 361–1199; or email Andrew.Buss@

[usda.gov](https://www.usda.gov). Copies of the proposed U.S. Standards for Grades of Mushrooms are available at <https://www.regulations.gov>.

Copies of the current U.S. Standards for Grades of Mushrooms are available at <https://www.ams.usda.gov/grades-standards/vegetables>.

SUPPLEMENTARY INFORMATION: Section 203(c) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(c)) directs and authorizes the Secretary of Agriculture “[t]o develop and improve standards of quality, condition, quantity, grade, and packaging, and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices.”

AMS is committed to carrying out this authority in a manner that facilitates the marketing of agricultural commodities and makes copies of official standards available upon request. The U.S. Standards for Grades of Fruits and Vegetables that no longer appear in the Code of Federal Regulations (CFR) are maintained by AMS at <http://www.ams.usda.gov/grades-standards>. AMS is proposing revisions to the U.S. Standards for Grades of Mushrooms using the procedures that appear in part 36 of title 7 of the CFR (7 CFR part 36).

Background

On April 2, 2020, the American Mushroom Institute (AMI), a trade association representing growers, retailers, and shippers from the United States, petitioned AMS to revise the U.S. Standards for Grades of Mushrooms. From 2020 to 2024, AMS worked closely with AMI to provide guidance and discuss the proposal, including relevant revisions. In its petition, AMI stated that USDA standards for mushrooms do not conform to current industry practices, and no standards for “Baby Bella” or “Portabella” mushroom varieties exist. AMI also requested new definitions to cover defects that are not currently defined in the mushroom standards. AMS reviewed and incorporated recommendations from AMI’s petition and subsequent feedback into this proposal, which reflects a collaborative effort between AMS and industry. The proposed updates to the standards, identified below, affect definitions, grades, size, and defects of mushrooms.

AMS thus proposes to revise the U.S. Standards for Grades of Mushrooms as follows:

- Add a new “General” section (as section 51.3385) to describe the types of mushrooms covered by the standards and redesignate existing sections

51.3385 through 51.3398 as sections 51.3386 through 51.3399.

- Clarify that the standards apply to all mushrooms of the *Agaricus bisporus* species. Brown colored button mushrooms (commonly called crimini), cremini (alternative spelling), baby, and baby bella will be added to the standards, as well as common portabella type mushrooms, including portobello (alternative spelling), ports, and giant crimini. No standard for portabella type mushrooms has been published prior to this notice.

- Remove size and tolerance specifications from the criteria for each grade and create separate sections for that information.

- Allow some degree of open space before open veils would be considered damage in mushrooms other than portabella mushrooms, while also recognizing that open veils are a characteristic of and are not considered damage in portabella type mushrooms.

- Revise the “at shipping point” and “en route or at destination” tolerances by adding a tolerance for button mushrooms damaged by open veils and portabella type mushrooms.

- Modify and update definitions to reflect current industry practices and terminology. Add specifications for “bruising,” “cuts or mechanical defects,” “extraneous material,” “feathering,” “open veils,” and “spots” as types of damage.

- Establish different package tolerance limits based on the size of the packaging. The “Application of Tolerances” section of the standards identifies the maximum limit of defects and off-size mushrooms that are allowed in an individual package of mushrooms.

- Add language to permit mixed specialty packs of white and brown mushrooms. When lots are not intentionally packed as mixed/specialty packs, a dissimilar colored mushroom is considered a defect. The proposed revisions recognize mixed color specialty packs and better reflect current marketing trends.

A 60-day period is provided for interested persons to submit comments on the proposed grade standards. Copies of the proposed revised U.S. Standards for Grades of Mushrooms are available at <http://www.regulations.gov>. After the 60-day comment period, AMS will proceed in accordance with 7 CFR 36.3(a)(1)–(3).

Authority: 7 U.S.C. 1621–1627.

Erin Morris,

Administrator, Agricultural Marketing Service.

[FR Doc. 2026–06971 Filed 4–9–26; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE**Submission for OMB Review;
Comment Request**

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments are requested regarding: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on 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.

Comments regarding these information collections are best assured of having their full effect if received by May 11, 2026. 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.

An agency 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.

National Agricultural Statistics Service (NASS)

Title: Conservation Effects Assessment Project (CEAP) Survey.
OMB Control Number: 0535–0245.

Summary of Collection: General authority for these data collection activities is granted under U.S. Code Title 7, Section 2204 which specifies that “The Secretary of Agriculture shall procure and preserve all information concerning agriculture which he can obtain . . . by the collection of statistics

. . .”. The primary objective of the National Agricultural Statistics Service (NASS) is to provide data users with timely and reliable agricultural production and economic statistics, as well as environmental and specialty agricultural related statistics. To accomplish this objective, NASS relies on the use of diverse surveys that show changes within the farming industry over time.

The National Agricultural Statistics Service (NASS) is requesting a substantive change to the National Resources Inventory Conservation Effects Assessment Project (NRI CEAP) survey. NASS requests adding text and email reminder messages to this survey. The change in this request will increase burden hours.

Need and Use of the Information: The survey will utilize personal interviews to administer a questionnaire that is designed to obtain from farm operators field-specific data associated with selected National Resources Inventory sub-sample units in the contiguous 48 States. Data collected in this survey will be used in conjunction with previously collected data on soils, climate, and cropping history to model impacts of conservation practices on the larger environment. USDA needs updated scientifically credible data on residue and tillage management, nutrient management, and conservation practices in order to quantify and assess current impacts of farming practices and to document changes.

Description of Respondents: Farms and Ranches.

Number of Respondents: Average of 20,000 respondents per year.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 17,547.

Levi Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2026–06979 Filed 4–9–26; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE**Submission for OMB Review;
Comment Request**

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments are requested regarding: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including

whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on 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.

Comments regarding these information collections are best assured of having their full effect if received by May 11, 2026. 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.

An agency 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.

National Agricultural Statistics Service

Title: Cotton Ginning Survey.

OMB Control Number: 0535–0220.

Summary of Collection: The National Agricultural Statistics Service's (NASS) primary function is to prepare and issue state and national estimates of crop and livestock production, disposition and prices as well as specialty agricultural and environmental statistics. The Cotton Ginning Survey provides statistics concerning cotton ginning for specific dates and geographic regions and aids in forecasting cotton production. The Cotton Ginning surveys obtain data mandated under U.S.C. Title 13, Section 42(a). General authority for these data collection activities is granted under U.S. Code Title 7, section 2204.

Need and Use of the Information: The majority of data are collected by Computer-Aided Self-Administered Interview (CASI), telephone, mail, and fax. All active gins for a given crop season are included in the survey. This includes gins in all 17 cotton producing states. The survey begins on August 1st for the current production year. The sample size increases as the amount of

cotton harvested and ginned increases. The peak number of gins that are surveyed will occur in November. The sample size will decline after that to coincide with the completion of harvesting and ginning in some States. The "End of Season" questionnaire is sent to each gin as they complete their ginning for the year, the summarized end of season data will be published in May.

Description of Respondents: Business or other for-profit.

Number of Respondents: 575.

Frequency of Responses: Reporting: Monthly, Annually.

Total Burden Hours: 1,218.

Levi Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2026-06984 Filed 4-9-26; 8:45 am]

BILLING CODE 3410-20-P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13 on or after the date of publication of this notice. Comments are requested regarding: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on 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.

Comments regarding these information collections are best assured of having their full effect if received by May 11, 2026. Written comments and recommendations for the proposed information collection should be submitted, identified by docket number 0535-0264, within 30 days of the publication of this notice by any of the following methods:

- *Email:* ombofficer@nass.usda.gov. Include docket number above in the subject line of the message.
- *E-fax:* 855-838-6382.

- *Mail:* Mail any paper, disk, or CD-ROM submissions to: NASS OMB Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW, Washington, DC 20250-2024.

- *Hand Delivery/Courier:* Hand deliver to: NASS OMB Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW, Washington, DC 20250-2024.

An agency 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.

National Agricultural Statistics Service

Title: 2026 RMA Organic Price Survey.

OMB Control Number: 0535-0264.

Summary of Collection: The primary objectives of the National Agricultural Statistics Service (NASS) are to prepare and issue official State and national estimates of crop and livestock production, disposition and prices, economic statistics, and environmental statistics related to agriculture and to conduct the Census of Agriculture and its follow-on surveys. The target population for this census consists of all certified organic farms. Data collected under this information collection are for a cooperative agreement between the National Agricultural Statistics Service (NASS) and USDA Risk Management Agency (RMA) and carries a voluntary reporting statement.

Need and Use of the Information: The primary purpose of the RMA Organic Price Survey is to provide price and sales data for a variety of organic crop commodities as well as to gather information on organic marketing practices. These data will be provided by certified organic farms in all 50 States. National and State estimates (when publishable) will be set for all items that are collected on the survey. RMA requires organic price and production data to establish organic specific price elections used for the crop insurance program.

Description of Respondents: Farmers and Ranchers.

Number of Respondents: 27,000.

Frequency of Responses: Reporting: Once a year.

Total Burden Hours: 15,077.

Levi Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2026-06983 Filed 4-9-26; 8:45 am]

BILLING CODE 3410-20-P

DEPARTMENT OF AGRICULTURE

30-Day Federal Register Notice: Submission for OMB Review; Comment Request

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13 on or after the date of publication of this notice. Comments are requested regarding: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on 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.

Comments regarding these information collections are best assured of having their full effect if received by May 11, 2026. 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.

An agency 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.

National Agricultural Statistics Service

Title: Current Agricultural Industrial Reports (CAIR).

OMB Control Number: 0535-0254.

Summary of Collection: The Current Agricultural Industrial Reports (CAIR) surveys have become an integral part of the Census of Agriculture and numerous other surveys conducted by NASS. Under the authority of the Census of Agriculture Act of 1997 (Pub. L. 105–113) and defined under Title 7, Sec. 2204(g), these surveys will be mandatory. The data from the CAIR surveys will supply data users with important information on the utilization of many of the crops, livestock, and poultry produced in the U.S.

Need and Use of the Information: Data from these surveys is essential to measuring the consumption of agricultural products in the production of numerous consumer goods. Agricultural products such as grain, oilseeds, fibers, and animal co-products is used in the creation of cooking oils, flour, lubricants, fuel, fabrics, soap, paint, methyl esters, resins, and numerous other products. The data are needed to provide a more complete picture of the importance of agriculture to the American population. Data from these instruments is published and publications are available to everyone at the same time on the NASS website.

Description of Respondents: Business or other for-profit.

Number of Respondents: 635.

Frequency of Responses: Reporting: Monthly, Quarterly, Annually, & One time.

Total Burden Hours: 2,280.

Levi Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2026–06977 Filed 4–9–26; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments are requested regarding: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the

collection of information on 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.

Comments regarding these information collections are best assured of having their full effect if received by May 11, 2026. 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.

An agency 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.

National Agricultural Statistics Service

Title: Objective Yield Surveys.

OMB Control Number: 0535–0088.

Summary of Collection: The National Agricultural Statistics Service (NASS) collects, compiles, and publishes State and national estimates on crop and livestock production, prices, disposition, economic statistics, farm numbers, land values, on-farm pesticide usage, crop management practices, and the Census of Agriculture.

This renewal request includes the reinstatement of the Cotton Objective Yield Survey, the discontinuation of the California Almonds and Oregon Hazelnuts Surveys, and reducing the number of data collection waves for the Florida Citrus survey from 12 to 5.

The Objective Yield Surveys provide objective yield predictions for corn, cotton, soybeans, wheat, citrus, and walnuts. Fruit and nut Objective Yield surveys are conducted in cooperation with the California and Florida Departments of Agriculture, with these participating States reimbursing NASS for the associated costs. These surveys include California citrus and walnuts, as well as Florida citrus. The added burden hours and sample sizes listed below reflect the inclusion of these surveys.

Need and Use of the Information: Sample fields are randomly selected for the relevant crops. Plots are established, and periodic counts and measurements

are taken to forecast production during the growing season. USDA crop reports publish these forecasts. The resulting statistics support growers, processors, and marketers in making informed production and marketing decisions.

Description of Respondents:

Businesses or other for-profits; Farms.

Number of Respondents: 12,000.

Frequency of Responses: Reporting: Annually, Monthly.

Total Burden Hours: 3,346.

Levi Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2026–06978 Filed 4–9–26; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–5–2026]

Approval of Subzone Status; Inmobiliaria G.G., LLC; Juncos, Puerto Rico

On January 7, 2026, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the Puerto Rico Industrial Development Company, grantee of FTZ 7, requesting subzone status subject to the existing activation limit of FTZ 7, on behalf of Inmobiliaria G.G., LLC, in Juncos, Puerto Rico.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (91 FR 1133, January 12, 2026). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval. Pursuant to the authority delegated to the FTZ Board Executive Secretary (15 CFR 400.36(f)), the application to establish Subzone 7U was approved on April 8, 2026, subject to the FTZ Act and the Board's regulations, including section 400.13, and further subject to FTZ 7's 2,000-acre activation limit.

Dated: April 8, 2026.

Elizabeth Whiteman,

Executive Secretary.

[FR Doc. 2026–07007 Filed 4–9–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-840]

Certain Frozen Warmwater Shrimp From India: Rescission of Antidumping Duty Administrative Review, In Part; 2024–2025

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

SUMMARY: On March 28, 2025, the U.S. Department of Commerce (Commerce) initiated an administrative review of the antidumping duty (AD) order on certain frozen warmwater shrimp (shrimp) from India for the period of review (POR) February 1, 2024, through January 31, 2025, for 391 companies. We are rescinding this administrative review with respect to certain companies because they had no reviewable entries of subject merchandise during the POR. For a list of the companies for which we are rescinding this review in the absence of suspended entries of subject merchandise during the POR, see Appendix I to this notice. For a list of the companies for which the review is continuing, see Appendix II to this notice.

DATES: Applicable April 10, 2026.

FOR FURTHER INFORMATION CONTACT:

Anne Entz, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3845.

Background

On February 3, 2025, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the AD order on shrimp from India for the POR February 1, 2024, through January 31, 2025.¹ In February 2025, Commerce received timely requests, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), to conduct an administrative review of the Order from the Ad Hoc Shrimp Trade Action Committee (the petitioner),² the American Shrimp Processors

Association (ASPA),³ the U.S. Shrimpers Coalition (USSC),⁴ and certain individual companies.⁵ Based upon these requests, on March 28, 2025, in accordance with section 751(a) of the Act and 19 CFR 351.221(c)(1)(i), Commerce published a notice of initiation in the **Federal Register** covering 391 companies for which Commerce received timely requests for review.⁶

In June 2025, interested parties timely withdrew their requests for an administrative review of certain companies.⁷ However, because there are review requests remaining for each of these companies, these companies remain under administrative review.

³ See ASPA's Letter, "American Shrimp Processors Association's Request for Administrative Reviews," dated February 25, 2025.

⁴ See USSC's Letter, "Request for Administrative Review," dated February 28, 2025.

⁵ See Devi Fisheries Limited's Letter, "Request for 20th Administrative Review covering the Period from 01st February 2024 to 31st January 2025," dated February 26, 2025; the Indian Producers and Exporters' Letter, "Request for Administrative Reviews for Indian Producers/Exporters (02/01/24–01/31/25)," dated February 26, 2025; Nekkanti Sea Foods Limited's Letter, "Request for 20th Administrative Review covering the Period from 01st February 2024 to 31st January 2025," dated February 26, 2025; Sandhya Aqua Exports Private Limited's Letter, "Sandhya's Request for Administrative Review," dated February 27, 2025; Megaa Moda Pvt. Ltd.'s (Megaa Moda's) Letter, "Request for Administrative Review of Megaa Moda Pvt. Ltd. for the POR February 01, 2024 to January 31, 2025," dated February 28, 2025; Snow World Marine Exports Private Limited's (Snow World's) Letter, "Snow World Request for Administrative Review of the Antidumping Duty Order on Certain Frozen Warmwater Shrimp from India for POR 2024–2025," dated February 28, 2025; B-One Business House Private Limited's (B-One's) Letter, "Request for Administrative Review of B-One During POR February 01, 2024 to January 31, 2025," dated February 28, 2025; and N. K. Marine Exports LLP's Letter, "Request for 20th Administrative Review covering the Period from 01st February 2024 to 31st January 2025 and for selection as voluntary respondent," dated February 28, 2025.

⁶ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 90 FR 14081 (March 28, 2025) (*Initiation Notice*); see also *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 90 FR 17568 (April 28, 2025) (where Commerce added two companies under review that were omitted from the *Initiation Notice*, and corrected the name for a third company).

⁷ See B-One's Letter, "Withdrawal of Request for Review of the Antidumping Duty Order on Certain Frozen Warm-water Shrimp from India (A-533-840) for period of February 01, 2024 to January 31, 2025," dated June 6, 2025; Megaa Moda's Letter, "Withdrawal of Request for Review of the Antidumping Duty Order on Certain Frozen Warm-water Shrimp from India (A-533-840) for period of {February 01, 2024 to January 31, 2025}," dated June 26, 2025; and Snow World's Letter, "Withdrawal of Request for Review of the Antidumping Duty Order on Certain Frozen Warm-water Shrimp from India (A-533-840) for period of {February 1, 2024 to January 31, 2025}," dated June 26, 2025.

Partial Rescission

Pursuant to 19 CFR 351.213(d)(3), Commerce's practice is to rescind an administrative review of an AD order where it concludes that there were no suspended entries of subject merchandise during the POR.⁸ Normally, upon completion of an administrative review, the suspended entries are liquidated at the antidumping duty assessment rate for the review period.⁹ Therefore, for an administrative review to be conducted, there must be a reviewable, suspended entry that Commerce can instruct U.S. Customs and Border Protection (CBP) to liquidate at the calculated antidumping duty assessment rate for the review period.¹⁰ Commerce notified all interested parties of its intent to rescind the instant review regarding the companies listed in Appendix I because there were no reviewable, suspended entries of subject merchandise from these companies during the POR and invited interested parties to comment.¹¹ We received comments from ASPA, which argued that Commerce should not rescind on the companies listed in the Intent to Rescind Memorandum because the CBP data on the record is insufficient alone to conclude that the respondents had no POR exports, sales, or entries of subject merchandise;¹² however, ASPA did not provide evidence that these companies had reviewable transactions during the POR. We also received comments from Aquatech Feed & Seafoods Private Limited (Aquatech), which argued that we should not rescind the review for it

⁸ See, e.g., *Certain Carbon and Alloy Steel Cut-to Length Plate from the Federal Republic of Germany: Rescission of Antidumping Administrative Review; 2020–2021*, 88 FR 4154 (January 24, 2023).

⁹ See 19 CFR 351.212(b)(1).

¹⁰ See, e.g., *Shanghai Sunbeauty Trading Co. v. United States*, 380 F.Supp.3d 1328, 1336–37 (CIT 2019), at 12 (referring to section 751(a) of the Act, the CIT held: "While the statute does not explicitly require that an entry be suspended as a prerequisite for establishing entitlement to a review, it does explicitly state the determined rate will be used as the liquidation rate for the reviewed entries. This result can only obtain if the liquidation of entries has been suspended"; see also *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018–2019*, 86 FR 36102, and accompanying Issues and Decision Memorandum at Comment 4; and *Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation: Notice of Rescission of Antidumping Duty Administrative Review*, 77 FR 65532 (October 29, 2012) (noting that "for an administrative review to be conducted, there must be a reviewable, suspended entry to be liquidated at the newly calculated assessment rate").

¹¹ See Memorandum, "Notice of Intent to Rescind Review, In Part," dated September 22, 2025 (Intent to Rescind Memorandum).

¹² See ASPA's Letter, "ASPA's Comments on Intent to Rescind," dated September 29, 2025.

¹ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review and Join Annual Inquiry Service List*, 90 FR 8785 (February 3, 2025); see also *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from India*, 70 FR 5147 (February 1, 2005) (*Order*).

² See Petitioner's Letter, "Request for Administrative Reviews," dated February 26, 2025.

because it had a POR shipment of the subject merchandise and provided documentation to support this claim.¹³ Subsequently, Commerce placed information from CBP regarding the entry in question on the record.¹⁴ Consistent with our practice, in the absence of any suspended entries of subject merchandise during the POR for the companies listed in Appendix I (including Aquatech), we are rescinding this administrative review for these companies, in accordance with 19 CFR 351.213(d)(3).

Assessment

For the companies for which this review is being rescinded, in part, Commerce will instruct CBP to assess antidumping duties on all appropriate entries. Antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions to CBP no earlier than 35 days after publication of this notice in the **Federal Register**.

Notification to Importers

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

Notification Regarding Administrative Protective Orders

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

Notification to Interested Parties

This notice is issued and published in accordance with section 751(a)(1) of the Act and 19 CFR 351.213(d)(4).

Dated: April 8, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix I

Companies for Which the Review Is Rescinded

1. Aachi Masala Foods (P) Ltd.
2. Aarshi Overseas Private Ltd.
3. Abad Fisheries; Abad Fisheries Pvt. Ltd.
4. Abad Overseas Private Limited
5. ADF Foods Ltd.
6. Aerath Business Corp.
7. AJS Enterprises LLP
8. Al-Hassan Overseas Private Limited
9. Allana Frozen Foods Pvt. Ltd.
10. Allanasons Ltd.
11. Alps Ice & Cold Storage Private Limited
12. Amaravathi Aqua Exports Private Ltd.
13. Amarsagar Seafoods Private Limited
14. Amulya Seafoods
15. Anantha Seafoods Private Limited
16. Andaman Sea Foods Pvt. Ltd.
17. Anjaneya Sea Foods
18. Apar Industries Limited
19. Aparna Marine Exports
20. Aquamarine Food Products Ltd.
21. Aquastar Marine Exports
22. Aquatech Feed & Seafoods Private Limited
23. Ariba Foods Pvt. Ltd.
24. Asvini Agro Exports
25. Asvini Exports
26. Aswin Associates
27. Atlas Fisheries Private Limited
28. Avanti Feeds Limited
29. Avla Nettos Exports
30. Ayshwarya Sea Food Private Limited
31. B R Traders
32. Baby Marine Eastern Exports
33. Baby Marine Exports
34. Baby Marine International
35. Baby Marine Sarass
36. Baby Marine Ventures
37. Bafna Enterprises
38. Bakemill Foods
39. Balasore Marine Exports Private Limited
40. Baraka Overseas Traders
41. Basu International
42. BB Estates & Exports Private Limited
43. Bell Foods (Marine Division); Bell Exim Private Limited (Bell Foods (Marine Division))
44. Bergwerff Organic India Private Limited
45. Bhavani Seafoods
46. Bijaya Marine Products
47. Birendrashok Seafoods Private Limited
48. Blue Sea Resources Private Limited
49. Blue Water Foods & Exports P. Ltd.
50. Bluepark Seafoods Pvt. Ltd.
51. Bluetide Eservices Pvt., Ltd.
52. Britannia Industries Limited
53. Britto Seafoods Exp. Pvt. Ltd.; Britto Exports; Britto Exports Pvt. Ltd.
54. C Private Limited
55. C.P. Aquaculture (India) Pvt. Ltd.
56. CAP Seafoods Private Limited
57. Capital Foods Private Limited
58. Capithan Exporting Co.
59. Cargomar Private Limited
60. Chakri Fisheries Private Limited
61. Charoen Pokphand Group Co., Ltd.
62. Chemmeens (Regd)
63. Cherukattu Industries (Marine Div); Cherukattu Industries
64. Choice Canning Company
65. Cochin Frozen Food Exports Pvt. Ltd.
66. Contai Marine Fish Export Private Limited
67. Continental Fisheries India Private Limited
68. Coreline Exports
69. Corlim Marine Exports Private Limited
70. Costar Processor
71. CPF India Private Ltd.
72. Crystal Sea Foods Private Limited
73. Crystalnova Foods Pvt., Ltd.
74. Danica Aqua Exp. Private Ltd.
75. Datla Sea Foods
76. Deepak Nexgen Foods and Feeds Private Limited
77. Deepmala Marine Exports
78. Delsea Exports Pvt. Ltd.
79. Desai Foods Private Ltd.
80. Devi Sea Foods Limited
81. DSF Aquatech Private Limited
82. Eden Garden Exports
83. Ega Trade Center No. 809
84. Empire Industries Limited
85. Entel Food Products Private Limited
86. Esmario Export Enterprises
87. Everblue Sea Foods Private Limited
88. Fair Exp. (India) Pvt., Ltd.
89. Febin Marine Foods Private Limited; Febin Marine Foods
90. Five Star Marine Exports Private Limited
91. Food Products Pvt., Ltd.; Parayil Food Products Pvt., Ltd.
92. Forstar Frozen Foods Private Limited
93. Fouress Food Products Pvt. Ltd.
94. Frontline Exports Pvt. Ltd.
95. G.A. Randerian Ltd.; G.A. Randerian (P) Limited
96. Gadre Marine Export P Ltd.
97. Galaxy Maritech Exports P. Ltd.
98. Gaurav International
99. Geo Aquatic Products (P) Ltd.
100. GKS Business Associates Private Limited
101. Global Gourmet Private Limited
102. Glossy Impex Private Limited
103. Goana Foods Prop. Cyd Paes.
104. Gokul Overseas Ltd.
105. Grand Marine Foods
106. Grandtrust Overseas (P) Ltd.
107. GVR Exports Pvt. Ltd.
108. Haripriya Marine Exports Pvt. Ltd.
109. Heiploeg Seafood India Pvt., Ltd.
110. HIC ABF Special Foods Pvt. Ltd.
111. High Care Marine Foods Exports Private Limited
112. Hiravati Exports Pvt. Ltd.
113. Hiravati International Pvt. Ltd.
114. Hiravati Marine Products Private Limited
115. HMG Industries Ltd.
116. HN Indigos Private Ltd.
117. HT Foods Private Limited
118. Hyson Logistics and Marine Exports Private Limited
119. India Gills
120. Indian Aquatic Products
121. Indo Aquatics
122. Indo Fisheries

¹³ See Aquatech's Letter, "Request Not to Rescind Review of Aquatech Feed & Seafoods Private Limited for February 1, 2024–January 31, 2025 period," dated September 29, 2025.

¹⁴ See Memorandum, "Placing U.S. Customs and Border Protection Entry Information on the Record," dated April 7, 2026.

123. Indo French Shellfish Company Private Limited
 124. Innovative Foods Limited
 125. International Freezfish Exports
 126. Intl Exporters Foodparks Private Ltd.
 127. Jeelani Marine Products
 128. Jigar Enterprises
 129. Jinny Marine Traders
 130. Joecons Marine Exp. Pvt., Ltd.
 131. Jude Foods India Private Limited
 132. K.R. Sea Foods Private Limited
 133. K.V. Marine Exports
 134. Kanu Krishna Corporation
 135. Karam Chand Thapar & Bros. Ltd.
 136. Karunya Marine Exports Private Limited
 137. Kaushalya Aqua Marine Product Exports Pvt. Ltd.
 138. Kiefer Sea Foods
 139. Kings Infra Ventures Limited
 140. Kings Marine Products
 141. Kohinoor Foods Limited
 142. Koluthara Exports Ltd.
 143. Kumars Foods
 144. Kyobashi Premier Freeze Dry Private Ltd.
 145. Latecoere India Private Ltd.
 146. Libran Foods
 147. Lito Marine Exports Private Limited
 148. Maa Nachinda Sea Food
 149. Magnum Export; Magnum Exports Pvt. Ltd.
 150. Mangala Sea Products
 151. Manjilas Food Tech Private Ltd.
 152. Marine Harvest India
 153. Meghmani Industries Ltd.
 154. Milsha Sea Products
 155. Minaxi Fisheries Private Limited
 156. Minh Phu Group
 157. MTR Foods
 158. Naik Frozen Foods Private Limited; Naik Frozen Foods
 159. Naik Oceanic Exports Pvt. Ltd.; Rafiq Naik Exports Pvt. Ltd.
 160. Naik Seafoods Ltd.
 161. Nanak Nutritions Food (Taloja) Pvt., Ltd.
 162. Naq Foods India Private Limited
 163. Nas Fisheries Pvt. Ltd.
 164. Nector Exp. Pvt., Ltd.
 165. New Faizan Foods
 166. Nilamel Exp.
 167. Nine Up Frozen Foods
 168. Nutrient Marine Foods Limited
 169. Oceanic Edibles International Limited
 170. Orchid Marine Exports Private Limited
 171. Oriental Export Corporation
 172. Paragon Sea Foods Pvt. Ltd.
 173. Paramount Seafoods
 174. Pesca Marine Products Pvt., Ltd.
 175. Phillips Foods India Private Ltd.
 176. Pijikay International Exports P Ltd.
 177. Pohoomal Kewalram Sons Exports Pvt Ltd.
 178. Poyilakada Fisheries Private Limited
 179. Pravesh Seafood Private Limited
 180. Premas Enterprises Private Ltd.
 181. Premier Exports International
 182. Premier Marine Foods
 183. Premier Seafoods Exim (P) Ltd.
 184. Pridel Pvt., Ltd.
 185. Protech Organo Foods Private Limited
 186. R V R Marine Products Private Limited
 187. R.K. Industries IV
 188. Raju Exports
 189. Rajyalakshmi Marine Exports
 190. Ram's Assorted Cold Storage Limited
 191. Raunaq Ice & Cold Storage
 192. Razban Seafoods Ltd.
 193. RDR Exports
 194. Relish Custom Foods
 195. RF Exports Private Limited
 196. Riyarchita Agro Farming Private Limited
 197. Rizwan Ice & Cold Storage Partnership Firm Pvt Ltd.
 198. Ronisha Exp.
 199. Royal Exports
 200. Royalux Exports Private Limited
 201. RSA Marines; Royal Oceans
 202. Rupsha Fish Private Limited
 203. Ruthi Imp. & Exp.
 204. S. Chanchala Combines
 205. S.S. Sea Food Private Limited
 206. S.H. Marine Exim
 207. Safa Enterprises
 208. Safa Global Imp. & Exp.
 209. Safera Food International
 210. Sagar Marine Imp. & Exp.
 211. Sagar Samrat Seafoods
 212. Sahada Exports
 213. Sai Aquatechs Private Limited
 214. Sai Sea Foods
 215. Salet Seafoods Pvt. Ltd.
 216. Samaki Exports Private Limited
 217. Sanchita Marine Products Private Limited
 218. Sandy Bay Seafoods India Private Limited
 219. Sas Exports
 220. Sassoondock Matsyodyog Sahakari Society Ltd.
 221. Satish Marine Exim Private Limited
 222. Sea Doris Marine Exports
 223. Seaeys Stem Limited
 224. Seagold Overseas Pvt. Ltd.
 225. Seagull Maritime Exports Private Limited
 226. Sealands
 227. Seasaga Enterprises Private Limited; Seasaga Group; Elimar Frozen Food
 228. Seema Enterprises
 229. Shankha Deep Exports Private Limited
 230. Sheseema Exp.
 231. Shimpo Exports Private Limited
 232. Shimpo Seafoods Private Limited
 233. Shiva Frozen Food Exp. Pvt. Ltd.
 234. Shree Ram Agro Industries
 235. Shree Ulka LLP
 236. Shroff Processed Food & Cold Storage P Ltd.
 237. Silver Seafood
 238. Sita Marine Exports
 239. SKML Exim Private Limited
 240. SMD Rays
 241. Sonia Fisheries
 242. Sonia Marine Exports Private Limited
 243. Sresta Natural Bioproducts Pvt., Ltd.
 244. Sri Ayyanar Exp.
 245. Sri Sai Marine Exp.
 246. Sri Sakthi Cold Storage
 247. SSF Ltd.
 248. St. Peter and Paul Sea Food Exports Private Limited
 249. Star Organic Foods Private Limited
 250. Stellar Marine Foods Private Limited
 251. Sterling Foods
 252. Subu Sea Foods
 253. Sun Agro Exim
 254. Sunrise Aqua Food Exports
 255. Supran Exim Private Limited
 256. Suvarna Rekha Exports Private Limited
 257. Suvarna Rekha Marines P Ltd.
 258. TBR Exports Private Limited
 259. Teekay Marines Private Limited; Teekay Marine P. Ltd.
 260. Tej Aqua Feeds Private Limited
 261. Torry Harris Seafoods Ltd.
 262. TRDP Happy World Private Limited
 263. Triveni Fisheries P Ltd.
 264. U & Company Marine Exports
 265. Ulka Sea Foods Private Limited
 266. Uniloids Biosciences Private Limited
 267. Uniroyal Marine Exports Limited
 268. Unitriveni Overseas Private Limited; Unitriveni Overseas
 269. Upasana Exports
 270. Ushodaya Enterprises Private Ltd.
 271. Vaibhav Global Ltd.
 272. Vasai Frozen Food Co.
 273. Vedhaa Balaa Farm LLP
 274. Veronica Marine Exports Private Ltd.
 275. Victoria Marine & Agro Exports Ltd.
 276. Vinner Marine
 277. Vitality Aquaculture Pvt. Ltd.
 278. Vivek Agro Products
 279. VKM Foods Private Limited
 280. VRC Marine Foods LLP
 281. West Coast Fine Foods (India) Private Limited
 282. West Coast Foods Private Limited
 283. West Coast Frozen Foods Private Limited

Appendix II

Companies Remaining Subject to the Review

1. Accelerated Freeze Drying Co., Ltd.
2. Akshay Food Impex Private Limited
3. Alashore Marine Exports (P) Ltd.
4. Albys Agro Private Limited
5. Alpha Marine
6. Alpha Marine Limited
7. Ananda Aqua Applications; Ananda Aqua Exports (P) Limited; Ananda Foods
8. Ananda Enterprises (India) Private Limited
9. Apex Frozen Foods Limited
10. Aquatica Frozen Foods Global Pvt. Ltd.
11. Arya Sea Foods Private Limited
12. Asvini Fisheries Ltd.; Asvini Fisheries Private Ltd.
13. Avanti Frozen Foods Private Limited
14. Bhatsons Aquatic Products
15. Bhimraj Exports Private Limited
16. Blue-Fin Frozen Foods Pvt Ltd.
17. BMR Exports; BMR Exports Private Limited
18. BMR Industries Private Limited
19. B-One Business House Pvt. Ltd.
20. BRC Marine Products
21. Calcutta Seafoods Pvt. Ltd.; Bay Seafood Pvt. Ltd.; Elque Ventures Private Limited¹⁵
22. Canaan Marine Products
23. Castlerock Fisheries Ltd
24. Choice Trading Corporation Pvt. Ltd.
25. Coastal Aqua Private Limited
26. Coastal Corporation Ltd.
27. Cofoods Processors Private Limited
28. Deepak Nexgen Foods Pvt. Ltd.
29. Devi Fisheries Limited; Satya Seafoods Private Limited; Usha Seafoods; Devi

¹⁵ On March 11, 2024, Commerce determined that Elque Ventures Private Limited is the successor-in interest to Elque & Co. Therefore, the results of this review will be applicable to the Elque Group comprised of the companies listed above. *See Certain Frozen Warmwater Shrimp From India: Notice of Final Results of Antidumping Duty Changed Circumstances Review*, 89 FR 17386 (March 11, 2024).

- Aquatech Private Limited
- 30. Diamond Seafoods Exports; Edhayam Frozen Foods Pvt. Ltd.; Kadalkanny Frozen Foods; Theva & Company
- 31. DN Sea Shells Private Limited
- 32. Dwaraka Sea Foods
- 33. Falcon Marine Exports Limited; KR Enterprises
- 34. Fedora Sea Foods Private Limited
- 35. Geo Seafoods
- 36. Ghan Marine Products
- 37. Godavari Mega Aqua Food Park Private Limited
- 38. Green Asia Impex Private Limited
- 39. Growel Processors Private Limited
- 40. Hari Marine Private Limited
- 41. Highland Agro Food Private Limited ¹⁶
- 42. Hysen Exports Private Limited
- 43. IFB Agro Industries Ltd.
- 44. ITC Ltd.
- 45. Jagadeesh Marine Exports
- 46. Jaya Lakshmi Sea Foods Pvt. Ltd.
- 47. Kader Exports Private Limited ¹⁷
- 48. Kalyan Aqua & Marine Exp. India Pvt. Ltd.
- 49. Kay Kay Exports; Kay Kay Foods
- 50. KNC Agro Limited; KNC AGRO PVT. LTD.
- 51. LNSK Greenhouse Agro Products LLP
- 52. Magnum Sea Foods Limited; Magnum Estates Limited; Magnum Estates Private; Magnum Estates Private Limited
- 53. Mangala Marine Exim India Pvt. Ltd.
- 54. Mangala Seafoods; Mangala Sea Foods
- 55. Maritime Aqua Exportz
- 56. Megaa Moda Pvt. Ltd.
- 57. Mekworld Marines and Exports Private Limited
- 58. Milesh Marine Exports Private Limited
- 59. Milsha Agro Exports Pvt. Ltd.
- 60. Mindhola Foods LLP
- 61. MMC Exports Limited
- 62. Monsun Foods Pvt. Ltd.
- 63. Mourya Aquex Pvt. Ltd.
- 64. Munnangi Seafoods (Pvt) Ltd.
- 65. N.K. Marine Exports LLP
- 66. Naga Hanuman Fish Packers
- 67. NDM Seafood Processors & Exporters Private Limited
- 68. Neeli Aqua Private Limited
- 69. Nekkanti Mega Food Park Private Limited
- 70. Nekkanti Sea Foods Limited
- 71. Nezami Rekha Sea Foods Private Limited; Nezami Rekha Sea Food Private Limited
- 72. Nila Sea Foods Exports; Nila Sea Foods Pvt. Ltd.
- 73. Pasupati Aquatics Private Limited

- 74. Penver Products (P) Ltd
- 75. Rising Tide
- 76. Royal Imports and Exports
- 77. Royale Marine Impex Pvt. Ltd.
- 78. S.A. Exports
- 79. Safa Global Impex
- 80. Sagar Grandhi Exports Pvt. Ltd.
- 81. Sai Marine Exports Pvt. Ltd.
- 82. Sam Aqua Exports LLP
- 83. Sandhya Aqua Exports Pvt. Ltd.; Sandhya Aqua Exports
- 84. Sandhya Marines Limited
- 85. Sea Foods Private Limited
- 86. Sharat Industries Ltd.
- 87. Shree Datt Aquaculture Farms Pvt. Ltd.
- 88. Sigma Seafoods
- 89. Snow World Marine Exports Private Limited
- 90. Southern Tropical Foods Pvt. Ltd.
- 91. Sprint Exports Pvt. Ltd.
- 92. Sreeragam Export Private Limited
- 93. Srikanth International
- 94. Srikanth International Private Limited
- 95. Star Agro Marine Exports Private Limited
- 96. Summit Marine Exports Private Limited
- 97. Sunrise Seafoods India Private Limited
- 98. Suryamitra Exim Pvt. Ltd.
- 99. The Waterbase Ltd.
- 100. V.V. Marine Products
- 101. Vaisakhi Bio-Marine Private Limited
- 102. Varma Marine Private Limited
- 103. Vasista Marine
- 104. Vasista Marine Private Limited
- 105. Veerabhadra Exports Private Limited
- 106. Wellcome Fisheries Limited
- 107. Z.A. Sea Foods Pvt. Ltd.
- 108. Zeal Aqua Limited

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–829]

Prestressed Concrete Steel Wire Strand From India: Final Results of the Expedited Fourth Sunset Review of the Countervailing Duty Order

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

SUMMARY: The U.S. Department of Commerce (Commerce) finds that revocation of the countervailing duty (CVD) order on prestressed concrete steel wire strand (PC strand) from India would be likely to lead to continuation or recurrence of countervailable subsidies at the levels indicated in the “Final Results of Sunset Review” section of this notice.

DATES: Applicable April 10, 2026.

FOR FURTHER INFORMATION CONTACT: David De Falco, Trade Agreements Policy and Negotiations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue

NW, Washington, DC 20230; telephone: 202–482–2178.

SUPPLEMENTARY INFORMATION:

Background

On February 4, 2004, the Commerce published the *Order* on PC strand from India.¹ On October 3, 2025, Commerce published the notice of initiation of the fourth sunset review of the *Order*, pursuant to section 751(c) of the Tariff Act of 1930 (the Act) and 19 CFR 351.218(c).²

On October 20, 2025, Commerce received a notice of intent to participate in this review from the domestic interested parties,³ within the deadline specified in 19 CFR 351.218(d)(1)(i).⁴ The domestic interested parties claim that interested party status within the meaning of section 771(9)(C) of the Act and 19 CFR 351.102(b)(29)(v) as producers of the domestic like product.⁵

On November 3, 2025, Commerce received an adequate substantive response from the domestic interested parties, within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).⁶ Commerce did not receive a substantive response from either the Government of India or a respondent interested party to this proceeding. On December 8, 2025, Commerce notified the U.S. International Trade Commission (ITC) that it did not receive an adequate substantive response from respondent interested parties.⁷ As a result, Commerce conducted an expedited (120-day) sunset review of the *Order*, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(B)(2) and (C)(2).

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.⁸ Additionally, due to a backlog of documents that were electronically filed via Enforcement and

¹ See *Notice of Countervailing Duty Order: Prestressed Concrete Steel Wire Strand from India*, 69 FR 5319 (February 4, 2004) (*Order*).

² See *Initiation of Five-Year (Sunset) Reviews*, 90 FR 48048 (October 3, 2025).

³ The domestic interested parties are: Insteel Wire Products Company, Sumiden Wire Products Corporation, and Wire Mesh Corp.

⁴ See Domestic Interested Parties’ Letter, “Prestressed Concrete Steel Wire Strand from India—Domestic Industry’s Notice of Intent to Participate,” dated October 20, 2025.

⁵ *Id.* at 3.

⁶ See Domestic Interested Parties’ Letter, “Prestressed Concrete Steel Wire Strand from India—Domestic Industry’s Substantive Response,” dated November 3, 2025 (Substantive Response).

⁷ See Commerce’s Letter, “Sunset Reviews Initiated October 3, 2025,” dated December 8, 2025.

⁸ See Memorandum, “Deadlines Affected by the Shutdown of the Federal Government,” dated November 14, 2025.

¹⁶ On October 18, 2023, Commerce determined that Highland Agro Food Private Limited is the successor-in-interest to Highland Agro. See *Certain Frozen Warmwater Shrimp from India: Notice of Final Results of Antidumping Duty Changed Circumstances Review*, 88 FR 71825 (October 18, 2023).

¹⁷ On December 23, 2022, Commerce determined that Kader Exports Private Limited is the successor in-interest to the Liberty Group, which is comprised of Devi Marine Food Exports Private Ltd.; Kader Exports Private Limited; Kader Investment and Trading Company Private Limited; Liberty Frozen Foods Private Limited; Liberty Oil Mills Limited; Premier Marine Products Private Limited; and Universal Cold Storage Private Limited. See *Certain Frozen Warmwater Shrimp from India: Notice of Final Results of Antidumping Duty Changed Circumstances Review*, 87 FR 78941 (December 23, 2022).

Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.⁹ Accordingly, the deadline for these final results is now April 7, 2026.

Scope of the Order

The product covered by this *Order* is PC strand from India. For the full description of the scope of the *Order*, see the Issues and Decisions Memorandum.¹⁰

Analysis of Comments Received

A complete discussion of all issues raised in this sunset review, including the likelihood of continuation or recurrence of subsidization and the countervailable subsidy rates likely to prevail if the *Order* were to be revoked, is contained in the accompanying Issues and Decision Memorandum.¹¹ A list of the topics discussed in the Issues and Decision Memorandum is attached as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), which is available to registered users at <https://access.trade.gov>. In addition, complete versions of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Final Results of Sunset Review

Pursuant to sections 751(c) and 752(b) of the Act, Commerce determines that revocation of the *Order* would be likely to lead to continuation or recurrence of countervailable subsidies at the following net countervailable subsidy rates:

Producers/exporters	Net countervailable subsidy rate (percent <i>ad valorem</i>)
All producers/exporters ...	62.92

⁹ See Memorandum, "Tolling of all Case Deadlines," dated November 24, 2025.

¹⁰ See Memorandum, "Issues and Decision Memorandum for the Final Results of Expedited Fourth Sunset Review of the Countervailing Duty Order on Prestressed Concrete Steel Wire Strand from India," dated concurrently with, and hereby adopted by, this notice.

¹¹ *Id.*

Notification Regarding Administrative Protective Orders

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

Notification to Interested Parties

We are issuing and publishing these final results in accordance with sections 751(c), 752(b), and 777(i)(1) of the Act, and 19 CFR 351.221(c)(5)(ii).

Dated: April 7, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. History of the Order
- V. Legal Framework
- VI. Discussion of the Issues
 1. Likelihood of Continuation or Recurrence of a Countervailable Subsidy
 2. Net Countervailable Subsidy Rates Likely to Prevail
 3. Nature of the Subsidies
- VII. Final Results of Sunset Review
- VIII. Recommendation

[FR Doc. 2026-06998 Filed 4-9-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-580-884]

Certain Hot-Rolled Steel Flat Products From the Republic of Korea: Preliminary Results and Rescission, in Part, of Countervailing Duty Administrative Review; 2023

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that countervailable subsidies were provided to producers and exporters of certain hot-rolled steel flat products (hot-rolled steel) from the Republic of Korea (Korea), during the

period of review (POR) from January 1, 2023, through December 31, 2023. In addition, Commerce is rescinding this review, in part, with respect to 13 companies. Interested parties are invited to comment on these preliminary results.

DATES: Applicable April 10, 2026.

FOR FURTHER INFORMATION CONTACT:

Kelsie Hohenberger or Nathan James, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-2517 or (202) 482-5305, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 3, 2016, Commerce published in the **Federal Register** the countervailing duty order on hot-rolled steel from Korea.¹ On November 14, 2024, Commerce initiated this administrative review of the *Order*.² On December 17, 2024, Commerce selected Hyundai Steel and POSCO as the mandatory respondents in this review.³

On December 9, 2024, Commerce tolled certain deadlines in this administrative proceeding by 90 days.⁴ On September 17, 2025, Commerce extended the deadline for the preliminary results of this administrative review by 120 days.⁵ Further, due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.⁶ Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines

¹ See *Certain Hot-Rolled Steel Flat Products from Brazil and the Republic of Korea: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Orders*, 81 FR 67960 (October 3, 2016) (*Order*).

² See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 89 FR 89955 (November 14, 2024) (*Initiation Notice*).

³ See Memorandum, "Respondent Selection," dated December 17, 2024.

⁴ See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings," dated December 9, 2024.

⁵ See Memorandum, "Extension of Deadline for Preliminary Results of 2023 Countervailing Duty Administrative Review," dated September 17, 2025.

⁶ See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated November 14, 2025.

in administrative proceedings by an additional 21 days.⁷

For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.⁸ A list of topics included in the Preliminary Decision Memorandum is provided as Appendix I to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Order

The product covered by the *Order* is hot-rolled steel from Korea. For a complete description of the scope of the *Order*, *see* the Preliminary Decision Memorandum.

Rescission of Administrative Review, In Part

On March 9, 2026, Commerce notified interested parties that we intended to rescind this administrative review for 13 companies for which the record information shows no suspended entries of subject merchandise during the POR.⁹ No parties commented on the notification of intent to rescind the review, in part. Therefore, we find that there were no entries of subject merchandise during the POR by the 13 companies listed in Appendix II. As a result of our finding, we are rescinding this review, in part, pursuant to 19 CFR 351.213(d)(3), with respect to these companies. For further information regarding this determination, *see* “Rescission of Administrative Review, in Part” section in the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this administrative review in accordance with 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a

benefit to the recipient, and that the subsidy is specific.¹⁰ For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

Preliminary Results of Review

As a result of this review, we preliminarily determine the following net countervailable subsidy rates exist for the POR, January 1, 2023, through December 31, 2023:

Company	Subsidy rate (percent <i>ad valorem</i>)
Hyundai Steel Company ¹¹ ...	1.28
POSCO ¹²	3.71

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties for these preliminary results within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

On February 24, 2025, Nucor Corporation, a domestic interested party, requested that Commerce conduct verification in this review.¹³ In July 2025, as provided in section 782(i)(3) of the Act, we verified Hyundai Steel’s information relied upon for the preliminary results of this review.¹⁴

¹⁰ See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

¹¹ Hyundai Steel Company is also known as Hyundai Steel Co., Ltd. Further, as discussed in the Preliminary Determination Memorandum, Commerce has found Hyundai Green Power and Hyundai ITC Co., Ltd. to be cross-owned with Hyundai Steel.

¹² As discussed in the Preliminary Decision Memorandum, Commerce has found the following companies to be cross-owned with POSCO: POSCO Holdings, POSCO M-Tech, POSCO Future M, POSCO Mobility Solutions, and POSCO Nippon Steel RHF Joint Venture Co., Ltd. We note that POSCO has an affiliated trading company through which it exported certain subject merchandise, POSCO International Corporation (POSCO International). POSCO International was not selected as a mandatory respondent, but was examined in the context of POSCO. Therefore, because POSCO International’s subsidies are included as part of POSCO’s total subsidy rate, we have not assigned a subsidy rate to POSCO International. Entries of subject merchandise exported by POSCO International will receive the rate of the producer listed on the U.S. Customs and Border Protection (CBP) entry form.

¹³ See Nucor’s Letter, “Request for Verification,” dated February 24, 2025.

¹⁴ See Memorandum, “Verification of the Questionnaire Responses of Hyundai Steel Company and Its Cross-owned Companies,” dated August 4, 2025.

Public Comment

Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs to Commerce no later than 21 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.¹⁵ Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.¹⁶ All briefs must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety in ACCESS by 5:00 p.m. Eastern Time on the established deadline.

As provided under 19 CFR 351.309(c)(2)(iii) and (d)(2)(iii), we request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.¹⁷ Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹⁸

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice. Requests should contain: (1) the party’s name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce will inform parties of the scheduled date for the hearing.¹⁹

¹⁵ See 19 CFR 351.309(d); *see also* *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Procedures*).

¹⁶ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁷ We use the term “issue” here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹⁸ See *APO and Service Procedures*.

¹⁹ See 19 CFR 351.310(d).

⁷ See Memorandum, “Tolling of all Case Deadlines,” dated November 24, 2025.

⁸ See Memorandum, “Decision Memorandum for the Preliminary Results and Partial Rescission of the Administrative Review of the Countervailing Duty Order on Certain Hot-Rolled Steel Flat Products from the Republic of Korea; 2023,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁹ See Memorandum, “Intent to Rescind Review, in Part,” dated March 9, 2026.

Assessment Rates

Consistent with section 751(a)(1) of the Act and 19 CFR 351.212(b)(2), upon issuance of the final results, Commerce shall determine, and CBP shall assess, countervailing duties on all appropriate entries covered by this review.

For the companies listed in Appendix II for which the review is being rescinded, Commerce will instruct CBP to assess countervailing duties on all appropriate entries at a rate equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, during the period January 1, 2023, through December 31, 2023, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue rescission instructions to CBP no earlier than 35 days after the date of publication of this notice in the **Federal Register**.

For the companies remaining under review, Commerce will instruct CBP to assess countervailing duties on all appropriate entries at the subsidy rates calculated in the final results of this review. Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**.

If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Requirements

Pursuant to section 751(a)(2)(C) of the Act, Commerce intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amount indicated above with regard to shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. If the rates calculated in the final results are zero or *de minimis*, no cash deposit will be required on shipments of the subject merchandise entered or withdrawn from warehouse, for consumption on or after the date of publication of this review. For all non-reviewed firms, we will instruct CBP to continue to collect cash deposits of estimated countervailing duties at the most recent company-specific or all-others rate applicable to the company, as appropriate. These cash deposit instructions, when imposed, shall remain in effect until further notice.

Final Results of Review

Unless the deadline is extended, we intend to issue the final results of this administrative review, which will include the results of our analysis of the issues raised in the case briefs, within 120 days of publication of these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act.

Notification to Interested Parties

We are issuing and publishing these preliminary results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: April 7, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Diversification of the Republic of Korea's Economy
- V. Rescission of Administrative Review, In Part
- VI. Subsidies Valuation Information
- VII. Benchmarks and Interest Rates
- VIII. Analysis of Programs
- IX. Recommendation

Appendix II

Companies Rescinded From Review

1. DCE Inc.
2. Dong Chuel America Inc.
3. Dong Chuel Industrial Co., Ltd.
4. Dongbu Incheon Steel Co., Ltd.
5. Dongbu Steel Co., Ltd.
6. Dongkuk Industries Co., Ltd.
7. Dongkuk Steel Mill Co., Ltd.
8. Hyewon Sni Corporation (H.S.I.)
9. JFE Shoji Trade Korea Ltd.
10. POSCO Coated & Color Steel Co., Ltd.
11. POSCO Daewoo Corporation
12. Soon Hong Trading Co., Ltd.
13. Sung-A Steel Co., Ltd.

[FR Doc. 2026-07001 Filed 4-9-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-122-863]

Large Diameter Welded Pipe From Canada: Rescission of Antidumping Duty Administrative Review; 2024–2025

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 antidumping duty (AD) order on large diameter welded pipe (LDWP) from Canada. The period of review (POR) is May 1, 2024, through April 30, 2025.

DATES: Applicable April 10, 2026.

FOR FURTHER INFORMATION CONTACT:

Allison Hollander, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-2805.

SUPPLEMENTARY INFORMATION:

Background

On May 2, 2019, Commerce published in the **Federal Register** the AD order on LDWP from Canada.¹ Commerce received timely requests for review of the AD order from Evraz Inc (Evraz) and the petitioner.² On June 25, 2025, Commerce published the initiation notice in the **Federal Register** for 36 companies, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).³ On July 16, 2025, we released U.S. Customs and Border Protection (CBP) data for POR entries of the subject merchandise.⁴ On July 23, 2025, Evraz submitted a POR no shipments letter, along with comments on the CBP data.⁵ On July 23, 2025, the petitioner also submitted comments on the CBP data.⁶ On July 28, 2025, the petitioner submitted rebuttal comments on both Evraz's no shipments letter and the CBP data.⁷

On September 23, 2025, the petitioner withdrew its review requests for certain companies.⁸ On September 30, 2025, we released CBP entry documents related to

¹ See *Large Diameter Welded Pipe from Canada: Antidumping Duty Order*, 84 FR 18775 (May 2, 2019).

² See Evraz's Letter, "Request for Administrative Review," dated May 30, 2025; see also Petitioner's Letter, "Request for Administrative Review," dated June 2, 2025.

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 90 FR 26967 (June 25, 2025).

⁴ See Memorandum, "Release of Customs Entry Data from U.S. Customs and Border Protection (CBP)," dated July 16, 2025 (CBP Data Memorandum).

⁵ See Evraz's Letter, "Notice of No Sales and Comments on CBP Data," dated July 23, 2025.

⁶ See Petitioner's Letter, "Comments on CBP Release of Data and Respondent Selection," dated July 23, 2025.

⁷ See Petitioner's Letter, "Rebuttal Comments on CBP Data," dated July 28, 2025.

⁸ See Petitioner's Letter, "Partial Withdrawal of Request for Administrative Review," dated September 23, 2025. The five companies for which the petitioner withdrew its review requests are Pipe & Piling Sply Ltd. and Pipe & Piling Supplies (collectively, Pipe & Piling); Canam (St. Gedeon) (Canam); Forterra; and Hyperscon Inc (Hyperscon).

POR entries and invited interested parties to comment.⁹ No party filed comments on this memorandum.

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.¹⁰ Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.¹¹ Accordingly, the deadline for the preliminary results of this review is now April 9, 2026.

On March 11, 2026, we issued a memorandum notifying parties of our intent to rescind the 2024–2025 administrative review and invited interested parties to comment.¹² No party filed comments on Commerce's Intent to Rescind Memorandum.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if a party who requested the review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review in the **Federal Register**. For Canam, Forterra, Hyperscon, and Pipe & Piling, the petitioner timely withdrew its requests for review by the 90-day withdrawal deadline, and no other parties requested a review of these companies. Because all parties timely withdrew their requests for a review of these exporters, consistent with 19 CFR 351.213(d)(1), Commerce is rescinding this review, in part, with respect to these companies.

Furthermore, pursuant to 19 CFR 351.213(d)(3), Commerce will rescind an administrative review of an AD order where there are no entries of subject merchandise during the POR for which

liquidation is suspended.¹³ Normally, upon completion of an administrative review, the suspended entries are liquidated at the AD rates calculated for the review period.¹⁴ 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 AD rates for the review period.¹⁵ As noted above, because we determine that Evraz made no shipments of subject merchandise during the POR, there were no suspended entries of subject merchandise for any companies subject to this review in the CBP data during the POR.¹⁶ Accordingly, in the absence of reviewable, suspended entries of subject merchandise during the POR for the companies under review, we are hereby rescinding this administrative review in its entirety, in accordance with 19 CFR 351.213(d)(3).

Assessment

Commerce will instruct CBP to assess antidumping duties on all appropriate entries. Antidumping duties shall be assessed at rates equal to the cash deposit rate of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue assessment instructions to CBP no earlier than 41 days after the date of publication of this rescission notice in the **Federal Register**.

Notification Regarding Administrative Protective Order (APO)

This notice serves as a final reminder to parties subject to an 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.

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: April 7, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2026–06933 Filed 4–9–26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–848]

Commodity Matchbooks From India: Final Results of the Expedited Third Sunset Review of the Antidumping Duty Order

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

SUMMARY: The U.S. Department of Commerce (Commerce) finds that revocation of the antidumping duty (AD) order on commodity matchbooks from India would be likely to lead to continuation or recurrence of dumping, at the levels indicated in the “Final Results of Sunset Review” section of this notice.

DATES: Applicable April 10, 2026.

FOR FURTHER INFORMATION CONTACT: David De Falco, Trade Agreements Policy and Negotiations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: 202–482–2178.

SUPPLEMENTARY INFORMATION:

Background

On December 11, 2009, Commerce published the *Order* in the **Federal Register**.¹ On October 3, 2025, Commerce published the notice of initiation of this third sunset review of the Order, pursuant to section 751(c) of the Tariff Act of 1930 (the Act).²

On December 23, 2025, the domestic interested party filed a request for extension of time to file the notice of intent to participate.³ On January 2,

⁹ See Memorandum, “Release of U.S. Customs and Border Protection Entry Documents,” dated September 30, 2025.

¹⁰ See Memorandum, “Deadlines Affected by the Shutdown of the Federal Government,” dated November 14, 2025.

¹¹ See Memorandum, “Tolling of all Case Deadlines,” dated November 24, 2025.

¹² See Memorandum, “Intent to Rescind,” dated March 11, 2026 (Intent to Rescind Memorandum). Based on record information, we determine that Evraz did not have knowledge that subject merchandise it produced was destined for the United States and thus Evraz is not considered the exporter of subject merchandise during the POR for the purposes of this review. Therefore, we determine that Evraz made no shipments of subject merchandise during the POR.

¹³ See, e.g., *Welded Line Pipe from the Republic of Turkey: Rescission of the Antidumping Duty Administrative Review; 2019–2020*, 87 FR 27988 (May 10, 2022); see also, e.g., *Certain Softwood Lumber Products from Canada: Final Results and Final Rescission, in Part, of the Countervailing Duty Administrative Review, 2020*, 87 FR 48455 (August 9, 2022); and *Certain Non-Refillable Steel Cylinders from the People's Republic of China: Rescission of Countervailing Duty Administrative Review; 2020–2021*, 87 FR 64008 (October 21, 2022).

¹⁴ See 19 CFR 351.212(b)(2).

¹⁵ See 19 CFR 351.212(d)(3).

¹⁶ See CBP Data Memorandum.

¹ See *Commodity Matchbooks from India: Antidumping Duty Order*, 74 FR 65737 (December 11, 2009) (*Order*).

² See *Initiation of Five-Year (Sunset) Reviews*, 90 FR 48048 (October 3, 2025).

³ See Domestic Interested Party's Letter, “Commodity Matchbooks from India (A–533–848 and C–533–849): Petitioner's Request for Extension

Continued

2026, Commerce granted the request for an extension through January 12, 2026.⁴ On January 8, 2025, Commerce received a timely and complete notice of intent to participate in the sunset review for domestic interested parties within the deadline specified in the 19 CFR 351.218(d)(1)(i).⁵ The domestic interested party claimed the interested party status within the meaning of section 771(9)(C) of the Act as a producer of the domestic like product.⁶ On January 23, 2026, Commerce notified the U.S. International Trade Commission (ITC) that it had received a notice of intent to participate from the domestic interested parties.⁷

On January 9, 2026, pursuant to 19 CFR 351.218(d)(3)(i), domestic interested parties filed a timely and adequate substantive response.⁸ Commerce did not receive a substantive response from any respondent interested party. On January 20, 2026, Commerce notified the ITC that it did not receive substantive response from any respondent interested parties.⁹ As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce is conducting an expedited (120-day) sunset review of the *Order*.

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.¹⁰ Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an

of Time to File Notice of Intent to Participate," dated December 23, 2025.

⁴ See Commerce's Letter "Re: Commodity Matchbooks from India (A-533-848 and C-533-849): Petitioner's Request for Extension of Time to File Notice of Intent to Participate," dated January 2, 2026.

⁵ See Domestic Interested Party's Letter, "Commodity Matchbooks from India (A-533-848 and C-533-849): Petitioner's Notice of Intent to Participate," dated January 8, 2026.

⁶ *Id.* at 2.

⁷ See Commerce's Letter, "Sunset Reviews Initiated on October 3, 2025," dated January 23, 2026.

⁸ See Domestic Interested Party's Letter, "Commodity Matchbooks from India (A-533-848): Petitioner's Substantive Response to the Notice of Initiation," dated January 9, 2026.

⁹ See Commerce's Letter, "Sunset Reviews Initiated on October 3, 2025," dated January 20, 2026.

¹⁰ See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated November 14, 2025.

additional 21 days.¹¹ Accordingly, the deadline for these final results is now April 7, 2026.

Scope of the Order

The product covered by this *Order* is commodity matchbooks from India. For the full description of the scope of the *Order*, see the Issues and Decision Memorandum.¹²

Analysis of Comments Received

A complete discussion of all issues raised in this sunset review, including the likelihood of continuation or recurrence of dumping in the event of revocation of the *Order* and the magnitude of the margins likely to prevail if the *Order* were to be revoked, is provided in the accompanying Issues and Decision Memorandum.¹³ A list of the topics discussed in the Issues and Decision Memorandum is attached in the Appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be directly accessed at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Final Results of Sunset Review

Pursuant to sections 751(c)(1), 752(c)(2) and (3) of the Act, Commerce determines that revocation of the *Order* would be likely to lead to continuation or recurrence of dumping, and that the magnitude of the dumping margins likely to prevail would be weighted-average dumping margins up to 66.07 percent.

Notification Regarding Administrative Protective Orders

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

¹¹ See Memorandum, "Tolling of all Case Deadlines," dated November 24, 2025.

¹² See Memorandum, "Issues and Decision Memorandum for the Final Results of the Expedited Third Sunset Review of the Antidumping Duty Order on Commodity Matchbooks from India," dated concurrently with, and hereby adopted by, this notice.

¹³ *Id.*

Notification to Interested Parties

We are issuing and publishing these final results in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act, and 19 CFR 351.218 and 19 CFR 351.221(c)(5)(ii).

Dated: April 7, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Order*
- IV. History of the *Order*
- V. Legal Framework
- VI. Discussion of the Issues
 1. Likelihood of Continuation or Recurrence of Dumping
 2. Magnitude of the Margins of Dumping Likely to Prevail
- VII. Final Results of Sunset Review
- VIII. Recommendation

[FR Doc. 2026-06916 Filed 4-9-26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-533-849]

Commodity Matchbooks From India: Final Results of the Expedited Third Sunset Review of the Countervailing Duty Order

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

SUMMARY: The U.S. Department of Commerce (Commerce) finds that revocation of the countervailing duty (CVD) order on commodity matchbooks from India would be likely to lead to continuation or recurrence of countervailable subsidies at the levels indicated in the "Final Results of Sunset Review" section of this notice.

DATES: Applicable April 10, 2026.

FOR FURTHER INFORMATION CONTACT: David De Falco, Trade Agreements Policy and Negotiations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: 202-482-2178.

SUPPLEMENTARY INFORMATION:

Background

On December 11, 2009, the Commerce published the *Order* on commodity

matchbooks from India.¹ On October 3, 2025, Commerce published the notice of initiation of the third sunset review of the *Order*, pursuant to section 751(c) of the Tariff Act of 1930 (the Act) and 19 CFR 351.218(c).²

On December 23, 2025, the domestic interested party filed a request for extension of time to file the notice of intent to participate.³ On January 2, 2026, Commerce granted the request for an extension through January 12, 2026.⁴ On January 8, 2026, Commerce received a notice of intent to participate in this review from the domestic interested party, within the deadline specified in 19 CFR 351.218(d)(1)(i).⁵ The domestic interested party claims that it has interested party status within the meaning of section 771(9)(C) of the Act and 19 CFR 351.102(b)(29)(v) as a producer of the domestic like product.⁶

On January 9, Commerce received an adequate substantive response from the domestic interested party, within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).⁷ Commerce did not receive a substantive response from either the Government of India or a respondent interested party to this proceeding. On January 20, 2026, Commerce notified the U.S. International Trade Commission (ITC) that it did not receive an adequate substantive response from respondent interested parties.⁸ As a result, Commerce conducted an expedited (120-day) sunset review of the *Order*, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(B)(2) and (C)(2).

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled

all deadlines in administrative proceedings by 47 days.⁹ Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.¹⁰ Accordingly, the deadline for these final results is now April 7, 2026.

Scope of the Order

The product covered by this *Order* is commodity matchbooks from India. For the full description of the scope of the *Order*, see the Issues and Decisions Memorandum.¹¹

Analysis of Comments Received

A complete discussion of all issues raised in this sunset review, including the likelihood of continuation or recurrence of subsidization and the countervailable subsidy rates likely to prevail if the *Order* were to be revoked, is contained in the accompanying Issues and Decision Memorandum.¹² A list of the topics discussed in the Issues and Decision Memorandum is attached as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via ACCESS, which is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Final Results of Sunset Review

Pursuant to sections 751(c) and 752(b) of the Act, Commerce determines that revocation of the *Order* would be likely to lead to continuation or recurrence of countervailable subsidies at the following net countervailable subsidy rates:

Producers/exporters	Net countervailable subsidy rate (percent <i>ad valorem</i>)
Triveni Safety Matches Pvt. Limited	9.88
All Others	9.88

Notification Regarding Administrative Protective Orders

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

Notification to Interested Parties

We are issuing and publishing these final results in accordance with sections 751(c), 752(b), and 777(i)(1) of the Act, and 19 CFR 351.221(c)(5)(ii).

Dated: April 7, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Order*
- IV. History of the *Order*
- V. Legal Framework
- VI. Discussion of the Issues
 1. Likelihood of Continuation or Recurrence of a Countervailable Subsidy
 2. Net Countervailable Subsidy Rates Likely to Prevail
 3. Nature of the Subsidies
- VII. Final Results of Sunset Review
- VIII. Recommendation

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¹ See *Commodity Matchbooks from India: Countervailing Duty Order*, 74 FR 65740 (December 11, 2009) (*Order*).

² See *Initiation of Five-Year (Sunset) Reviews*, 90 FR 48048 (October 3, 2025).

³ See Domestic Interested Party's Letter, "Commodity Matchbooks from India (A-533-848 and C-533-849): Petitioner's Request for Extension of Time to File Notice of Intent to Participate," dated December 23, 2025.

⁴ See Commerce's Letter, "Re: Commodity Matchbooks from India (A-533-848 and C-533-849): Petitioner's Request for Extension of Time to File Notice of Intent to Participate," dated January 2, 2026.

⁵ See Domestic Interested Party's Letter, "Commodity Matchbooks from India (A-533-848 and C-533-849): Petitioner's Notice of Intent to Participate," dated January 8, 2026.

⁶ *Id.* at 2.

⁷ See Domestic Interested Party's Letter, "Commodity Matchbooks from India (C-533-849): Petitioner's Substantive Response to the Notice of Initiation," dated January 9, 2026 (*Substantive Response*).

⁸ See Commerce's Letter, "Commodity Matchbooks from India Sunset Reviews Initiated on October 3, 2025," dated January 20, 2026.

⁹ See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated November 14, 2025.

¹⁰ See Memorandum, "Tolling of all Case Deadlines," dated November 24, 2025.

¹¹ See Memorandum, "Issues and Decision Memorandum for the Final Results of the Third Expedited Sunset Review of the Countervailing Duty Order on Commodity Matchbooks from India," dated concurrently with, and hereby adopted by, this notice.

¹² *Id.*

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–887]

Tetrahydrofurfuryl Alcohol From the People's Republic of China: Final Results of the Expedited Fourth Sunset Review of the Antidumping Duty Order

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

SUMMARY: The U.S. Department of Commerce (Commerce) finds that revocation of the antidumping duty (AD) order on tetrahydrofurfuryl alcohol (THFA) from the People's Republic of China (China) would be likely to lead to continuation or recurrence of dumping, at the levels indicated in the “Final Results of Sunset Review” section of this notice.

DATES: Applicable April 10, 2026.

FOR FURTHER INFORMATION CONTACT: David de Falco, Trade Agreements Policy and Negotiations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: 202–482–2178.

SUPPLEMENTARY INFORMATION:**Background**

On August 6, 2004, Commerce published the *Order* in the **Federal Register**.¹ On October 3, 2025, Commerce published the notice of initiation of this fourth sunset review of the *Order*, pursuant to section 751(c) of the Tariff Act of 1930 (the Act).²

On October 9, 2025, Commerce received a timely and complete notice of intent to participate in the sunset review for domestic interested parties within the deadline specified in the 19 CFR 351.218(d)(1)(i).³ The domestic interested party claimed the interested party status within the meaning of section 771(9)(C) of the Act as a producer of the domestic like product.⁴ On December 9, 2025, Commerce notified the U.S. International Trade Commission (ITC) that it had received a

notice of intent to participate from the domestic interested parties.⁵

On October 31, 2025, pursuant to 19 CFR 351.218(d)(3)(i), domestic interested parties filed a timely and adequate substantive response.⁶ Commerce did not receive a substantive response from any respondent interested party. On December 8, 2025, Commerce notified the ITC that it did not receive substantive response from any respondent interested parties.⁷ As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce is conducting an expedited (120-day) sunset review of the *Order*.

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.⁸ Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.⁹ Accordingly, the deadline for these final results is now April 7, 2026.

Scope of the Order

The product covered by the *Order* is THFA from China. For the full description of the scope of the *Order*, see the Issues and Decisions Memorandum.¹⁰

Analysis of Comments Received

A complete discussion of all issues raised in this sunset review, including the likelihood of continuation or recurrence of dumping in the event of revocation of the *Order* and the magnitude of the margins likely to

prevail if the *Order* were to be revoked, is provided in the accompanying Issues and Decision Memorandum.¹¹ A list of the topics discussed in the Issues and Decision Memorandum is attached in the Appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be directly accessed at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Final Results of Sunset Review

Pursuant to sections 751(c)(1), 752(c)(1) and (3) of the Act, Commerce determines that revocation of the *Order* would be likely to lead to continuation or recurrence of dumping, and that the magnitude of the dumping margins likely to prevail would be weighted-average dumping margins up to 136.86 percent.

Notification Regarding Administrative Protective Order (APO)

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

Notification to Interested Parties

We are issuing and publishing these final results in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act, and 19 CFR 351.218 and 19 CFR 351.221(c)(5)(ii).

Dated: April 7, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix**List of Topics Discussed in the Issues and Decision Memorandum**

- I. Summary
- II. Background
- III. Scope of the *Order*
- IV. History of the *Order*
- V. Legal Framework
- VI. Discussion of the Issues
 1. Likelihood of Continuation or Recurrence of Dumping
 2. Magnitude of the Margins of Dumping Likely to Prevail

¹ See *Notice of Antidumping Duty Order: Tetrahydrofurfuryl Alcohol from the People's Republic of China*, 69 FR 47911 (August 6, 2004) (*Order*).

² See *Initiation of Five-Year (Sunset) Reviews*, 90 FR 48048 (October 3, 2025).

³ See Domestic Interested Party's Letter, “Sunset Review (Fourth Review) of the Antidumping Duty Order on Tetrahydrofurfuryl Alcohol from the People's Republic of China: Domestic Interested Party Notification of Intent to Participate,” dated October 9, 2025.

⁴ *Id.* at 6.

⁵ See Commerce's Letter, “Sunset Reviews Initiated on October 3, 2025,” dated December 9, 2025.

⁶ See Domestic Interested Party's Letter, “Sunset Review (4th Review) of the Antidumping Duty Order on Tetrahydrofurfuryl Alcohol from the People's Republic of China: Domestic Interested Party Substantive Response to Notice of Initiation,” dated October 31, 2025 (*Substantive Response*).

⁷ See Commerce's Letter, “Sunset Reviews Initiated on October 3, 2025,” dated December 8, 2025.

⁸ See Memorandum, “Deadlines Affected by the Shutdown of the Federal Government,” dated November 14, 2025.

⁹ See Memorandum, “Tolling of all Case Deadlines,” dated November 24, 2025.

¹⁰ See Memorandum, “Issues and Decision Memorandum for the Final Results of the Expedited Fourth Sunset Review of the Antidumping Duty Order on Tetrahydrofurfuryl Alcohol from the People's Republic of China” dated concurrently with, and hereby adopted by, this notice.

¹¹ *Id.*

VII. Final Results of Sunset Review
 VIII. Recommendation
 [FR Doc. 2026–06912 Filed 4–9–26; 8:45 am]
 BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–839]

Common Alloy Aluminum Sheet From the Republic of Türkiye: Final Results of Antidumping Duty Administrative Review; 2023–2024

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that common alloy aluminum sheet (CAAS) from the Republic of Türkiye (Türkiye) was sold in the United States at less than normal value during the period of review (POR) April 1, 2023, through March 31, 2024.

DATES: Applicable April 10, 2026.

FOR FURTHER INFORMATION CONTACT: Dan Alexander, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4313.

SUPPLEMENTARY INFORMATION:

Background

On August 8, 2025, Commerce published the *Preliminary Results* of this administrative review in the **Federal Register** and invited interested parties to comment.¹ Due to the lapse in appropriations and the Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.² Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.³ On February 10,

2026, Commerce extended the deadline for the final results by 53 days.⁴ Accordingly, the deadline for these final results is now April 6, 2026.

For a complete description of the events that followed the *Preliminary Results*, see the Issues and Decision Memorandum.⁵ The Issues and Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at <http://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Commerce conducted this administrative review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order⁶

The merchandise subject to the *Order* is CAAS from Türkiye. For a complete description of the scope of the *Order*, see the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs submitted by interested parties in this administrative review are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is attached as the appendix to this notice.

Changes Since the Preliminary Results

Based on a review of the record and our analysis of the comments received from interested parties, Commerce made certain changes to the preliminary weighted-average dumping margin calculations for mandatory respondents, Assan Alüminyum Sanayi ve Ticaret A.Ş., Kibar Americas, Inc., and Kibar Dis Ticaret A.Ş. (collectively, Assan) and Teknik Alüminyum Sanayi A.Ş. (Teknik).⁷ For further details on the changes made since the *Preliminary*

Results, see the Issues and Decision Memorandum.

Rate for Companies Not Selected for Individual Examination

The Act and Commerce's regulations do not address the establishment of a weighted-average dumping margin to be determined for companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when determining the weighted-average dumping margin for companies that were not individually examined in an administrative review. Section 735(c)(5)(A) of the Act provides that the all-others rate should be calculated by weight averaging the weighted-average dumping margins determined for individually examined respondents, excluding rates that are zero, *de minimis*, or based entirely on facts available.

Consistent with section 735(c)(5)(A) of the Act, we calculated a weighted-average dumping margin for the non-examined company using the simple average of the calculated rates of the mandatory respondents, which are not zero, *de minimis*, or determined entirely on the basis of facts available.⁸ The non-examined company subject to this review is ASAS Alüminyum Sanayi ve Ticaret A.Ş.

Final Results of Administrative Review

As a result of this review, we determine the following estimated weighted-average dumping margins for the period April 1, 2023, through March 31, 2024:

⁸ With two respondents under examination, Commerce normally calculates: (A) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents; (B) a simple average of the estimated weighted-average dumping margins calculated for the examined respondents; and (C) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents using each company's publicly-ranged U.S. sales values for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. See, e.g., *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53662 (September 1, 2010), and accompanying Issues and Decision Memorandum at Comment 1. As complete publicly ranged sales data were not available, Commerce based the rate for the non-examined companies on the simple average of the estimated weighted-average dumping margins calculated for the examined respondents.

¹ See *Common Alloy Aluminum Sheet from the Republic of Türkiye: Preliminary Results and Rescission, in Part, of Antidumping Duty Administrative Review; 2023–2024*, 90 FR 38462 (August 8, 2025) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

² See Memorandum, “Deadlines Affected by the Shutdown of the Federal Government,” dated November 14, 2025.

³ See Memorandum, “Tolling of all Case Deadlines,” dated November 24, 2025.

⁴ See Memorandum, “Common Alloy Aluminum Sheet from the Republic of Türkiye: Extension of Deadline for Final Results of Antidumping Duty Administrative Review,” Dated February 10, 2026.

⁵ See Memorandum, “Issues and Decision Memorandum for the Final Results of the Administrative Review of the Antidumping Duty Order on Common Alloy Aluminum Sheet from Republic of Türkiye; 2023–2024,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁶ See *Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, India, Indonesia, Italy, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan and the Republic of Turkey: Antidumping Duty Orders*, 86 FR 22139 (April 27, 2021) (*Order*).

⁷ See the Issues and Decision Memorandum for descriptions of these changes.

Exporter or producer	Weight-average dumping margin (percent)
Assan Alüminyum Sanayi ve Ticaret A.S	4.01
Teknik Alüminyum Sanayi A.S.	14.19
Non-Selected Company	9.10

Disclosure

Commerce intends to disclose the calculations performed for these final results to interested parties within five days after public announcement, or if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Assessment Rates

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

Pursuant to 19 CFR 351.212(b)(1), because Assan's and Teknik's weighted-average dumping margin is not zero or *de minimis* (i.e., less than 0.5 percent), we calculated importer-specific *ad valorem* assessment rates based on the ratio of the total amount of dumping calculated for the examined sales to the total entered value of the sales. Where an importer-specific assessment rate is zero or *de minimis*, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.⁹

Consistent with Commerce's clarification of its assessment practice, for entries of subject merchandise during the POR produced by any of the above-referenced respondents for which they did not know the merchandise was destined for the United States, we will instruct CBP to liquidate such entries at the all-others rate established in the less-than-fair-value (LTFV) investigation of 4.85 percent *ad valorem*¹⁰ if there is no rate for the intermediate company(ies) involved in the transaction.¹¹

For the company not selected for individual examination, we will instruct

CBP to liquidate all applicable entries of subject merchandise during the POR at the rate listed in the table above.

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this administrative review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (i.e., within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) the company-specific cash deposit rate for Assan and Teknik will be equal to the weighted-average dumping margin established in the final results of this review for each respondent (except, if that rate is *de minimis*, then the cash deposit rate will be zero); (2) for producers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently-completed segment of this proceeding in which they were reviewed; (3) if the exporter is not a firm covered in this review or a prior segment of the proceeding but the producer is, then the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 4.85 percent, the all-others rate established in the less-than-fair-value investigation.¹² These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

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

antidumping and/or countervailing duties occurred and the subsequent assessment of double antidumping duties, and/or an increase in the amount of antidumping duties by the amount of the countervailing duties.

Administrative Protective Order (APO)

This notice also serves as a final reminder to parties subject to an APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

We are issuing and publishing these final results in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.213(h)(2) and 351.221(b)(5).

Dated: April 6, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Changes Since the *Preliminary Results*
- V. Discussion of the Issues
 - Comment 1: Assan's Indirect Selling Expense (ISE) Calculation
 - Comment 2: Inclusion of Non-Turkish Origin Sales of CAAS
 - Comment 3: Calculation of Average Raw Material Metal Premium Cost for Assan
 - Comment 4: Assan's Sales Side Duty Drawback Adjustment
 - Comment 5: Calculation of Assan's Cost-Side Duty Drawback Adjustment
 - Comment 6: Calculation of Assan's "Other Discounts" in the Home Market
 - Comment 7: Calculation of Teknik's Billing Adjustment
 - Comment 8: Existence of a Meaningful Difference in Methodologies for Teknik
 - Comment 9: Teknik's ISE Calculation
- VI. Recommendation

[FR Doc. 2026-06925 Filed 4-9-26; 8:45 am]

BILLING CODE 3510-DS-P

⁹ See *Antidumping Proceeding: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification*, 77 FR 8101, 8103 (February 14, 2012).

¹⁰ See *Order*, 86 FR at 22142.

¹¹ For a full discussion of this practice, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

¹² See *Order*, 86 FR at 22142.

DEPARTMENT OF COMMERCE**International Trade Administration****Environmental Technologies Trade Advisory Committee**

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

ACTION: Notice of an open meeting of a Federal Advisory Committee.

SUMMARY: The Environmental Technologies Trade Advisory Committee (ETTAC) will hold an in-person meeting on Tuesday, April 28, 2026. The meeting is open to the public with registration instructions provided below. This notice sets forth the schedule and proposed topics for the meeting.

DATES: The meeting is scheduled for Tuesday, April 28, 2026 from 10:00 a.m. to 10:30 a.m. and 11:15 a.m. to 3:30 p.m. Eastern Time (EDT). The deadline for members of the public to register to participate, including requests to make comments during the meeting and for auxiliary aids, or to submit written comments for dissemination prior to the meeting, is 5:00 p.m. EDT on Tuesday, April 21, 2026. Members of the public must register by that date to participate. This meeting has a limited number of spaces for members of the public to attend in-person. Requests to participate in-person will be considered on a first-come, first-served basis. Members of the public who wish to participate should register through the registration portal: <https://www.trade.gov/ettac>. Requests for auxiliary aids or to make comments during the meeting, or submit written comments for dissemination prior to the meeting, should be submitted via email to Ms. Megan Hyndman, Office of Energy & Environmental Industries, International Trade Administration, at Megan.Hyndman@trade.gov.

ADDRESSES: The meeting will be held in-person in the auditorium of the U.S. Department of Commerce Herbert C. Hoover Building, 1401 Constitution Avenue NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Ms. Megan Hyndman, Office of Energy & Environmental Industries, International Trade Administration (Phone: 202-482-1297; email: Megan.Hyndman@trade.gov).

SUPPLEMENTARY INFORMATION: The ETTAC is mandated by Section 2313(c) of the Export Enhancement Act of 1988, as amended, 15 U.S.C. 4728(c), to advise the Environmental Trade Promotion Working Group of the Trade Promotion Coordinating Committee on the

development and administration of programs to expand U.S. exports of environmental technologies, goods, services, and products. The ETTAC was most recently re-chartered through August 6, 2026.

On Tuesday, April 28, 2026 at 10:00 a.m. to 10:30 a.m. and 11:15 a.m. to 3:30 p.m. ET, the ETTAC will hold the ninth meeting of its current charter term. During the meeting, committee members will discuss issues affecting the competitiveness of the U.S. environmental technologies industry, deliberate on potential recommendation topics, and receive subject matter briefings from U.S. government agencies involved in the trade of environmental technologies. An agenda and any supplemental materials will be made available one week prior to the meeting at <https://www.trade.gov/ettac>.

The meeting will be open to the public and time will be permitted for public comment before the close of the meeting. Members of the public seeking to attend the meeting are required to register by Tuesday, April 21, 2026 at 5:00 p.m. EDT, via the registration portal at <https://www.trade.gov/ettac>. This meeting has a limited number of spaces for members of the public to attend in-person. Requests to participate in-person will be considered on a first-come, first-served basis. This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Megan.Hyndman@trade.gov or (202) 482-1297 no less than one week prior to the meeting. Requests received after this date will be accepted, but it may not be possible to accommodate them.

Written comments concerning ETTAC affairs are welcome any time before or after the meeting. To be considered during the meeting, written comments must be received by Tuesday, April 21 2026 at 5:00 p.m. ET to ensure transmission to the members before the meeting. Draft minutes and other meeting materials will be available within 30 days of this meeting at <https://www.trade.gov/ettac>.

Dated: April 7, 2026.

Man K. Cho,

Deputy Director, Office of Energy and Environmental Industries.

[FR Doc. 2026-07032 Filed 4-9-26; 8:45 am]

BILLING CODE 3510-DR-P

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-533-887]

Carbon and Alloy Steel Threaded Rod From India: Final Results of Antidumping Duty Administrative Review; 2023-2024

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that Mangal Steel Enterprises Limited (Mangal), the sole producer/exporter subject to this administrative review, did not make sales of carbon and alloy steel threaded rod (steel threaded rod) from India at less than normal value during the period of review (POR), April 1, 2023, through March 31, 2024.

DATES: Applicable April 10, 2026.

FOR FURTHER INFORMATION CONTACT: Robert Shore, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3261.

SUPPLEMENTARY INFORMATION:**Background**

On August 8, 2025, Commerce published the *Preliminary Results* of this review and invited interested parties to comment.¹ Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.² Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.³ On February 10, 2026, Commerce extended the deadline for issuing the final results of this administrative review until March 11, 2026.⁴ For a complete description of the

¹ See *Carbon and Alloy Steel Threaded Rod from India: Preliminary Results of Antidumping Duty Administrative Review; 2023-2024*, 90 FR 38445 (August 8, 2025).

² See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated November 14, 2025.

³ See Memorandum, "Tolling of all Case Deadlines," dated November 24, 2025.

⁴ See Memorandum, "Extension of Deadline for Final Results of Antidumping Duty Administrative Review; 2023-2024," dated February 10, 2026.

events that followed the *Preliminary Results*, see the Issues and Decision Memorandum.⁵ The Issues and Decision Memorandum is a public document and is made available to the public via ACCESS. ACCESS is available to registered users at <http://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Commerce conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order⁶

The merchandise covered by the scope of this *Order* is carbon and alloy steel threaded rod from India. A complete description of the scope of the *Order* is provided in the Issues and Decision Memorandum.⁷

Analysis of Comments Received

All issues raised in the case and rebuttal briefs are addressed in the Issues and Decision Memorandum. A list of the issues that parties raised and to which we responded in the Issues and Decision Memorandum is attached to this notice in the Appendix.

Changes Since the Preliminary Results

Based on a review of the record, we made certain changes to the margin calculations for these final results. For a discussion of these changes, see the Issues and Decision Memorandum.

Final Results of the Review

Commerce determines that the following estimated weighted-average dumping margin existed during the period April 1, 2023, through March 31, 2024:

Exporter/producer	Weighted-average dumping margin (percent)
Mangal Steel Enterprises Limited	0.00

⁵ See Memorandum, “Issues and Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review of Carbon and Alloy Steel Threaded Rod from India; 2023–2024,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁶ See *Carbon and Alloy Steel Threaded Rod from India: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 85 FR 19925 (April 9, 2020) (*Order*).

⁷ See Issues and Decision Memorandum at “Scope of the *Order*.”

Disclosure

Commerce intends to disclose the calculations performed in connection with these final results to interested parties within five days of any public announcement or, if there is no public announcement, within five days of the publication date of the notice of final results in the **Federal Register**.⁸

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(1), Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review. Because the weighted-average dumping margin for Mangal has been determined to be zero percent, we intend to instruct CBP to liquidate Mangal’s entries without regard to antidumping duties, in accordance with 19 CFR 351.106(c)(2).

In accordance with Commerce’s “automatic assessment” practice, for entries of subject merchandise during the POR produced by Mangal for which it did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate those entries at the all-others rate established in the original less-than-fair-value (LTFV) investigation of 0.00 percent,⁹ if there is no rate for the intermediate company(ies) involved in the transaction.¹⁰

We intend to issue instructions to CBP no earlier than 35 days after the publication date of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of review in the **Federal Register**, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for Mangal will be equal to the weighted-average dumping margin established in the final results of this administrative review; (2) for merchandise exported by producers

or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently-completed segment of this proceeding in which they were reviewed; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation but the producer is, then the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 0.00 percent, the all-others rate established in the LTFV investigation, adjusted for the export-subsidy rate in the companion countervailing duty investigation.¹¹ These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

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

Administrative Protective Order

This notice also serves as a final reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(h) and 351.221(b)(5).

⁸ See 19 CFR 351.224(b).

⁹ See *Order*, 85 FR at 19926.

¹⁰ See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

¹¹ See *Order*, 85 FR at 19926.

Dated: April 6, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Changes Since the *Preliminary Results*
- V. Discussion of the Issues
 - Comment 1: Whether Commerce Should Modify Mangal's Zinc Costs
 - Comment 2: Whether Commerce Should Only Adjust Mangal's U.S. Prices for Countervailing Duties Paid⁷
 - Comment 3: Whether Commerce Should Refer Entry Misclassification to U.S. Customs and Border Protection
 - Comment 4: Whether Commerce Should Correct the Names of U.S. Customers in the Final Customs Liquidation Instructions

VI. Recommendation

[FR Doc. 2026-07004 Filed 4-9-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-068]

Prestressed Concrete Steel Wire Strand From Japan: Final Results of the Expedited Sixth Sunset Review of the Antidumping Duty Finding

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

SUMMARY: The U.S. Department of Commerce (Commerce) finds that revocation of the antidumping duty (AD) finding on prestressed concrete steel wire strand (PC Strand) from Japan would be likely to lead to continuation or recurrence of dumping, at the levels indicated in the "Final Results of Sunset Review" section of this notice.

DATES: Applicable April 10, 2026.

FOR FURTHER INFORMATION CONTACT: David De Falco, Trade Agreements Policy and Negotiations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: 202-482-2178.

SUPPLEMENTARY INFORMATION:

Background

On December 8, 1978, the U.S. Treasury Department published the

*Finding in the Federal Register.*¹ On October 3, 2025, Commerce published the notice of initiation of this sunset review of the *Finding*, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).²

On October 20, 2025, Commerce received a timely and complete notice of intent to participate in the sunset review for domestic interested parties³ within the deadline specified in the 19 CFR 351.218(d)(1)(i).⁴ The domestic interested parties claimed the interested party status within the meaning of section 771(9)(C) of the Act as U.S. producers of the domestic like product.⁵ On December 9, 2025, Commerce notified the U.S. International Trade Commission (ITC) that it had received a notice of intent to participate from the domestic interested parties.⁶

On November 3, 2025, pursuant to 19 CFR 351.218(d)(3)(i), domestic interested parties filed a timely and adequate substantive response.⁷ Commerce did not receive a substantive response from any respondent interested party. On December 8, 2025, Commerce notified the ITC that it did not receive substantive response from any respondent interested parties.⁸ As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce is conducting an expedited (120-day) sunset review of the *Finding*.

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.⁹ Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and

¹ See *Steel Wire Strand for Prestressed Concrete from Japan; Finding of Dumping*, 43 FR 47599 (December 8, 1978) (*Finding*) conducted by the U.S. Treasury Department (at the time a determination of dumping resulted in a "finding" rather than the later applicable "order").

² See *Initiation of Five-Year (Sunset) Reviews*, 90 FR 48048 (October 3, 2025).

³ The domestic interested parties are Insteel Wire Products Company, Sumiden Wire Products Corporation, and Wire Mesh Corp.

⁴ See Domestic Interested Parties' Letter, "Prestressed Concrete Steel Wire Strand from Japan—Domestic Industry's Notice of Intent to Participate," dated October 20, 2025.

⁵ *Id.* at 2-3.

⁶ See Commerce's Letter, "Sunset Reviews Initiated on October 3, 2025," dated December 9, 2025.

⁷ See Domestic Interested Parties' Letter, "Prestressed Concrete Steel Wire Strand from Japan—Domestic Industry's Substantive Response," dated November 3, 2025 (*Substantive Response*).

⁸ See Commerce's Letter, "Sunset Reviews Initiated on October 3 2025," dated December 8, 2025.

⁹ See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated November 14, 2025.

Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.¹⁰ Accordingly, the deadline for the final results is now April 7, 2026.

Scope of the Finding

The product covered by this *Finding* is PC strand from Japan. For the full description of the scope of the *Finding*, see the Issues and Decisions Memorandum.¹¹

Analysis of Comments Received

A complete discussion of all issues raised in this sunset review, including the likelihood of continuation or recurrence of dumping in the event of revocation of the *Finding* and the magnitude of the margins likely to prevail if the *Finding* were to be revoked, is provided in the accompanying Issues and Decision Memorandum.¹² A list of the topics discussed in the Issues and Decision Memorandum is attached as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be directly accessed at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Final Results of Sunset Review

Pursuant to sections 751(c)(1), 752(c)(1) and (3) of the Act, Commerce determines that revocation of the *Finding* would be likely to lead to continuation or recurrence of dumping, and that the magnitude of the dumping margins likely to prevail would be weighted-average dumping margins up to 13.30 percent.

Notification Regarding Administrative Protective Orders

This notice also serves as the only 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.

¹⁰ See Memorandum, "Tolling of All Case Deadlines," dated November 24, 2025.

¹¹ See Memorandum, "Issues and Decision Memorandum for the Final Results of the Expedited Sixth Sunset Review of the Antidumping Duty Finding on Prestressed Concrete Steel Wire Strand from Japan," dated concurrently with, and hereby adopted by, this notice.

¹² *Id.*

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

Notification to Interested Parties

We are issuing and publishing these final results in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act, and 19 CFR 351.218 and 19 CFR 351.221(c)(5)(ii).

Dated: April 7, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Finding
- IV. History of the Finding
- V. Legal Framework
- VI. Discussion of the Issues
 1. Likelihood of Continuation or Recurrence of Dumping
 2. Magnitude of the Margins of Dumping Likely to Prevail
- VII. Final Results of Sunset Review
- VIII. Recommendation

[FR Doc. 2026-07002 Filed 4-9-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-874]

Certain Hot-Rolled Steel Flat Products From Japan: Preliminary Results and Rescission, in Part, of Antidumping Duty Administrative Review; 2023–2024

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily finds that one of the two producers/exporters of hot-rolled steel flat products (hot-rolled steel) from Japan, sold subject merchandise in the United States at prices below normal value during the period of review (POR) October 1, 2023, through September 30, 2024. Additionally, we are rescinding this review, in part, with respect to one company.

DATES: Applicable April 10, 2026.

FOR FURTHER INFORMATION CONTACT: Jack Zhao or Myrna Lobo, 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) 482–1396 and (202) 482–2371, respectively.

SUPPLEMENTARY INFORMATION:

Background

Commerce is conducting an administrative review of the antidumping duty order on hot-rolled steel from Japan in accordance with section 751(a)(1)(B) of Tariff Act of 1930, as amended (the Act).¹ Commerce initiated this administrative review of the *Order* on November 14, 2024, covering 15 producers and/or exporters.² On January 2, 2025, we selected Nippon Steel Corporation (NSC)³ and Tokyo Steel Manufacturing Co., Ltd. (Tokyo Steel) as the mandatory respondents.⁴

On December 9, 2024, Commerce tolled certain deadlines in this administrative proceeding by 90 days.⁵ On September 10, 2025, in accordance with section 751(a)(3)(A) of the Act, and 19 CFR 351.213(h)(1), we extended the deadline for the preliminary results of this review until January 29, 2026.⁶ Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceeding by 47 days.⁷ Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS)

during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceeding by an additional 21 days.⁸ Accordingly, the deadline for the preliminary results is now April 7, 2026.

For a detailed description of the events that followed the initiation of this review, see the Preliminary Decision Memorandum.⁹ The Preliminary Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Order

The merchandise covered by the *Order* is hot-rolled steel from Japan. For a complete description of the scope of the *Order*, see the Preliminary Decision Memorandum.¹⁰

Methodology

Commerce is conducting this administrative review in accordance with section 751(a) of the Act. Export price and constructed export price were calculated in accordance with section 772 of the Act. Normal value is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum. A list of topics discussed in the Preliminary Decision Memorandum is attached as an appendix to this notice.

Rescission of Administrative Review, in Part

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice of initiation. On February 12, 2025, the petitioners withdrew their request for review in part, with respect to certain companies.¹¹ Because other

¹ See *Certain Hot-Rolled Steel Flat Products from Australia, Brazil, Japan, the Republic of Korea, the Netherlands, the Republic of Turkey, and the United Kingdom: Amended Final Affirmative Antidumping Determinations for Australia, the Republic of Korea, and the Republic of Turkey and Antidumping Duty Orders*, 81 FR 67962 (October 3, 2016) (*Order*).

² See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 89 FR 89955 (November 14, 2024).

³ NSC is a single entity comprised of the following companies: Nippon Steel Corporation; Nippon Steel Nisshin Co., Ltd.; and Nippon Steel Trading Corporation. See *Certain Hot-Rolled Steel Flat Products from Japan: Notice of Final Results of Antidumping Duty Changed Circumstances Review*, 84 FR 46713 (September 5, 2019).

⁴ See Memorandum, “Respondent Selection,” dated January 2, 2025. After the issuance of these preliminary results of review, we intend to collect additional information from Tokyo Steel.

⁵ See Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings,” dated December 9, 2024.

⁶ See Memorandum, “Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review; 2023–2024,” dated September 10, 2025.

⁷ See Memorandum, “Deadlines Affected by the Shutdown of the Federal Government,” dated November 14, 2025.

⁸ See Memorandum, “Tolling of All Case Deadlines,” dated November 24, 2025.

⁹ See Memorandum, “Decision Memorandum for the Preliminary Results of the Antidumping Duty Administrative Reviews: Certain Hot-Rolled Steel Flat Products from Japan; 2023–2024,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

¹⁰ *Id.*

¹¹ The petitioners are: Cleveland-Cliffs Inc., Nucor Corporation, SSAB Enterprises, LLC, Steel Dynamics, Inc., and United States Steel Corporation. See Petitioners’ Letter, “Partial Withdrawal of Request for Administrative Review,”

parties also requested reviews of certain companies, we are not rescinding the reviews of all companies in the petitioners' withdrawal request. The petitioners also withdrew their review request of JFE Shoji Trade America JFE.¹²

Because the withdrawal request is timely filed and no other party requested a review of this company, in accordance with 19 CFR 351.213(d)(1), Commerce is rescinding this review of the *Order* with respect to JFE Shoji Trade America.

Review-Specific Rate for Non-Examined Companies

The Act and Commerce's regulations do not address the establishment of a weighted average dumping margin to be applied to companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a less-than-fair-value (LTFV) investigation, for guidance when calculating the weighted-average dumping margin for companies which were not selected for individual examination in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally "an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}." Therefore, because the rate calculated for Tokyo Steel in this administrative review is a zero, consistent with section 735(c)(5)(A) of the Act, for the companies not selected for individual examination in this review we are preliminarily assigning the most recent above-*de minimis* rate calculated in this proceeding as the review-specific rate, *i.e.*, 13.07 percent.

Preliminary Results

We preliminarily determine the following estimated weighted-average dumping margins for the period October 1, 2023, through September 30, 2024:

dated February 12, 2025 (Petitioners' Letter of Withdrawal).

¹² *Id.*

¹³ This rate is also applicable to Nippon Steel & Sumikin Logistics Co., Ltd. for whom a review was initiated and NSC identified as its wholly owned subsidiary. See NSC's February 27, 2025 Initial Section C questionnaire response at C-41.

Producer/exporter	Weighted-average dumping margin (percent)
Nippon Steel Corporation/ Nippon Steel Nisshin Co., Ltd./Nippon Steel Trading Corporation ¹³	13.07
Tokyo Steel Manufacturing Co., Ltd	0.00
Review-Specific Rate for Non-Examined Companies	
JFE Steel Corporation; JFE Shoji Trade Corporation; JFE Shoji Corporation	13.07
Honda Trading Corporation ..	13.07
Marubeni-Itochu Steel Inc	13.07
Tetsusho Kayaba Corpora- tion	13.07
Toyo Corporation	13.07

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties for these preliminary results within five days of any public announcement or, if there is no public announcement, within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. Pursuant to 19 CFR 351.309(c), we will notify parties of the briefing schedule at a later date.¹⁴ Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.¹⁵ Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.¹⁶

As provided under 19 CFR 351.309(c)(2)(iii) and (d)(2)(iii), we request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.¹⁷ Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We

¹⁴ See 19 CFR 351.309(c)(1)(ii).

¹⁵ See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

¹⁶ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁷ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹⁸

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS, by 5 p.m. Eastern time, within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants and whether any participant is a foreign national; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. If a request for a hearing is made, Commerce will inform interested parties of the scheduled date for the hearing.¹⁹

All submissions, including case and rebuttal briefs, as well as hearing requests, should be filed via ACCESS.²⁰ An electronically filed hearing request must be received successfully in its entirety in ACCESS, by 5 p.m. Eastern Time on the established deadline.

Commerce intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any case or rebuttal briefs, no later than 120 days after the date of publication of this notice, unless extended.²¹

Assessment Rates

Upon completion of the administrative review, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. If the weighted-average dumping margins for NSC and Tokyo Steel are not zero or *de minimis* (*i.e.*, less than 0.5 percent) in the final results of this review, we will calculate importer-specific *ad valorem* assessment rates for the merchandise based on the ratio of the total amount of dumping calculated for the examined sales made during the POR to each importer and the total entered value of those same sales, in accordance with 19

¹⁸ See *APO and Service Final Rule*.

¹⁹ See 19 CFR 351.310(d).

²⁰ See 19 CFR 351.303.

²¹ See section 751(a)(3)(A) of the Act; and 19 CFR 351.213(h).

CFR 351.212(b)(1). Where an importer-specific *ad valorem* assessment rate is zero or *de minimis* in the final results of review, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties in accordance with 19 CFR 351.106(c)(2). If NSC's and Tokyo Steel's weighted-average dumping margins are zero or *de minimis* in the final results of review, we will instruct CBP not to assess duties on any of its entries in accordance with the *Final Modification for Reviews*, i.e., “{w}here the weighted-average margin of dumping for the exporter is determined to be zero or *de minimis*, no antidumping duties will be assessed.”²²

For entries of subject merchandise during the POR produced by NSC or Tokyo Steel for which the producer did not know its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company (or companies) involved in the transaction.²³

For the companies which were not selected for individual review, we will assign an assessment rate based on the review-specific rate, calculated as noted in the “Review-Specific Rate for Non-Examined Companies” section, above. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.²⁴

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (i.e., within 90 days of publication).

For the company for which this review is being rescinded, in part, JFE Shoji Trade America, Commerce will instruct CBP to assess antidumping duties on all appropriate entries. Antidumping duties shall be assessed at rates equal to the cash deposit rate for estimated antidumping duties required

at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR

351.212(c)(1)(i). With respect to JFE Shoji Trade America, Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of this notice in the **Federal Register**.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for each specific company listed above will be that established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously investigated companies not participating in this review, the cash deposit will continue to be the company-specific rate published for the most recently-completed segment of this proceeding in which the company participated; (3) if the exporter is not a firm covered in this review, or the underlying investigation, but the manufacturer is, then the cash deposit rate will be the rate established for the most recent segment for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 5.58 percent, the all-others rate established in the less-than-fair-value investigation.²⁵ These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

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

Notification to Interested Parties

We are issuing and publishing these preliminary results in accordance with

sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d), (h) and 351.221(b)(4).

Dated: April 7, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Discussion of the Methodology
- V. Currency Conversion
- VI. Recommendation

[FR Doc. 2026-07008 Filed 4-9-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[Docket No. 260401-0092]

American AI Exports Program; Call for Proposals for Pre-Set Consortia

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of call for proposals.

SUMMARY: The Department of Commerce (the Department), through the International Trade Administration (ITA), invites proposals for full-stack American AI export packages from industry-led ‘pre-set’ consortia for designation under the American Artificial Intelligence (AI) Exports Program (the Program) established pursuant to Executive Order 14320, “Promoting the Export of the American AI Technology Stack.” A designated package will be presented by U.S. Government representatives as a standing, full-stack American AI export package and may receive priority government advocacy, export licensing review and processing, interagency coordination, and financing referrals, subject to applicable law. Designation does not guarantee any particular form of federal assistance, financing, license approval, advocacy outcomes, or a contract award.

DATES: Proposal filing window: This call for proposals opens on April 1, 2026 and proposals will be accepted until 5:00 p.m. Eastern Daylight Time on June 30, 2026. The Department will consider proposals on a rolling basis for inclusion in the Program. For all proposals, the Department intends to complete an initial completeness review

²² See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification*, 77 FR 8101, 8102 (February 14, 2012) (*Final Modification for Reviews*).

²³ See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

²⁴ See section 751(a)(2)(C) of the Act.

²⁵ See *Order*.

within 14 business days of receipt. Once a proposal is deemed complete, the Department intends to issue a designation decision within 60 calendar days.

Question and answer period: See Section XI of this notice.

ADDRESSES: Submit proposals electronically through the American AI Exports Program submission portal at <https://aiexports.gov/consortia/apply>. The portal will include filing instructions, including instructions for submitting confidential commercial information through the portal. The Department will post program updates and public question-and-answer materials at <https://aiexports.gov/ai-consortia>. Email or paper delivery will not substitute for formal submission through the portal.

FOR FURTHER INFORMATION CONTACT: Brandon Remington, AI Exports Team, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Ave NW, Washington, DC 20230; telephone: 202–839–0393; email: brandon.remington@trade.gov.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

Executive Order 14320 directs the Department of Commerce to promote the export of full-stack American AI technology packages to preserve and extend American leadership in AI and decrease international dependence on AI technologies developed by our adversaries. The Secretary of Commerce was tasked, in consultation with the Secretaries of State, War, and Energy, and the Director of the Office of Science and Technology Policy, to evaluate and select industry-led proposals for designation under the American AI Exports Program. This notice implements that directive and enables the creation of a menu of priority AI export packages that the U.S. Government will promote to allies and partners around the world.

‘Pre-set’ consortia are standing teams of AI companies organized to offer a complete American AI technology stack to foreign markets on an ongoing basis. A pre-set consortium is not required to identify a single opportunity or a named foreign buyer in applying. Rather, a pre-set consortium is applying for its full-stack export package to be available for presentation by the United States as part of its menu of vetted, full-stack AI export packages for foreign public- and private-sector buyers in global, regional, or country-specific markets.

The Department expects future Federal Register notices, program guidance, or both to address ‘on-

demand’ consortia formed for specific foreign opportunities. Further information will be provided as those opportunities arise.

II. Scope of Eligible Pre-Set Consortia

An eligible pre-set consortium must be able to deliver a full-stack AI technology package, as defined in Section III, to one or more foreign markets. A consortium does not require any particular legal structure, and there is no minimum or maximum number of consortium members. For each layer of the full stack AI technology package described in Section III, the entity providing the greatest share of the package’s products and services by value for that layer¹ must be a member of the consortium. A consortium member can provide products or services across more than one layer.

For the purposes of this proposal, subcontractors and local implementation partners (*i.e.*, entities located in the intended export market and providing local deployment, integration, training, maintenance, or similar support) that are not consortium members do not need to be identified except to the extent that their identification is necessary to calculate U.S. hardware content, as outlined in Section IV.

Each consortium must identify a single ‘anchor member.’ The anchor member is the lead entity for the consortium, will be responsible for submitting the proposal, and will be the single point of contact for the Program. To qualify as an anchor member, an entity must:

1. Affirm it has experience providing products or services internationally and the organizational capacity to manage multi-country delivery for that layer;

2. Be organized under the laws of the United States or a State thereof, with its principal place of business in the United States. Any subsidiary, affiliate, or branch whose ultimate parent entity is organized under the laws of a foreign jurisdiction or has its principal place of business outside the United States is ineligible to be an anchor member; and

3. Not be (1) incorporated or have its principal place of business in a country of concern, as defined in Sec. 8521 of the 2026 National Defense Authorization Act (Pub. L. 119–60); or (2) owned or controlled through a majority voting or equity interest by a

¹ For purposes of this measurement, proposals should use the ex-factory prices of goods and contract value of services, as discussed at <https://www.trade.gov/determine-cs-eligibility?anchor=content-node-t14-field-lp-region-2-2> under ‘‘Fee-Based Export Promotion Assistance,’’

country of concern or by an entity or national of a country of concern.

An entity may participate in more than one consortium simultaneously and need not serve the same role in all consortia.

A. National Champion Enterprises

Foreign entities may be members of a consortium, subject to the limitations in Section IV. In exceptional cases, the Department may, in consultation with the Departments of Energy, State, War, and the Office of Science and Technology Policy, on a case-by-case basis, designate a package for inclusion in the Program in which a foreign enterprise is the provider of the highest value of products and services for the functions described in Layer 1, as described in Section III, and/or provides the AI models and systems in Layer 3. The Department may make such designations where the Secretary of Commerce determines, in consultation with the Departments of Energy, State, War, and the Office of Science and Technology Policy, that designation of the package, including the participation of the foreign enterprise(s), advances the national interest of the United States. The foreign enterprises providing the highest value products and services for Layers 1 and 3 as described in these packages will be known as ‘‘National Champion Enterprises’’ (NCEs). Section IX.

Consortia with foreign firms may only be designated as NCEs for packages for their home country and may not be designated as NCEs for packages intended for other countries.

Each proposal should identify whether it wishes to have foreign firms included as NCEs for a package. If so, the proposal should identify those firms it wishes to be considered NCEs, and the national interest statement described in section VI(6) should explicitly outline why inclusion of the NCE advances the national interest.

III. Full-Stack AI Technology Package

For purposes of this notice, a full-stack AI technology package is an integrated offering that provides products or services for the functions described in each layer of the AI stack for one or more target foreign markets. The five layers required are:

1. AI-optimized hardware and related infrastructure, including chips, servers, accelerators, data center storage, cloud services, networking;
2. Data pipelines and labeling systems;
3. AI models and systems;

4. Security and cybersecurity measures for AI models and systems; and

5. AI applications for sector-specific or functional use cases (e.g., software engineering, education, healthcare, agriculture, finance, law, defense, government administration, or transportation).

A pre-set consortium must provide products or services for the functions described across all five layers, even if any individual transaction later uses only a subset of those layers. The Department will interpret the definition of these layers expansively to enable proposals to represent practically deployable AI products and services.

IV. Content and Ownership

Proposals are designated based on a national interest determination by the Secretary of Commerce, in consultation with the Secretaries of State, War, and Energy, and the Director of the Office of Science and Technology Policy. A proposal is eligible for a national interest analysis if it meets the requirements under subsections (B) and (D) below. Subsections (A) and (C) are also required unless a national interest determination provides for an exception on a case-by-case basis, as described in Section II.A (National Champion Enterprises).

A. Hardware

A proposal will be presumed to satisfy the U.S. content component of the national interest determination under Section IX if, through reasonable efforts, it demonstrates that U.S. content² comprises at least 51 percent of the aggregate value of the hardware portion of the proposal (Layer 1 identified in Section III). If the Department of Commerce learns that the hardware portion of the proposal is not at least 51 percent U.S. content, the Department may contact the proposer to request adjustments.

Products and services included in the package for functions under Layer 1 must be specifically disclosed if provided by an entity, whether a consortium member or not, that is (1) incorporated or have its principal place of business in a country of concern, as defined in Sec. 8521 of the 2026 National Defense Authorization Act (Pub. L. 119–60); or (2) owned or

controlled through a majority voting or equity interest by a country of concern or by an entity or national of a country of concern.

B. Data, Software, Cybersecurity, and Application-layers Control and Standards Test

Each consortium member that provides products or services for the functions described in layers 2, 4 and 5 must:

Not be (1) incorporated or have its principal place of business in a country of concern, as defined in Sec. 8521 of the 2026 National Defense Authorization Act (Pub. L. 119–60); or (2) owned or controlled through a majority voting or equity interest by a country of concern or by an entity or national of a country of concern.

As part of the proposal, the consortium's anchor member must also describe the privacy and security measures that the consortium will include as part of the export package to secure the provided software and AI systems.

C. AI Model Ownership and Control

For AI models and systems, any entity that owns the intellectual property for the model (1) must not be owned or controlled through a voting or ownership interest by a country of concern or by an entity or national of a country of concern and (2) must be at least 51 percent owned and controlled by U.S. persons or entities. For open-weight models, requirement (2) may instead be satisfied if an entity meeting requirements (1) and (2) provides the deployment, integration, fine-tuning, security, and support functions necessary to make the model part of the package. The Department will not designate any consortium with open-weight models developed by entities that are (1) incorporated or have its principal place of business in a country of concern, as defined in Sec. 8521 of the 2026 National Defense Authorization Act (Pub. L. 119–60); or (2) owned or controlled through a majority voting or equity interest by a country of concern or by an entity or national of a country of concern.

D. No Country of Concern

A consortium may not include members, subcontractors, or local implementation partners that are (1) incorporated or have their principal place of business in a country of concern, as defined in Sec. 8521 of the 2026 National Defense Authorization Act (Pub. L. 119–60); or (2) owned or controlled through a majority voting or equity interest by a country of concern

or by an entity or national of a country of concern.

V. Target Markets and Market Positioning

Each proposal must identify at least one target country or regional bloc for which its package is intended—its “target markets.” Each proposal must identify relevant foreign competition in the target markets, and why the proposed offering would advance U.S. national interests in those markets, but identifying current foreign buyers is not required. Proposals identifying markets with demonstrated demand, and in which U.S. engagement can materially influence decisions when a procuring entity is choosing between American and foreign technology originating in a country of concern, will generally present a stronger national interest case, but the Department, in consultation with the Departments of State, War, and Energy, and the Office of Science and Technology Policy, may designate proposals for any foreign market where designation would advance the national interest.

VI. Proposal Contents and Formatting

All proposal materials should be submitted electronically through the AI Exports Program submission portal at <https://aixports.gov/consortia/apply>. The Proposal application must include, at a minimum, the following:

1. Consortium overview. The consortium name; identification of the anchor member and attestations that the anchor member has the qualifications outlined under Section II; and a listing of all consortium members, their roles, the stack layers in which they provide products or services, and whether the consortium wishes to designate any members as NCEs. This should include relevant ownership and control information sufficient to determine compliance with Section IV;

2. Full-stack package description. A concise narrative describing the integrated technology offering across all required five layers, addressing how products and services pertaining to functions described in the technology stack layers will be provided, down to the two highest-value providers of products and services in each layer after the listed consortia members in Layers 1, 2, and 5. This should include a description, valuation, and percentage of U.S. hardware content. It should also include a description of the privacy and security measures that the consortium will include as part of the export package, and the American cybersecurity standards, or comparable frameworks appropriate to the target

² U.S. content is the percentage of value originating from U.S.-based manufacturing, which includes costs associated with U.S. inputs, U.S. assembly, and U.S. services associated with the manufacturing, as defined at <https://www.trade.gov/determine-cs-eligibility?anchor=content-node-t14-field-lp-region-2-2> under “Fee-Based Export Promotion Assistance.”

market, that those measures would comply with;

3. Target markets. The global, regional, or country markets for which the offering is intended;

4. Business and operational model. A high-level explanation of which entities will build, own, operate, deliver, and support the package, including any relevant infrastructure, cloud, or managed-service arrangements;

5. Requested Federal support. Identification of the types of Federal support that would be most useful if the proposal is designated, which may include export-control engagement, financing referrals, government-to-government engagement, technical assistance, direct loans or loan guarantees, equity investments, co-financing, political risk insurance, credit guarantees, feasibility studies, or other forms of assistance;

6. National interest statement. A description of how the proposal advances the policy objectives of Executive Order 14320;

7. Country of concern disclosures. A description of specific products or services for functions under Layer 1 if provided by an entity that is (1) incorporated or has its principal place of business in a country of concern, as defined in Sec. 8521 of the 2026 National Defense Authorization Act (Pub. L. 119–60); or (2) owned or controlled through a majority voting or equity interest by a country of concern or by an entity or national of a country of concern.

8. Export-control compliance and national security information. Identification of items, destinations, end uses, end users, or technical features that may implicate the Export Administration Regulations (EAR), the International Traffic in Arms Regulations (ITAR), U.S. outbound investment regulations, end-user restrictions, or other national security controls; and a description of the consortium's compliance program. Recognizing that proposers may not yet know the end users, preliminary information other than the end user will suffice to make the anticipated license review process more efficient.

In addition, as part of the Proposal Narrative, proposers may submit the following optional items:

1. Letters of intent or other evidence of buyer interest;
2. Descriptions of local implementation partners;
3. Workforce-training or capacity-building components; and
4. Energy, telecommunications, fiber, or other enabling-infrastructure considerations.

VII. Submission Instructions and Public-Docket Procedures

Formal submission must occur through the AI Exports Program submission portal at <https://aiexports.gov/consortia/apply>. The Department intends to protect properly submitted confidential commercial information and export-control-sensitive information to the extent permitted by law, including applicable FOIA exemptions and other lawful protections. Proposers are responsible for properly identifying such information at the time of submission.

The Department may disregard confidentiality claims that are not properly supported. The Department may share proposals, including nonpublic material, with other Federal agencies and contractors involved in reviewing or supporting the Program, subject to applicable confidentiality protections.

VIII. Benefits of Designation

Designation under the Program is intended to place a package on the United States Government-supported menu of standing American AI packages that may be promoted to foreign buyers and visible to the public. If designated, a package will receive one or more of the following, when in the U.S. interest as determined by U.S. government officials:

1. Priority government-to-government engagement, including introductions to foreign counterparts and support for appropriate advocacy in connection with specific opportunities;
2. Opportunities to be presented at or through Program activities and events;
3. Priority consideration for transaction-specific export-control engagement, including prioritized review processes for linked license applications as permitted by law and agency procedure; and
4. Priority routing for available Federal financing referrals and interagency coordination, where requested, subject to each agency's independent statutory authorities, underwriting standards, and Program requirements.

Designation does not:

1. Guarantee the approval of an export license or other authorization;
2. Guarantee financing, insurance, technical assistance, or any other Federal support;
3. Guarantee that the United States will advocate for a consortium in any specific manner or engagement;
4. Guarantee that a foreign buyer will select the designated consortium; or
5. Limit the Department's discretion to support another designated

consortium or other U.S. companies seeking specific opportunities outside of the Program when doing so is in the national interest.

IX. National Interest Assessment and Designation Determination

For eligible proposals, the Department, in consultation with the Departments of State, War, and Energy, and the Office of Science and Technology Policy, will make designation decisions through a national interest determination that considers whether a proposal will advance the objectives outlined in Executive Order 14320. The Department will not rank proposals under a fixed scoring formula, and no single factor is necessarily dispositive. Any proposal determined to be in the national interest will be designated. A proposal that undertakes reasonable efforts to satisfy the 51 percent hardware U.S.-content presumption is not automatically entitled to designation, and a proposal that does not satisfy that presumption is not automatically disqualified. In making designation decisions, the Department will consider:

1. Compliance with Program requirements;
2. Potential to advance the policy goals of Executive Order 14320;
3. National security posture, including export-control, end-use, end-user, cybersecurity, and other risk-mitigation considerations; and
4. Cybersecurity architecture and standards alignment, including whether the proposal addresses the cybersecurity layer and advances outcomes consistent with American standards, including the NIST Cybersecurity Framework, NIST Special Publication 800–53B, or comparable frameworks appropriate to the target markets.

The relative weight given to these considerations may vary depending on the proposal, the target market, and the national interest as determined by the Department, in consultation with the Departments of State, War, and Energy, and the Office of Science and Technology Policy.

X. Review Process, Notification, and Resubmission

The National AI Center will serve as the initial intake and coordination point for proposals filed under this notice.

A. Completeness Review

Within 14 days of receipt, the Department will determine whether a submission meets the minimum requirements set out in this notice. The Department may request clarifying

information before determining that a submission is complete.

B. Substantive Review

After a proposal is determined to be complete, the Department will conduct a substantive review in consultation with the Departments of State, War, and Energy, and the Office of Science and Technology Policy, as appropriate to the issues presented.

C. Decision Timing

The Department intends to issue a designation decision within 60 calendar days.

D. Notification

Proposers of selected packages will receive written notice of designation and next-step guidance on engaging with the Department of Commerce. Proposers of packages that are not selected will receive notice of non-selection and may resubmit revised proposals with a concise explanation of material changes.

E. No Fixed Cap

There is no numerical cap on the number of packages that may be designated under this notice.

XI. Public Questions and Answers

Beginning April 1, 2026, and through the application period, the Department will accept public questions regarding this notice. The Department intends to publish responses, as appropriate, on a rolling basis at <https://aieexports.gov/faq>. The Department may decline to answer questions that request confidential treatment, seek transaction-specific legal advice, or would materially prejudice a fair and orderly proposal process.

XII. Export Controls, Outbound Investment, Antitrust, FOIA, and Other Legal Terms

A. Export Controls and National Security

All proposal-related activities and any resulting transactions must comply with all applicable U.S. national security laws and regulations, including the EAR, the ITAR, U.S. outbound investment regulations, end-user requirements, and export license conditions.

B. Antitrust

Formation of, participation in, or designation of a consortium under this notice does not confer antitrust immunity or any exemption from other applicable laws. Members remain responsible for compliance with antitrust and competition law.

C. Confidentiality and FOIA

Information submitted under this notice may be subject to disclosure under the Freedom of Information Act (5 U.S.C. 552) (FOIA). The Department intends to protect properly submitted confidential commercial information, export-control-sensitive information, or other non-public information to the extent permitted by law, including applicable FOIA exemptions and other lawful protections. Proposers are responsible for properly identifying such information at the time of submission.

D. No Obligation

This notice does not obligate the United States Government to designate any proposal, to provide any specific form of support, or to enter into any contract, financing arrangement, or other transaction.

E. Costs

The United States Government will not reimburse any costs incurred in preparing, submitting, supplementing, or revising a proposal.

F. Modifications

The Department may modify, suspend, or terminate this call for proposals by subsequent notice in the **Federal Register** or by other public Program guidance, as appropriate.

William Kimmitt,

Under Secretary of Commerce for International Trade, U.S. Department of Commerce.

[FR Doc. 2026–06952 Filed 4–9–26; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–826, A–570–992]

Monosodium Glutamate From the Republic of Indonesia and the People's Republic of China: Final Results of the Expedited Second Sunset Reviews of the Antidumping Duty Orders

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

SUMMARY: The U.S. Department of Commerce (Commerce) finds that revocation of the antidumping duty (AD) orders on monosodium glutamate (MSG) from the Republic of Indonesia (Indonesia) and the People's Republic of China (China) would be likely to lead to continuation or recurrence of dumping, at the levels indicated in the “Final

Results of Sunset Reviews” section of this notice.

DATES: Applicable April 10, 2026.

FOR FURTHER INFORMATION CONTACT:

David De Falco, Trade Agreements Policy and Negotiations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: 202–482–2178.

SUPPLEMENTARY INFORMATION:

Background

On November 26, 2014, Commerce published the *Orders* in the **Federal Register**.¹ On October 3, 2025, Commerce published the notice of initiation of the second sunset reviews of the *Orders*, pursuant to section 751(c) of Tariff Act of 1930, as amended (the Act).² On November 17, 2025 Commerce received a timely and complete notice of intent to participate in the sunset review for domestic interested party³ within the deadline specified in the 19 CFR 351.218(d)(1)(i).⁴ The domestic interested party claimed interested party status within the meaning of section 771(9)(C) of the Act as U.S. producer of a domestic like product.⁵ On December 9, 2025, Commerce notified the U.S. International Trade Commission (ITC) that it had received a notice of intent to participate from the domestic interested parties.⁶

On November 17, 2025, pursuant to 19 CFR 351.218(d)(3)(i), domestic interested parties filed a timely and adequate substantive response.⁷ Commerce did not receive a substantive response from any respondent interested party. On December 8, 2025,

¹ See *Monosodium Glutamate from the People's Republic of China, and the Republic of Indonesia: Antidumping Duty Orders; and Monosodium Glutamate from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value*, 79 FR 70505 (November 26, 2014) (*Orders*).

² See *Initiation of Five-Year (Sunset) Reviews*, 90 FR 48048 (October 3, 2025).

³ The domestic interested party is Ajinomoto Health & Nutrition North America, Inc.

⁴ See Domestic Interested Party's Letter, “Monosodium Glutamate from Indonesia: Notice of Intent to Participate,” dated November 17, 2025; see also Domestic Interested Party's Letter, “Monosodium Glutamate from China: Notice of Intent to Participate,” dated November 17, 2025.

⁵ *Id.* at 2.

⁶ See Commerce's Letter, “Sunset Reviews Initiated on October 3, 2025,” dated December 9, 2025.

⁷ See Domestic Interested Party's Letter, “Monosodium Glutamate from Indonesia: Substantive Response to Notice of Initiation” dated November 17, 2025 (*Substantive Response—Indonesia*); see also Domestic Interested Party's Letter, “Monosodium Glutamate from China: Substantive Response to Notice of Initiation” dated November 17, 2025 (*Substantive Response—China*).

Commerce notified the ITC that it did not receive substantive response from any respondent interested parties.⁸ As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce is conducting expedited (120-day) sunset reviews of the *Orders*.

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.⁹ Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.¹⁰ Accordingly, the deadline for these final results is now April 7, 2026.

Scope of the Orders

The product covered by these *Orders* is MSG from Indonesia and China. For the full description of the scope of the *Orders*, see the Issues and Decisions Memorandum.¹¹

Analysis of Comments Received

A complete discussion of all issues raised in this sunset review, including the likelihood of continuation or recurrence of dumping in the event of revocation of the *Orders* and the magnitude of the margins likely to prevail if the *Orders* were to be revoked, is provided in the accompanying Issues and Decision Memorandum.¹² A list of the topics discussed in the Issues and Decision Memorandum is attached in the Appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be directly accessed

at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Final Results of Sunset Reviews

Pursuant to sections 751(c)(1), 752(c)(1) and (3) of the Act, Commerce determines that revocation of the *Orders* would be likely to lead to continuation or recurrence of dumping, and that the magnitude of the dumping margins likely to prevail would be weighted-average dumping margins up to 6.19 percent for Indonesia and 40.41 percent for China.

Notification Regarding Administrative Protective Orders

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

Notification to Interested Parties

We are issuing and publishing these final results in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act, and 19 CFR 351.218 and 19 CFR 351.221(c)(5)(ii).

Dated: April 7, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Orders*
- IV. History of the *Orders*
- V. Legal Framework
- VI. Discussion of the Issues
 1. Likelihood of Continuation or Recurrence of Dumping
 2. Magnitude of the Margins of Dumping Likely to Prevail
- VII. Final Results of Sunset Reviews
- VIII. Recommendation

[FR Doc. 2026-06928 Filed 4-9-26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-201-831, A-351-837, A-533-828, A-549-820, A-580-852]

Prestressed Concrete Steel Wire Strand From Brazil, India, Mexico, the Republic of Korea, and Thailand: Final Results of the Expedited Fourth Sunset Reviews of the Antidumping Duty Orders

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

SUMMARY: The U.S. Department of Commerce (Commerce) finds that revocation of the antidumping duty (AD) orders on prestressed concrete steel wire strand (PC strand) from Brazil, India, Mexico, the Republic of Korea (Korea), and Thailand would be likely to lead to continuation or recurrence of dumping, at the levels indicated in the "Final Results of Sunset Reviews" section of this notice.

DATES: Applicable April 10, 2026.

FOR FURTHER INFORMATION CONTACT: David De Falco, Trade Agreements Policy and Negotiations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-2178.

SUPPLEMENTARY INFORMATION:

Background

On January 28, 2004, Commerce published the *Orders* in the **Federal Register**.¹ On October 3, 2025, Commerce published the notice of initiation of these fourth sunset reviews of the *Orders*, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).²

On October 20, 2025, Commerce received timely and complete notices of intent to participate in these sunset reviews from the domestic interested

¹ See *Notice of Antidumping Duty Order: Prestressed Concrete Steel Wire Strand from Brazil*, 69 FR 4112 (January 28, 2004); *Notice of Antidumping Duty Order: Prestressed Concrete Steel Wire Strand from India*, 69 FR 4110 (January 28, 2004); *Notice of Antidumping Duty Order: Prestressed Concrete Steel Wire Strand from Mexico*, 69 FR 4112 (January 28, 2004); *Notice of Antidumping Duty Order: Prestressed Concrete Steel Wire Strand from the Republic of Korea*, 69 FR 4109 (January 28, 2004); and *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Prestressed Concrete Steel Wire Strand from Thailand*, 69 FR 4111 (January 28, 2004) (collectively, *Orders*).

² See *Initiation of Five-Year (Sunset) Reviews*, 90 FR 48048 (October 3, 2025).

⁸ See Commerce's Letter, "Sunset Reviews Initiated on October 3, 2025," dated December 8, 2025.

⁹ See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated November 14, 2025.

¹⁰ See Memorandum, "Tolling of all Case Deadlines," dated November 24, 2025.

¹¹ See Memorandum, "Issues and Decision Memorandum for the Final Results of the Expedited Second Sunset Reviews of the Antidumping Duty Orders on Monosodium Glutamate of Indonesia and China" dated concurrently with, and hereby adopted by, this notice.

¹² *Id.*

parties³ within the deadline specified in the 19 CFR 351.218(d)(1)(i).⁴ The domestic interested parties claimed interested party status within the meaning of section 771(9)(C) of the Act as U.S. producers of the domestic like product.⁵ On December 9, 2025, Commerce notified the U.S. International Trade Commission (ITC) that it had received a notice of intent to participate from the domestic interested parties.⁶

On November 3, 2025, pursuant to 19 CFR 351.218(d)(3)(i), domestic interested parties filed timely and adequate substantive responses.⁷ Commerce did not receive a substantive response from any respondent interested party. On December 8, 2025, Commerce notified the ITC that it did not receive substantive response from any respondent interested parties.⁸ As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce is conducting expedited (120-day) sunset reviews of the *Orders*.

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative

proceedings by 47 days.⁹ Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.¹⁰ Accordingly, the deadline for these final results is now April 7, 2026.

Scope of the Orders

The product covered by these *Orders* is PC strand from Brazil, India, Mexico, Korea, and Thailand. For the full description of the scope of the *Orders*, see the Issues and Decisions Memorandum.¹¹

Analysis of Comments Received

A complete discussion of all issues raised in these sunset reviews, including the likelihood of continuation or recurrence of dumping in the event of revocation of the *Orders* and the magnitude of the margins likely to prevail if the *Orders* were to be revoked, is provided in the accompanying Issues and Decision Memorandum.¹² A list of the topics discussed in the Issues and Decision Memorandum is attached in the Appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be directly accessed at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Final Results of Sunset Reviews

Pursuant to sections 751(c)(1), and 752(c)(1) and (3) of the Act, Commerce determines that revocation of the *Orders* would be likely to lead to continuation or recurrence of dumping, and that the magnitude of the dumping margins likely to prevail would be weighted-average dumping margins up to 118.75 percent for Brazil, 102.07 percent for India, 77.20 percent for Mexico, 54.19

percent for Korea, and 12.91 percent for Thailand.

Notification Regarding Administrative Protective Order (APO)

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

Notification to Interested Parties

We are issuing and publishing these final results in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act, and 19 CFR 351.218 and 19 CFR 351.221(c)(5)(ii).

Dated: April 7, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Orders
- IV. History of the Orders
- V. Legal Framework
- VI. Discussion of the Issues
 1. Likelihood of Continuation or Recurrence of Dumping
 2. Magnitude of the Margins of Dumping Likely to Prevail
- VII. Final Results of Sunset Reviews
- VIII. Recommendation

[FR Doc. 2026-07003 Filed 4-9-26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Request for Duty-Free Entry of Scientific Instrument or Apparatus

AGENCY: International Trade Administration, 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

³ The domestic interested parties are Insteel Wire Products Company, Sumiden Wire Products Corporation, and Wire Mesh Corp.

⁴ See Domestic Interested Parties' Letter, "Prestressed Concrete Steel Wire Strand from Brazil—Domestic Industry's Notice of Intent to Participate," dated October 20, 2025; Domestic Interested Parties' Letter, "Prestressed Concrete Steel Wire Strand from India—Domestic Industry's Notice of Intent to Participate," dated October 20, 2025; Domestic Interested Parties' Letter, "Prestressed Concrete Steel Wire Strand from Mexico—Domestic Industry's Notice of Intent to Participate," dated October 20, 2025; Domestic Interested Parties' Letter, "Prestressed Concrete Steel Wire Strand from Korea—Domestic Industry's Notice of Intent to Participate," dated October 20, 2025; and Domestic Interested Parties' Letter, "Prestressed Concrete Steel Wire Strand from Thailand—Domestic Industry's Notice of Intent to Participate," dated October 20, 2025.

⁵ *Id.*

⁶ See Commerce's Letter, "Sunset Reviews Initiated on October 3, 2025," dated December 9, 2025.

⁷ See Domestic Interested Parties' Letter, "Prestressed Concrete Steel Wire Strand from Brazil—Domestic Industry's Substantive Response," dated November 3, 2025; Domestic Interested Parties' Letter, "Prestressed Concrete Steel Wire Strand from India—Domestic Industry's Substantive Response," dated November 3, 2025; Domestic Interested Parties' Letter, "Prestressed Concrete Steel Wire Strand from Mexico—Domestic Industry's Substantive Response," dated November 3, 2025; Domestic Interested Parties' Letter, "Prestressed Concrete Steel Wire Strand from Korea—Domestic Industry's Substantive Response," dated November 3, 2025; and Domestic Interested Parties' Letter, "Prestressed Concrete Steel Wire Strand from Thailand—Domestic Industry's Substantive Response," dated November 3, 2025.

⁸ See Commerce's Letter, "Sunset Reviews Initiated on October 3 2025," dated December 8, 2025.

⁹ See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated November 14, 2025.

¹⁰ See Memorandum, "Tolling of all Case Deadlines," dated November 24, 2025.

¹¹ See Memorandum, "Issues and Decision Memorandum for the Final Results of the Expedited Fourth Sunset Reviews of the Antidumping Duty Orders on Prestressed Concrete Steel Wire Strand from Brazil, India, Mexico, the Republic of Korea, and Thailand," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

¹² *Id.*

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 June 9, 2026.

ADDRESSES: Interested persons are invited to submit written comments by mail to Eva Kim, Import Analyst, Enforcement & Compliance, International Trade Administration, by telephone at (202) 482-8283, or by email to Eva.Kim@trade.gov. Please reference OMB Control Number 0625-0037 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 Eva Kim, Import Analyst, Enforcement & Compliance, International Trade Administration, by telephone at (202) 482-8283, or by email to Eva.Kim@trade.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Departments of Commerce and Homeland Security ("DHS") are required to determine whether nonprofit institutions established for scientific or educational purposes are entitled to duty-free entry for scientific instruments the institutions import under the Florence Agreement. Form ITA-338P enables: (1) DHS to determine whether the statutory eligibility requirements for the institution and the instrument are fulfilled, and (2) Commerce to make a comparison and finding as to the scientific equivalency of comparable instruments being manufactured in the United States. Without the collection of information, DHS and Commerce would not have the necessary information to carry out the responsibilities of determining eligibility for duty-free entry assigned by law.

II. Method of Collection

A copy of Form ITA-338P is provided on and downloadable from <http://enforcement.trade.gov/sips/sipsform/ita-338p.pdf> or the potential applicant may request a copy from the Department. The applicant completes the form and then forwards it via mail to DHS. Upon acceptance by DHS as a

valid application, the application is transmitted to Commerce for further processing.

III. Data

OMB Control Number: 0625-0037.

Form Number(s): ITA-338P.

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

Affected Public: State or local government; Federal agencies; not-for-profit institutions.

Estimated Number of Respondents: 90.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 180.

Estimated Total Annual Cost to Public: \$2,974.50.

Respondent's Obligation: Voluntary.

Legal Authority: 19 U.S.C. 1202; 15 CFR 301.

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Departmental PRA Compliance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2026-06976 Filed 4-9-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF655]

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of hybrid meeting.

SUMMARY: The North Pacific Fishery Management Council (NPFMC) Ecosystem Committee will meet May 8, 2026.

DATES: The meeting will be held on Friday, May 8, 2026, from 8:30 a.m. to 5 p.m. Alaska Time.

ADDRESSES: The meeting will be a hybrid meeting. Attend in-person at the North Pacific Fishery Management Council office, 1007 West Third Ave., Suite 400, Anchorage, AK 99501, or join the meeting online through the link at <https://meetings.npfmc.org/Meeting/Details/3124>.

Council address: North Pacific Fishery Management Council, 1007 W 3rd Ave., Anchorage, AK 99501-2252; telephone: (907) 271-2809.

FOR FURTHER INFORMATION CONTACT: Katie Latanich, Council staff; phone: (907) 271-2809 and email: klatanich@npfmc.org. For technical support, please contact administrative Council staff, email: support@npfmc.org.

SUPPLEMENTARY INFORMATION:

Agenda

Friday, May 8, 2026

The Ecosystem Committee agenda will include: (a) receive update on Climate Resilience Workplan, and review and provide recommendations on draft Harvest Specifications Process Discussion Document; (b) Review draft Groundfish Management Policy Review document and provide recommendations; (c) other business. The agenda is subject to change, and the latest version will be posted at <https://meetings.npfmc.org/Meeting/Details/3124> prior to the meeting, along with meeting materials.

Connection Information

You can attend the meeting online using a computer, tablet, or smartphone, or by phone only. Connection information will be posted online at: <https://meetings.npfmc.org/Meeting/Details/3124>.

Public Comment

Public comment letters will be accepted and should be submitted electronically to <https://meetings.npfmc.org/Meeting/Details/3124>.

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

Dated: April 8, 2026.

Rey Israel Marquez,

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

[FR Doc. 2026-06997 Filed 4-9-26; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[RTID 0648-XF602]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Point Blue Conservation Science's Seabird Research Activities on the South Farallon Islands, Farallon Islands National Wildlife Refuge, California, as Well as at Partner Sites on Año Nuevo Island and the Point Reyes Headlands

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

ACTION: Notice; proposed incidental harassment authorization; request for comments on proposed authorization and possible renewal.

SUMMARY: NMFS has received a request from Point Blue Conservation Science (Point Blue) for authorization to take marine mammals incidental to seabird research activities on the South Farallon Islands, Farallon Islands National Wildlife Refuge, California, as well as at partner sites on Año Nuevo Island (ANI) and the Point Reyes National Seashore (PRNS). Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to incidentally take marine mammals during the specified activities. NMFS is also requesting comments on a possible one-time, one-year renewal that could be issued under certain circumstances and if all requirements are met, as described in Request for Public Comments at the end of this notice. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorization and agency responses will be summarized in the final notice of our decision.

DATES: Comments and information must be received no later than May 11, 2026.

ADDRESSES: Comments should be addressed to the Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Written comments should be submitted via email to ITP.Cockrell@noaa.gov.

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments, including all attachments, must not exceed a 25-megabyte file size. All comments received are a part of the public record and will generally be posted online at www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act 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.

Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-research-and-other-activities>. In case of problems accessing these documents, please call the contact listed below.

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

SUPPLEMENTARY INFORMATION:**Background**

The MMPA prohibits the “take” of marine mammals, with certain exceptions. sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of 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 proposed or, if the taking is limited to harassment, a notice of a proposed IHA is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other “means of effecting the least

practicable adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as “mitigation”); and requirements pertaining to the mitigation, monitoring and reporting of the takings are set forth.

The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

National Environmental Policy Act

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

This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHAs with no anticipated serious injury or mortality) of the Companion Manual for NOA 216-6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has preliminarily determined that the issuance of the proposed IHA qualifies to be categorically excluded from further NEPA review.

We will review all comments submitted in response to this notice prior to concluding our NEPA process or making a final decision on the IHA request.

Summary of Request

On February 17, 2026, NMFS received a request from Point Blue for an IHA to take marine mammals incidental to seabird research activities on the Southeast Farallon Islands and West End Island (collectively called “SEFI”), California, as well as at partner sites on ANI and PRNS. The application was deemed adequate and complete on April 7, 2026. Point Blue’s request is for take of a small number of five species of marine mammals (consisting of six stocks) by Level B harassment only. Neither Point Blue nor NMFS expects serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

This proposed IHA would cover 1 year of a larger project for which Point Blue obtained prior incidental take authorizations (ITAs) and intends to request take authorization for

subsequent continuation of the ongoing project. The larger project involves year-round monitoring of seabirds and management activities at the locations described above. Activities are ongoing and have been for over 30 years. Point Blue has previously complied with all the requirements (*e.g.*, mitigation, monitoring, and reporting) of the previous ITAs and information regarding their monitoring results may be found in the Estimated Take section.

Description of Proposed Activity

Overview

Point Blue, along with their research partners Oikonos Ecosystem Knowledge and PRNS have been conducting seabird research in central California for over 30 years. This research is conducted under cooperative agreements with the U.S. Fish and Wildlife Service (USFWS) in consultation with the Gulf of the Farallones National Marine Sanctuary. Point Blue conducts research activities on SEFI, ANI, and PRNS. Research activities include monitoring and censusing seabird colonies, observing seabird nesting habitat, restoring nesting burrows, and resupplying a field station at SEFI. Research is conducted throughout the year at each of the research sites. Researchers accessing and conducting research activities on the sites may occasionally cause behavioral disturbance (Level B harassment) of five pinniped species (six stocks). Point Blue expects that the disturbance to pinnipeds from the research activities will be limited to Level B harassment.

Dates and Duration

Point Blue's research is conducted throughout the year. At SEFI, most intertidal areas of the island (*i.e.*, areas where marine mammals are present) are rarely visited during seabird research activities. On SEFI, most visits to locations where pinnipeds are hauled out are typically brief (approximately 15 minutes in duration). Boat landings to re-supply the field station, which may occur at either East or North Landing on SEFI, typically last 1 to 3 hours and are conducted once every 2 weeks.

On ANI, Point Blue has proposed a scale back of activities compared to the description in other ITAs that were previously issued. Research is now typically conducted during three to four brief visits between April and September, annually. An exception would be for a component of the seabird research which involves nesting habitat restoration and monitoring, which would require more sporadic visits from September through November. This is between the seabird breeding season and the elephant seal pupping season. Similar to SEFI, the intertidal areas on the island, which are more dominated by pinnipeds, are not ever visited for work on ANI. The only exception to this would be the landing beach and north of the beach to the island's terrace where a small number of seabird nest boxes are located. Landing activities and visits to the nest boxes are expected to be brief (approximately 15 minutes).

At PRNS, research activities occur year-round, with a stronger emphasis during the seabird nesting season. Additional intermittent visits for the rest of the year are also expected to occur. Point Blue estimates the maximum number of visits per year to be approximately 20. Like the work on ANI, a component of the seabird research which involves nesting habitat restoration and monitoring would require more sporadic visits from September through November. Additional but intermittent visits to areas of PRNS where pinnipeds may be present may also occur for (1) research on other species such as seabirds, sharks, and subtidal mapping, and (2) resource management activities such as non-native plant management and intertidal monitoring.

The proposed IHA would be valid for the statutory maximum of 1 year from July 1, 2026, through June 30, 2027, if finalized.

Specific Geographic Region

In a continuation of their previous research activities, Point Blue proposes to conduct their research activities in the following locations:

- *SEFI*—located at latitude 37°41' N and longitude 123°00' W, SEFI

collectively consists of the Southeast Farallon Island and West End Island (see figure 1). These two islands are directly adjacent to each other and separated by only an approximately 30-foot (ft) (9.1-meters (m)) channel. SEFI has a land area of approximately 120 acres (a) (48.6 hectares (ha)) and are part of the Farallon Islands National Wildlife Refuge. The islands are located near the edge of the continental shelf 28 miles (mi) (45.1 kilometers (km)) west of San Francisco, California. The Southeast Farallon Island sits within the waters of the Greater Farallones National Marine Sanctuary. These waters constitute foraging areas for several species of pinnipeds;

- *ANI*—located at latitude (37°06' N and longitude 122°20' W, ANI is found approximately 0.25 mi (0.4 km) offshore of Año Nuevo Point in San Mateo County, California (see figure 2). This small 25 a (10.1-ha) island is part of the 4,000-a (1,618.7-ha) Año Nuevo State Reserve, all of which is owned and operated by California State Parks. ANI lies within the Monterey Bay National Marine Sanctuary and the Año Nuevo State Marine Conservation Area. Like the Southeast Farallon Island, the waters adjacent to ANI serve as foraging areas for pinnipeds and represent EFH for many groundfish, salmon, and pelagic forage fish species; and,

- *PRNS*—located approximately 40 mi (64.4 km) north of San Francisco Bay (see figure 3). The affected area for the purposes of this document are the headland coastal areas of this National Seashore. Waters adjacent to PRNS are foraging areas for pinnipeds. In addition, PRNS lies within the Greater Farallones National Marine Sanctuary and within proximity (approximately 6 mi (9.7 km)) of the Cordell Bank National Marine Sanctuary.

Point Blue's proposed activities would occur across the locations, within intertidal and coastal habitat or more in-shore areas (*i.e.*, residence locations, trails, pre-designated landing areas). Some site visits may require researchers to travel through pinniped haul-out areas.

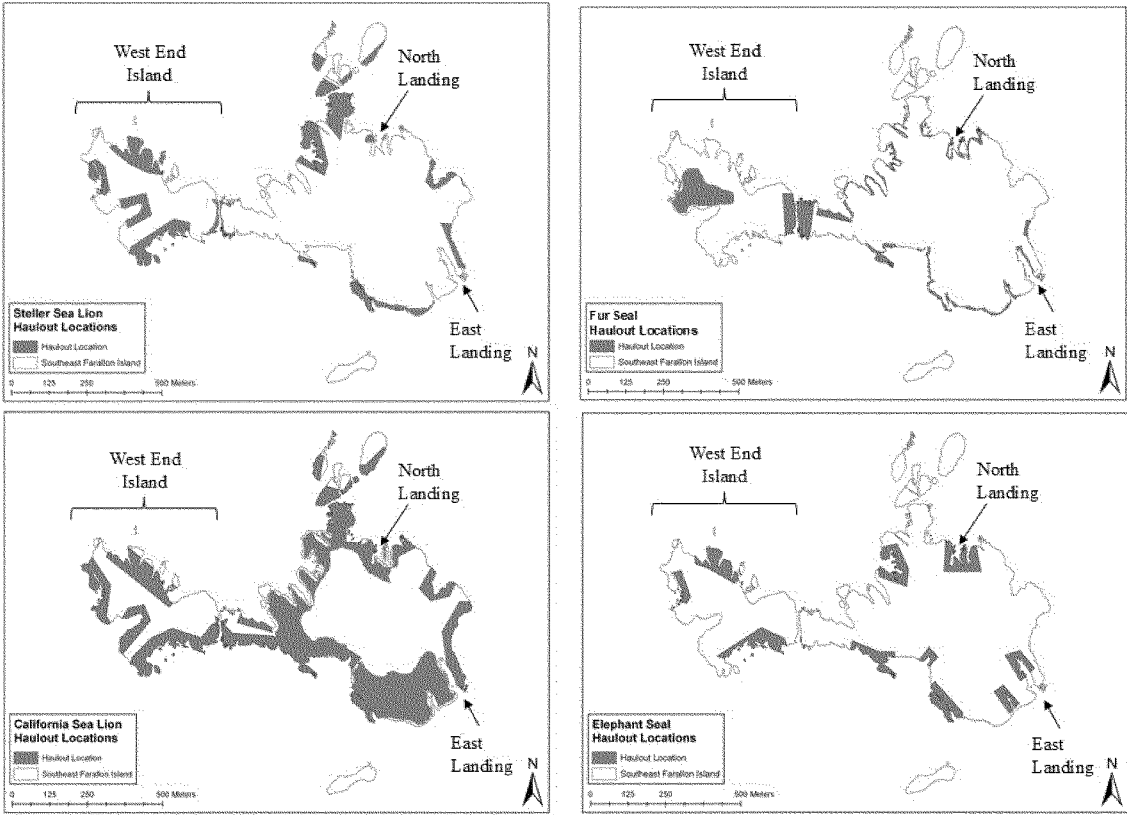


Figure 1 – Map of the SEFI, Associated Landings, And Pinniped Haul Out Areas.

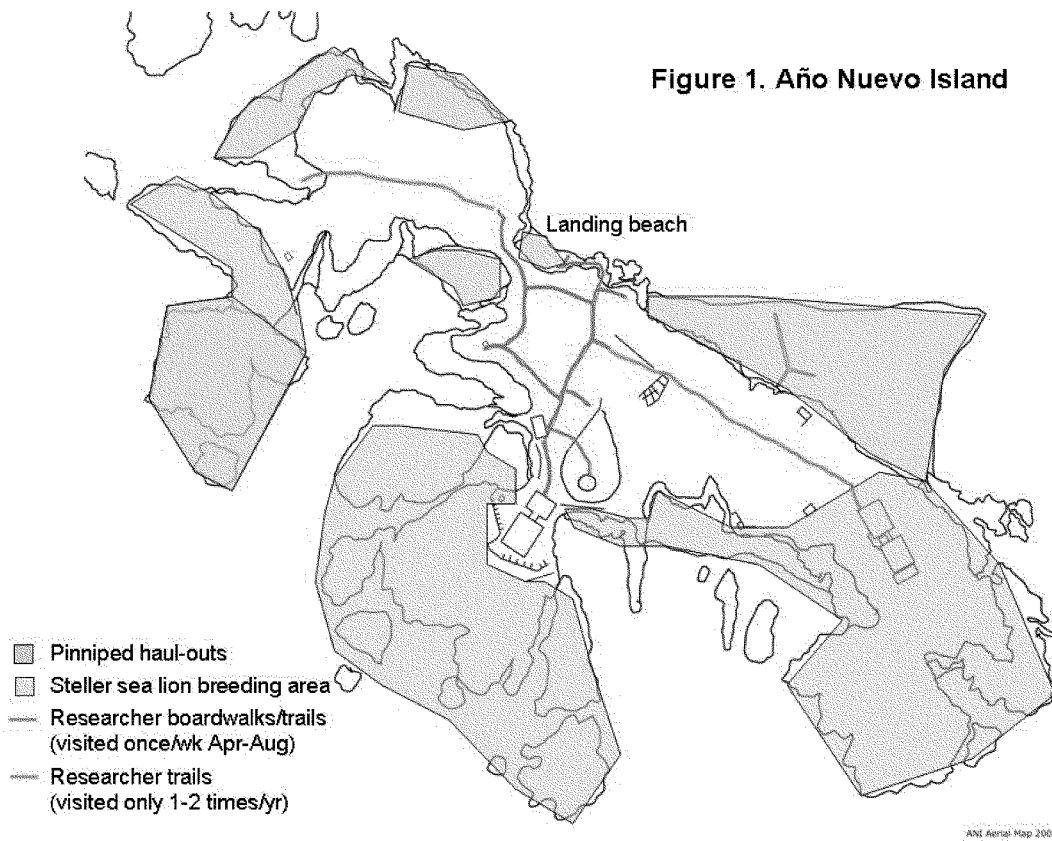


Figure 2 – Map of ANI, Associated Landing Beach, Researcher-Specific Areas, And Pinniped Haul Out Areas.

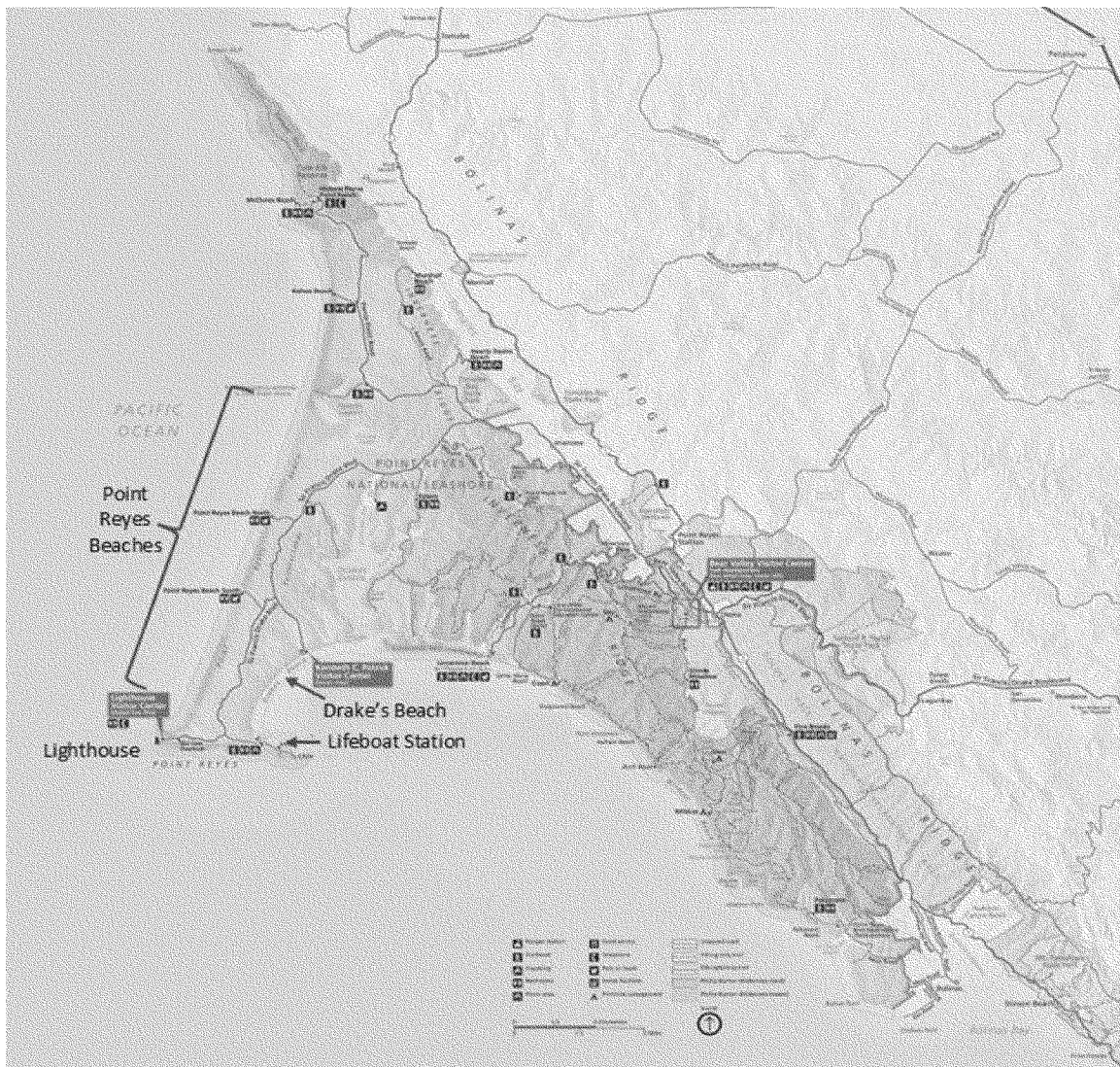


Figure 3 – Map of PRNS, Associated Landing Beach, Researcher-Specific Areas, And Pinniped Haul Out Areas.

Detailed Description of Specific Activity SEFI

Point Blue has conducted year-round wildlife research and monitoring activities at the South Farallon Islands, part of the Farallon Islands National Wildlife Refuge, since 1968, where this work is conducted through a collaborative agreement with the USFWS. Research focusing on seabirds, and some procedures involved in maintaining the SEFI field station may involve incidental take of marine mammals.

Seabird research activities primarily involve observational and hands-on (*i.e.*, netting and banding for capture-mark-recapture) studies of breeding seabirds. Occasionally, researchers may

travel to coastal areas of the island to conduct observational seabird research where non-breeding pinnipeds are present. These sorts of tasks include viewing breeding seabirds from an observation blind or censusing shorebirds, which typically necessitates one or two observers. Given the location of SEFI, access to the Refuge involves landing in small boats (*i.e.*, 14- to 18-ft (4.3- to 5.5- m) open motorboats) which are hoisted onto the island using a derrick system. The landing, hoisting, and use of motorboats result in incidental take of pinnipeds.

Research on SEFI is conducted year-round. Most intertidal areas of the island, where marine mammals are present, are rarely visited in seabird research. Point Blue believes that the

most potential for take could occur at SEFI's two landings (North Landing and East Landing) and the marine terrace. Boat landings to re-supply the field station typically last between 1 to 3 hours and are conducted every 2 weeks at either the East or North landing sites. Related to the vessel use, these activities involve launching the boat with one operator, while two to four other researchers assisting with the operations from land. As East Landing is the primary research site, all personnel assisting with the landing stay on the loading platform 30 ft (9.1 m) above the water. At North Landing, loading operations occur at the water level in the intertidal zone and boat access.

Researchers typically stay more than 100 ft (30.5 m) away from any pinnipeds

while conducting seabird research and other island maintenance activities or conduct observations from elevated locations greater than 50 ft (15.2 m) above resting pinnipeds. However, Point Blue notes that the pinnipeds on SEFI may react to human presence over a greater distance, including basic activities at the residences, trails, or landings. Pinnipeds may also be spooked by gulls that are responding to human activities. Generally, most of the visits to the pinniped haul out areas are brief (approximately 15 minutes in duration).

ANI

Historically, Point Blue has also conducted seabird research, monitoring, and habitat restoration activities on ANI, part of the Año Nuevo State Reserve, since 1992. Since 2010, this work has been led by collaborating researchers from Oikonos Ecosystem Knowledge whereas all work is conducted through a collaborative agreement with California State Parks.

Non-breeding pinnipeds may occasionally be present on the small beach in the center of the island where the boat is landed. California sea lions may also occasionally be present near a small group of subterranean seabird nest boxes on the island terrace. There are usually two to three researchers involved in island visits. Some procedures, such as accessing the island by boat or conducting seabird research and habitat restoration may involve incidental take of marine mammals.

As described above, research on ANI has been scaled back from previous years and is now conducted via three to four brief visits between April and September. A primary component of the seabird research involves nesting habitat restoration and monitoring, which requires visits from September through November, between the seabird breeding season and the elephant seal pupping season. Most intertidal areas of the island where marine mammals are present are not ever visited during seabird research, except the landing beach, which has the greatest potential for take, as well as just north of this beach up on the island's terrace where a small number of seabird nest boxes are located. In both locations researchers are located greater than 50 ft (15.2 m) away from any pinnipeds which may be hauled out. Landings and visits to nest boxes are brief (approximately 15 minutes). It is necessary that the landing beach be visited upon all arrival and departure activities.

PRNS

The National Park Service (NPS) conducts research, resource management and routine maintenance services at PRNS year-round. This involves seabird research involving maintaining the facilities around PRNS. Both types of work may involve incidental take of marine mammals. Additionally, habitat restoration of the seashore includes restoration and removal of non-native invasive plants, and coastal dune habitat. Non-native plant removal is timed to avoid the breeding seasons of pinnipeds; however, on occasion non-breeding animals may be present at various beaches throughout the year. Additionally, elephant seals are known to haul out near human structures and block access to facilities (e.g., they regularly haul out on a boat ramp at the Lifeboat Station and in car parking lots around the seashore).

Research activities on PRNS include monitoring seabird breeding and roosting colonies, which usually necessitate one or two observers. Field surveys are conducted by small boats (i.e., 14 to 22 ft (4.3 to 6.7 m) open motorboats) that survey along the shoreline. The use of motorboats can result in the incidental take of pinnipeds.

Research at PRNS is conducted year-round (with an estimated maximum number of visits per year of 20), with an emphasis during the seabird nesting season with occasional intermittent visits the rest of the year. As described above in the *Dates and Durations* section, a component of the seabird research involves habitat restoration and monitoring which requires sporadic visits from September-November, between the seabird breeding season and the elephant seal pupping season, but intermittent visits to areas of PRNS where pinniped takes may occur are also conducted for other research, monitoring, and resource management activities. In all locations researchers are located greater than 50 ft (15.2 m) away from any hauled-out pinniped. In addition to research and habitat restoration activities, harassment may occur at landing beaches along Point Reyes Headland and at boat ramps or parking lots if elephant seals are hauled out in those areas.

Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (please see the Proposed Mitigation and Proposed Monitoring and Reporting sections).

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. Additional information regarding population trends and threats may be found in NMFS's Stock Assessment Reports (SARs; <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>) and more general information about these species (e.g., physical and behavioral descriptions) may be found on NMFS's website (<https://www.fisheries.noaa.gov/find-species>).

Table 1 lists all species or stocks for which take is expected and proposed to be authorized for this action, and summarizes information related to the population or stock, including regulatory status under the MMPA and Endangered Species Act (ESA) and potential biological removal (PBR), where known. PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS' SARs). For taxonomy, we follow Committee on Taxonomy. While no serious injury or mortality is anticipated or proposed to be authorized here, PBR and annual serious injury and mortality (M/SI) from anthropogenic sources are included here as gross indicators of the status of the species or stocks and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS' stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS' Pacific and Alaska SARs (90 FR 13344, March 21, 2025). All values presented in table 1 are the most recent available at the time of publication (including from the draft 2024 SARs) and are available online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>.

TABLE 1—SPECIES WITH ESTIMATED TAKE FROM THE SPECIFIED ACTIVITIES

Common name ^a	Scientific name	Stock	ESA/ MMPA status; Strategic (Y/N) ^b	Stock abundance (CV; N _{min} ; most recent abundance survey) ^c	PBR	Annual M/SI ^d
Order Artiodactyla—Order Carnivora—Pinnipedia						
Family Otariidae (eared seals and sea lions)						
California sea lion	<i>Zalophus californianus</i>	U.S.	-, -, N	257,606 (N/A; 233,515; 2014).	14,011	≥321.
Steller sea lion	<i>Eumetopias jubatus</i>	Eastern U.S.	-, -, N	36,308 ^e (N/A; 36,308; 2022).	2,178 (U.S. only)	92.3 (U.S. only).
Northern fur seal	<i>Callorhinus ursinus</i>	California	-/D; Y	19,634 (N/A; 8,788; 2022).	527	≥1.2.
		Eastern Pacific	-/D; Y	626,618 (0.2, 530,376, 2019) ^f .	11,403	373.
Family Phocidae (earless seals)						
Harbor seal	<i>Phoca vitulina</i>	California	-, -, N	30,968 (N/A; 27,348; 2012).	1,641	43.
Northern elephant seal	<i>Mirounga angustirostris</i>	California breeding	-, -, N	194,907 (N/A; 88,794; 2023).	5,328	11.2.

^a Information on the classification of marine mammal species can be found on the web page for The Society for Marine Mammalogy's Committee on Taxonomy (<https://marinemammalscience.org/science-and-publications/list-marine-mammal-species-subspecies/>).

^b ESA status: Endangered (E), Threatened (T); MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

^c NMFS marine mammal SARs online at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>. CV is the coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, a CV is not applicable. N/A indicates data are unknown. UND (undetermined) PBR indicates data are available to calculate a PBR level but a determination has been made that calculating a PBR level using those data is inappropriate (see the SAR for details).

^d These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (e.g., commercial fisheries, ship strikes). Annual M/SI often cannot be determined precisely and is sometimes presented as a minimum value or range.

^e Abundance estimates are currently considered unknown.

^f Survey years = Sea Lion Rock—2014; St. Paul and St. George Islands—2014, 2016, 2018; Bogoslof Island.—2015, 2019.

As indicated above, all five species (six stocks) in table 1 temporally and spatially co-occur with the activity to the degree that take is reasonably likely to occur. While Guadalupe fur seals (*Arctocephalus townsendi*) have been reported in the area, their occurrence is considered extremely rare in that the temporal and/or spatial occurrence of these species is such that take is not expected to occur, and they are not discussed further beyond the explanation provided here. For the past 8 years Point Blue has not observed any Guadalupe fur seals during their surveys of the project areas and therefore NMFS does not anticipate and is not proposing to authorize take of Guadalupe fur seals. Additionally, California (southern) sea otters (*Enhydra lutris nereis*) may be found in the Greater Farallones National Marine Sanctuary (see <https://farallones.org/sanctuary-wildlife/marinemammals/>) and possibly nearshore to the South Farallon Island. However, this species is managed by the USFWS (see <https://www.fws.gov/species/southern-sea-otter-enhydra-lutris-nereis>) and therefore not discussed further in this document. For more details on the species that are likely to occur near the project area and may be taken by Point Blue's proposed activities, see Point Blue's IHA

application, the SARs, and NMFS' website.

California Sea Lions

California sea lion breeding areas are on islands located in southern California, in western Baja California, Mexico, and the Gulf of California. Rookery sites in southern California are limited to the San Miguel Islands and the southerly Channel Islands of San Nicolas, Santa Barbara, and San Clemente (Carretta *et al.*, 2017). Males establish breeding territories during May through July on both land and in the water. Females come ashore in mid-May and June where they give birth to a single pup approximately 4 to 5 days after arrival and will nurse pups for about a week before going on their first feeding trip. Postpartum females will alternate feeding trips with nursing bouts until the pup is weaned between 4 and 10 months of age (Melin *et al.*, 2000).

Adult and juvenile males will migrate as far north as British Columbia, Canada while females and pups remain in southern California waters in the non-breeding season. In warm water (El Niño) years, some females are found as far north as Washington and Oregon, presumably following prey.

On the Farallon Islands, California sea lions haul out in many intertidal areas

year-round, fluctuating from several hundred to several thousand animals. California sea lions at PRNS haul out at only a few locations but will occur on human structures such as boat ramps. The annual population averages around 300 to 500 during the fall through spring months, although on occasion, several thousand sea lions can arrive depending upon local prey resources (S. Allen, unpublished data). On ANI, California sea lions may haul out at one of eight beach areas on the perimeter of the island. The island's average population ranges from 4,000 to 9,500 animals (M. Lowry, unpublished data).

Elevated numbers of strandings of California sea lion pups occurred in Southern California beginning in January 2013, and NMFS declared an unusual mortality event (UME). The UME was confined to pup and yearling California sea lions, many of which were emaciated, dehydrated, and underweight for their age. A change in the availability of sea lion prey, especially sardines, a high value food source for nursing mothers, was a likely contributor to the large number of strandings. Sardine spawning grounds shifted further offshore in 2012 and 2013, and, while other prey were available (market squid and rockfish), these may not have provided adequate nutrition in the milk of sea lion mothers

supporting pups, or for newly weaned pups foraging on their own. Although the pups showed signs of some viruses and infections, findings indicated that this event was not caused by disease, but rather by the lack of high quality, close-by food sources for nursing mothers. Current evidence does not indicate that this UME was caused by a single infectious agent, though a variety of disease-causing bacteria and viruses were found in samples from sea lion pups. Investigating and identifying the cause of this UME was a true public-private effort with many collaborators. The investigative team examined multiple potential explanations for the high numbers of malnourished California sea lion pups observed on the island rookeries and stranded on the mainland in 2013. Per the NMFS website, “the UME was attributed to malnutrition in juvenile sea lions due to ecological factors causing prey shifts. These prey shifts were most likely driven by unusual oceanographic conditions at the time due to the “Warm Water Blob” and El Niño.” The UME was closed in 2016. For more information, see <https://www.fisheries.noaa.gov/national/marine-life-distress/2013-2017-california-sealion-unusual-mortality-event-california>.

Steller Sea Lion

Steller sea lions consist of two distinct population segments (DPSs): the western and eastern DPSs divided at longitude 144° W (Cape Suckling, Alaska). The western segment of Steller sea lions inhabits central and western Gulf of Alaska, Aleutian Islands, as well as coastal waters, and breed in Asia (e.g., Japan and Russia) (Young *et al.*, 2024). The eastern DPS includes animals born east of Cape Suckling, AK (144° W), and includes sea lions living in southeast Alaska, British Columbia, Washington, Oregon, and California (Young *et al.*, 2024).

Despite the wide-ranging movements of juveniles and adult males in particular, exchange between rookeries by breeding adult females and males (other than between adjoining rookeries) appears low, although males have a higher tendency to disperse than females (National Marine Mammal Laboratory, 1995; Trujillo *et al.*, 2004; Hoffman *et al.*, 2006). While historically breeding at rookeries located in Southeast Alaska, British Columbia (Canada), Oregon, and California, a new rookery has been established on the outer Washington coast at the Carroll Island and Sea Lion Rock complex (Stocking and Wiles, 2021). This northward shift in the overall breeding

distribution has occurred, with a contraction of the range in southern California and new rookeries established in southeastern Alaska (Hastings *et al.*, 2017).

An estimated 50 to 150 Steller sea lions are located along the Farallon Islands while 400–600 may be found on ANI (Point Blue, unpublished data; Lowry, unpublished data). Steller sea lions are not typically present at PRNS (NPS, unpublished data). Overall, counts of non-pups at trend sites in California and Oregon have been relatively stable or increasing slowly since the 1980s (Muto *et al.*, 2017). The South Farallon Island is one of two breeding colonies at the southern end of the Steller sea lion's range.

Northern Fur Seal

The northern fur seal is endemic to the North Pacific Ocean and Bering Sea. Breeding rookeries extend from the Sakhalin Island in the Sea of Okhotsk, Commander Islands, Pribilof, and Aleutian Islands in the Bering Sea, and the Farallon and San Miguel Islands off California (Gelatt and Gentry, 2018). Two stocks are recognized in U.S. waters: the Eastern North Pacific and the California stocks. The Eastern North Pacific stock ranges from southern California during winter to the Pribilof Islands and Bogoslof Island in the Bering Sea during summer (Muto *et al.*, 2018). The California stock originated with immigrants from the Pribilof Islands and Russian populations that recolonized San Miguel Island during the late 1950s or early 1960s after northern fur seals were extirpated from California in the 1700s and 1800s (NMFS, 2025). Most northern fur seals at Point Blue research sites are expected to be from the California stock, though some may be from the Eastern North Pacific stock, as adult females and pups from the Pribilof Islands move through the Aleutian Islands into waters off Oregon and California (Muto *et al.*, 2019).

The northern fur seal spends a significant amount of its time at sea, typically in areas of upwelling along the continental slopes, in sea valleys and submarine canyons and over seamounts where it undertakes opportunistic foraging activities (Kajimura, 1981). The remainder of its life is spent on or near rookery islands or haul-outs. While at sea, northern fur seals usually occur singly or in pairs, although larger groups can form in waters rich with prey (Antonelis and Fiscus, 1980; Kajimura, 1981). Northern fur seals dive to relatively shallow depths to feed: 100 to 200 m (328.1 to 656.2 ft) for females, and <400 m (<1,313.34 ft) for males

(Geobel *et al.*, 1991; Sterling and Ream, 2004). Tagged adult female fur seals were shown to remain within 200 km (124.3 mi) of the shelf break (Pelland *et al.*, 2014).

Northern fur seals likely numbered in excess of 100,000 animals at the Farallon Islands before being locally extirpated by sealers in the 1800's (Pyle *et al.*, 2001). After more than a 150-year absence, northern fur seals recolonized the Farallon Islands in the 1970's and the first confirmed pup was born in 1996 (Pyle *et al.*, 2001). The Farallon Islands continue to be a breeding site for northern fur seals, with over 1,000 pups born each season (Point Blue, unpublished data). Fur seals in the Farallon Islands typically begin pupping in mid-July with peak population and pup production in late August to early September. A study by Lee *et al.* (2018) found that three colonies of northern fur seals (*i.e.*, South Farallon, San Miguel, and Bogoslof) are all experiencing population growth at levels of 34, 45, and 59 percents, respectively, but were also all growing at rates determined to be the fastest for fur seals worldwide. Per Lowery *et al.* (2021), Northern fur seals are not typically observed on ANI or PRNS; they are more often found on San Miguel Island (located in the Channel Islands) and the Farallon Islands.

Harbor Seal

Pacific harbor seals inhabit near-shore coastal and estuarine areas from Baja California, Mexico, to the Pribilof Islands in Alaska. They are divided into two subspecies: *P. v. stejnegeri* in the western North Pacific, near Japan, and *P. v. richardii* in the northeast Pacific Ocean. The latter subspecies occurs along the California coast. The California stock of harbor seals ranges from Mexico to the Oregon-California border. In California, 400 to 600 harbor seal haul-out sites are widely distributed along the mainland and offshore islands, and include rocky shores, beaches and intertidal sandbars (Hanan, 1996; Lowry *et al.*, 2008; Carretta *et al.*, 2024).

Harbor seals mate at sea, and females give birth during the spring and summer, although the pupping season varies with latitude. Pups are nursed for an average of 24 days and are ready to swim minutes after being born. Harbor seal pupping takes place at many locations, and rookery size varies from a few pups to many hundred pups. Pupping generally occurs between March and June, and molting occurs between May and July.

On the Farallon Islands, approximately 40 to 120 Pacific harbor

seals haul out in the intertidal areas (Point Blue, unpublished data). Harbor seals at PRNS haul out at nine locations with an annual population of up to 4,000 animals (M. Lowry, unpublished data). On ANI, harbor seals may haul out at one of eight beach areas on the perimeter of the island, and the island's average population ranges from 100 to 150 animals (M. Lowry, unpublished data).

Northern Elephant Seal

Northern elephant seals range in the eastern and central North Pacific Ocean, from as far north as Alaska to as far south as Mexico. Northern elephant seals spend much of the year, generally about 9 months, in the ocean. They are usually underwater, diving to depths of about 1,000 to 2,500 ft (330 to 800 m) for 20- to 30 minute intervals with only short breaks at the surface. They are rarely seen out at sea for this reason. While on land, they prefer sandy beaches.

The northern elephant seal breeding population is distributed from central Baja California, Mexico to the Point Reyes Peninsula in northern California. Along this coastline, there are 13 major breeding colonies. Northern elephant seals breed and give birth primarily on offshore islands (Stewart *et al.*, 1994), from December to March (Stewart and Huber, 1993). Males feed near the eastern Aleutian Islands and in the Gulf of Alaska, and females feed farther south, south of 45° N (Stewart and Huber, 1993; Le Boeuf *et al.*, 1993).

In mid-December, adult males begin arriving at rookeries, closely followed by pregnant females on the verge of giving birth. Females give birth to a single pup, generally in late December or January (Le Boeuf and Laws, 1994) and nurse their pups for approximately 4 weeks (Reiter *et al.*, 1991). Upon pup weaning, females mate with an adult male and then depart the islands. The last adult breeders depart the islands in mid-March. The spring peak of elephant seals on the rookery occurs in April, when females and immature seals (approximately 1 to 4 years old) arrive at the colony to molt (a 1-month process) (USFWS, 2013). The year's new pups remain on the island throughout both of these peaks, generally leaving by the end of April (USFWS, 2013). The lowest numbers of elephant seals present at rookeries occurs during June, July, and August, when sub-adult and adult males molt. Another peak number of young seals returns to the rookery for a haul-out period in October, and at that time, some individuals undergo partial molt (Le Boeuf and Laws, 1994).

Northern elephant seals are present on the islands and in the waters surrounding the South Farallones year-round for either breeding or molting; however, they are more abundant during breeding and peak molting seasons (Le Boeuf and Laws, 1994; Sydeman and Allen, 1999). Northern elephant seals began recolonizing the South Farallon Islands in the early 1970s (Stewart *et al.*, 1994) at which time the colony grew rapidly. Point Blue's average monthly counts of elephant seals at the South Farallon Islands from 2000 to 2009 ranged from 20 individuals in July to nearly 500 individuals in November (USFWS, 2013). During breeding season, the population at ANI ranges from 900 to 1,000 adults, while another ~2,000 adults are found at PRNS (Mark Lowry, unpublished data; NPS, unpublished data).

Potential Effects of Specified Activities on Marine Mammals and their Habitat

This section provides a discussion of the ways in which components of the specified activity may impact marine mammals and their habitat. The Estimated Take section later in this document includes a quantitative analysis of the number of individuals that are expected to be taken by this activity. The Negligible Impact Analysis and Determination section considers the content of this section, the Estimated Take section, and the Proposed Mitigation section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and whether those impacts are reasonably expected to, or reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

Presence of Humans

Visual and acoustic stimuli generated by the appearance of field personnel and motorboat operations may have the potential to cause Level B harassment of pinnipeds hauled out on SEFI, ANI, and PRNS. This section includes a summary and discussion of the ways that the types of stressors associated with the specified activity (*e.g.*, personnel presence and motorboats) have been observed to impact marine mammals. This discussion may also include reactions that we consider rising to the level of a take and those that we do not consider rising to the level of a take. This section provides background information on potential effects of these activities. For a discussion of the manner in which the mitigation measures will be implemented, and how

the mitigation measures will shape the anticipated impacts from this specific activity, see the Proposed Mitigation section below.

Reactions to human presence, if any, depend on species, state of maturity, experience, current activity, reproductive state, time of day, and many other factors (Richardson *et al.*, 1995; Southall *et al.*, 2007; Weilgart, 2007). These behavioral reactions from marine mammals are often shown as: changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle responses or aggressive behavior; avoidance of areas; and/or flight responses (*e.g.*, pinnipeds flushing into the water from haul-outs or rookeries). If a marine mammal does react briefly to human presence by changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, let alone the stock or population. However, if visual stimuli from human presence displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (*e.g.*, Lusseau and Bejder, 2007; Weilgart, 2007). Numerous studies have shown that human activity can flush harbor seals off haul-out sites (Allen *et al.*, 1985; Suryan and Harvey, 1999; Ruiz-Mar *et al.*, 2022; Bankhead *et al.*, 2023). The Hawaiian monk seal (*Neomonachus schauinslandi*) has been shown to avoid beaches that have been disturbed often by humans (Kenyon, 1972; Gerrodette and Gilmartin, 1990). In one case, human disturbance appeared to cause Steller sea lions to desert a breeding area at Northeast Point on St. Paul Island, Alaska (Kenyon, 1962), a behavior demonstrated at other locations as well (Kucey, 2005; Chayahara *et al.*, 2024).

The appearance of field personnel may have the potential to cause Level B harassment of any pinnipeds hauled out at research sites. Disturbance may result in reactions ranging from an animal simply becoming alert to the presence of field personnel (*e.g.*, turning the head, assuming a more upright posture) to flushing from the haul-out site into the water. NMFS does not consider the lesser reactions to constitute behavioral harassment, or Level B harassment takes, but rather assumes that pinnipeds that flee some distance or change the speed or direction of their movement in response to the presence of field personnel are behaviorally harassed, and thus subject to the taking by Level

B harassment. Animals that respond to the presence of field personnel by becoming alert, but do not move or change the nature of locomotion as described, are not considered to have been subject to behavioral harassment.

Use of Motorboats

Point Blue has indicated that they may require the use of small waterborne vessels (*i.e.*, small motorboats) to deliver both personnel and supplies to and from SEFI, ANI, and PRNS. Previous studies have been performed where the results demonstrate that pinnipeds generally return to their sites and do not permanently abandon haul-out sites after exposure to motorboats (discussed further below for Henry and Hammil (2001) and Johnson and Acevedo-Gutierrez (2007)).

In 1997, Henry and Hammil (2001) conducted a study to measure the impacts of small boats (*i.e.*, kayaks, canoes, motorboats and sailboats) on harbor seal haul-out behavior in Metis Bay, Quebec, Canada. During that study, the authors noted that the most frequent disturbances ($n=73$) were caused by lower speed, lingering kayaks, and canoes (33.3 percent) as opposed to motorboats (27.8 percent) conducting high-speed passes. The seal's flight reactions could be linked to a surprise factor by kayaks and canoes, which approach slowly, quietly, and low on the water making them look like predators. However, the authors note that, once the animals were disturbed, there did not appear to be any significant lingering effect on the recovery of numbers to their pre-disturbance levels. In conclusion, the study showed that boat traffic at current levels had only a temporary effect on the haul-out behavior of harbor seals in the Metis Bay area.

In 2004, Acevedo-Gutierrez and Johnson (2007) evaluated the efficacy of buffer zones for watercraft around harbor seal haul-out sites on Yellow Island, Washington. The authors estimated the minimum distance between the vessels and the haul-out sites, categorized the vessel types, and evaluated seal responses to the disturbances. During the course of the 7-weekend study, the authors recorded 14 human-related disturbances that were associated with stopped powerboats and kayaks. During these events, hauled out seals became noticeably active and moved into the water. The flushing occurred when stopped kayaks and powerboats were at distances as far as 453 and 1,217 ft (138 and 371 m) away, respectively. The authors note that the seals were unaffected by passing powerboats, even those approaching as

close as 128 ft (39 m), possibly indicating that the animals had become tolerant of the brief presence of the vessels and ignored them. The authors reported that, on average, the seals quickly recovered from the disturbances and returned to the haul-out site in less than or equal to 60 minutes. Seal numbers did not return to pre-disturbance levels within 180 minutes of the disturbance, less than one-quarter of the time observed. The study concluded that the return of seal numbers to pre-disturbance levels and the relatively regular seasonal cycle in abundance throughout the area counter the idea that disturbances from powerboats may result in site abandonment (Johnson and Acevedo-Gutierrez, 2007). As a general statement from the available information, pinnipeds exposed to intense (approximately 110 to 120 decibels referenced to 20 microPascals (μPa)) airborne non-pulsed sounds often leave haul-out areas and seek refuge temporarily (minutes to a few hours) in the water (Southall *et al.*, 2007).

The potential for striking marine mammals is a concern with vessel traffic. Typically, the reasons for vessel strikes are fast transit speeds, lack of maneuverability, or not seeing the animal because the boat is so large. Point Blue's staff and field personnel will access areas at slow transit speeds in small boats that are easily maneuverable, minimizing any chance of any accidental strikes.

Avoidance

Avoidance is the displacement of an individual from an area or migration path as a result of the presence of a sound or other stressors and is one of the most obvious manifestations of disturbance in marine mammals (Richardson *et al.*, 1995). Avoidance is qualitatively different from the flight response but also differs in the magnitude of the response (*i.e.*, directed movement, rate of travel, *etc.*). Often avoidance is temporary, and animals return to the area once the noise has ceased. Acute avoidance responses have been observed in captive porpoises and pinnipeds exposed to a number of different sound sources (Kastelein *et al.*, 2001; Finneran *et al.*, 2003; Kastelein *et al.*, 2006a; Kastelein *et al.*, 2006b; Kastelein *et al.*, 2015a; Kastelein *et al.*, 2015b; Kastelein *et al.*, 2018). Short-term avoidance of seismic surveys, low frequency emissions, and acoustic deterrents have also been noted in wild populations of odontocetes (Bowles *et al.*, 1994; Goold, 1996; Goold and Fish, 1998; Morton and Symonds, 2002; Hiley *et al.*, 2021) and to some extent in

mysticetes (Malme *et al.*, 1984; McCauley *et al.*, 2000; Gailey *et al.*, 2007). Longer-term displacement is possible, however, which may lead to changes in abundance or distribution patterns of the affected species in the affected region if habituation to the presence of the sound does not occur (*e.g.*, Blackwell *et al.*, 2004; Bejder *et al.*, 2006; Teilmann *et al.*, 2006). Although NMFS acknowledges that most research and literature cited here is related to cetaceans, who are not expected to be harassed or taken by Point Blue's specified activities, we include these to provide context as pinnipeds behaviorally react in a similar manner when expected to an external stimulus (*e.g.*, human presence, noise, *etc.*) when onshore or in the water.

While NMFS expects that hauled out pinnipeds may avoid the Point Blue field personnel and/or motorboats, we do not expect that these effects will be more than temporary. The pinnipeds on SEFI, ANI, and PRNS have high site fidelity; any external stimuli would be expected to be fleeting in nature, and easily avoidable, meaning that the pinnipeds, if performing avoidance behaviors during Point Blue's specified activities, would be able to resume their original behaviors once the stimulus has ended.

Flight Response

A flight response is a dramatic change in normal movement to a directed and rapid movement away from the perceived location of a sound source. The flight response differs from other avoidance responses in the intensity of the response (*e.g.*, directed movement, rate of travel). Relatively little information on flight responses of marine mammals to anthropogenic signals exists, although observations of flight responses to the presence of predators have occurred (Connor and Heithaus, 1996). The result of a flight response could range from brief, temporary exertion and displacement from the area where the signal provokes flight to, in extreme cases, marine mammal strandings (Evans and England, 2001). There are limited data on flight response for marine mammals in water; however, there are examples of this response in species on land. For instance, the probability of flight responses in Dall's sheep (*Ovis dalli dalli*) (Frid, 2003), hauled out ringed seals (*Phoca hispida*) (Born *et al.*, 1999), Pacific brant (*Branta bernicla nigricans*), and Canada geese (*B. canadensis*) increased as a helicopter or fixed-wing aircraft more directly approached groups of these animals (Ward *et al.*, 1999). However, it should be noted that

response to a perceived predator does not necessarily invoke flight (Ford and Reeves, 2008), and whether individuals are solitary or in groups may influence the response.

Behavioral disturbance can also impact marine mammals in more subtle ways. Increased vigilance may result in costs related to diversion of focus and attention (*i.e.*, when a response consists of increased vigilance, it may come at the cost of decreased attention to other critical behaviors such as foraging or resting). These effects have generally not been observed in marine mammals, but studies involving fish and terrestrial animals have shown that increased vigilance may substantially reduce feeding rates and efficiency (*e.g.*, Beauchamp and Livoreil, 1997; Fritz *et al.*, 2002; Purser and Radford, 2011). In addition, chronic disturbance can cause population declines through reduction of fitness (*e.g.*, decline in body condition) and subsequent reduction in reproductive success, survival, or both (*e.g.*, Harrington and Veitch, 1992; Daan *et al.*, 1996; Bradshaw *et al.*, 1998).

Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (24-hour cycle). Disruption of such functions resulting from reactions to stressors such as sound exposure are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.*, 2007). Consequently, a behavioral response lasting less than 1 day and not recurring on subsequent days is not considered particularly severe unless it could directly affect reproduction or survival (Southall *et al.*, 2007). Note that there is a difference between multi-day substantive behavioral reactions and multi-day anthropogenic activities. For example, just because an activity lasts for multiple days does not necessarily mean that individual animals are either exposed to activity-related stressors for multiple days or, further, exposed in a manner resulting in sustained multi-day substantive behavioral responses.

There are other ways in which disturbance, as described previously, could result in more than Level B harassment of marine mammals. They are most likely to be consequences of stampeding (which is typically a response to startle and/or avoidance behaviors), a potentially dangerous occurrence in which large numbers of animals succumb to mass panic and rush away from a stimulus. These situations are: (1) pinnipeds falling when entering the water at high-relief locations; (2) extended separation of mothers and pups; and (3) crushing of pups by larger animals during a

stampede. However, NMFS does not expect any of these scenarios to occur at SEFI, ANI, or PRNS. As stated, there is the risk of injury if animals stampede towards shorelines with precipitous relief (*e.g.*, cliffs); however, field personnel will take precautions, such as moving slowly and staying close to the ground, to ensure that any flushes do not result in a stampede of pinnipeds heading to the sea. Per previous ITAs issued to Point Blue, reports that stampedes have been extremely rare at their survey locations in the past. Furthermore, no research activities would occur at or near pinniped rookeries. Breeding animals are concentrated in areas where field personnel would not visit, so NMFS does not expect mother and pup separation or crushing of pups during flushing. If pups should be present at any Point Blue research sites, field personnel will avoid visiting that particular site.

Habituation

Habituation can occur when an animal's response to a stimulus wanes given repeated exposure, usually in the absence of unpleasant associated events (Wartzok *et al.*, 2003). Animals are most likely to habituate to sounds that are predictable and unvarying. It is important to note that habituation is appropriately considered as a "progressive reduction in response to stimuli that are perceived as neither aversive nor beneficial," rather than as, more generally, moderation in response to human disturbance (Bejder *et al.*, 2009). The opposite process is sensitization, when an unpleasant experience leads to subsequent responses, often in the form of avoidance, at a lower level of exposure. As noted, behavioral state may affect the type of response. For example, animals that are resting may show greater behavioral change in response to disturbing sound levels than animals that are highly motivated to remain in an area for feeding (Richardson *et al.*, 1995; National Research Council, 2003; Wartzok *et al.*, 2003). Controlled experiments with captive marine mammals have shown pronounced behavioral reactions, including avoidance of loud sound sources (Ridgway *et al.*, 1997; Finneran *et al.*, 2003). Observed responses of wild marine mammals to loud impulsive sound sources (typically seismic airguns or acoustic harassment devices) have been varied but often consist of avoidance behavior or other behavioral changes suggesting discomfort (Morton and Symonds, 2002; see also Richardson *et al.*, 1995; Nowacek *et al.*, 2007).

Stress Response

An animal's perception of a threat may be sufficient to trigger stress responses consisting of some combination of behavioral responses, autonomic nervous system responses, neuroendocrine responses, or immune responses (*e.g.*, Seyle, 1950; Moberg, 2000). In many cases, an animal's first and sometimes most economical (in terms of energetic costs) response is behavioral avoidance of the potential stressor. Autonomic nervous system responses to stress typically involve changes in heart rate, blood pressure, and gastrointestinal activity. These responses have a relatively short duration and may or may not have a significant long-term effect on an animal's fitness.

Neuroendocrine stress responses often involve the hypothalamus-pituitary-adrenal system. Virtually all neuroendocrine functions that are affected by stress, including immune competence, reproduction, metabolism, and behavior, are regulated by pituitary hormones. Stress-induced changes in the secretion of pituitary hormones have been implicated in failed reproduction, altered metabolism, reduced immune competence, and behavioral disturbance (*e.g.*, Moberg, 1987; Blecha, 2000). Increases in the circulation of glucocorticoids are also equated with stress (Romano *et al.*, 2004).

The primary distinction between stress (which is adaptive and does not normally place an animal at risk) and "distress" is the cost of the response. During a stress response, an animal uses glycogen stores that can be quickly replenished once the stress is alleviated. In such circumstances, the cost of the stress response would not pose serious fitness consequences. However, when an animal does not have sufficient energy reserves to satisfy the energetic costs of a stress response, energy resources must be diverted from other functions. This state of distress will last until the animal replenishes its energetic reserves sufficient to restore normal function.

Relationships between these physiological mechanisms, animal behavior, and the costs of stress responses are well studied through controlled experiments and for both laboratory and free-ranging animals (*e.g.*, Holberton *et al.*, 1996; Hood *et al.*, 1998; Jessop *et al.*, 2003; Krausman *et al.*, 2004; Lankford *et al.*, 2005). Stress responses due to exposure to anthropogenic sounds or other stressors and their effects on marine mammals have also been reviewed (Fair and Becker 2000; Romano *et al.*, 2002b) and,

more rarely, studied in wild populations (*e.g.*, Romano *et al.*, 2002a). These and other studies lead to a reasonable expectation that some marine mammals will experience physiological stress responses upon exposure to acoustic stressors and that it is possible that some of these would be classified as “distress.” However, distress is an unlikely result of these projects based on observations of marine mammals during previous, similar research and monitoring projects.

Effects on Marine Mammal Habitat

There are no habitat modifications associated with the proposed activity other than the presence of Point Blue field personnel to perform the proposed activities and to monitor animals. No substantial construction is anticipated to occur for this proposed project, only activities that rise to the level of maintenance, removal, and installation, which are all expected to be over a small footprint when compared to the entire size of the available habitat on the South Farallon Islands. While field personnel may be somewhat residential in some areas during the work necessary for the proposed activities, the field personnel will be traveling to different research sites indicating that their presence in any one specific area is most likely temporary. Thus, NMFS does not expect that the proposed activity would have any effects on marine mammal habitat and NMFS expects that there will be no long- or short-term physical impacts to pinniped habitat on SEFI, ANI, or PRNS.

Proposed Activities on Potential Foraging Habitat

Marine mammal prey (*e.g.*, fish) varies by species, season, and location. However, as all of Point Blue’s proposed activities are occurring onshore and the prey species for pinnipeds are located in the ocean, NMFS does not expect the proposed activities to affect the habitat, availability, or presence of prey for pinnipeds.

Estimated Take

This section provides an estimate of the number of incidental takes proposed

for authorization through the IHA, which will inform NMFS’ consideration of “small numbers,” the negligible impact determinations, and impacts on subsistence uses.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of 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).

Takes proposed for authorization would be by Level B harassment only, in the form of behavioral reactions for individual marine mammals resulting from exposure to field personnel and associated noise. Based on the nature of the activity, Level A harassment is neither anticipated nor proposed to be authorized. As described previously, no serious injury or mortality is anticipated or proposed to be authorized for this activity. Below we describe how the proposed take numbers are estimated.

Marine Mammal Occurrence and Take Calculation and Estimation

Here we describe the proposed estimate of the take that is reasonably likely to occur and proposed for authorization.

The occurrence data are based upon Point Blue’s unique expertise in this area and their local, collaborative work with other partners who work in the Farallon Islands (Point Blue Conservation Science, unpublished data; G. McChesney, USFWS, personal observation). NMFS further reviewed other nearby and recent actions by Point Blue and partners when considering the proposed take numbers (*i.e.*, the Point Blue Conservation Science’s seabird research activities in central California (80 FR 10066, February 25, 2015; 81 FR 34978, June 1, 2016; 82 FR 31759, July

10, 2017; 83 FR 31372, July 5, 2018; 85 FR 9740, February 20, 2020; and 86 FR 27991, May 25, 2021) and the USFWS research, monitoring, and management activities on SEFI (90 FR 42750, September 4, 2025)). Next, we further reviewed previous monitoring reports from Point Blue for their previous projects in the specified geographic area. Point Blue’s requested take authorization numbers were calculated based on the number of each species generally present on the islands (particularly near haul-outs, survey areas, and near boat landings) and frequency of the planned activities. Point Blue’s research activities are expected to affect all ages and sexes of pinnipeds, except very young pups because Point Blue field personnel will not enter or approach breeding areas close enough to cause a disturbance to young pups or their mothers.

Upon review of Point Blue’s request take, NMFS determined that the numbers were reasonable and supported by their unique and extensive expertise in the specified geographic area. For almost all species, Point Blue requested the same annual take estimates as initially requested in their most recent ITA (*i.e.*, ITR with subsequent 5-year LOA (86 FR 27991, May 25, 2021)). However, for two species (California sea lions and northern fur seals), given increases in the populations in the project areas, Point Blue has requested increased take for these species. NMFS agrees with this justification and the values presented in the ITA application and carries these forward here into this notice of proposed IHA.

In table 2, NMFS shows the reported take observations from previous Point Blue ITAs. We also include the previous number of authorized takes under the ITR/LOA given the same or similar values that have been requested by Point Blue for this proposed project. In table 3, NMFS shows the take, by Level B harassment only, that propose to authorize for Point Blue’s 2026–2027 activities.

TABLE 2—REPORTED TAKE OBSERVATIONS FROM PREVIOUS ITAs, AND REQUESTED ANNUAL TAKES BY LEVEL B HARASSMENT

Species	Reported observations and take from previous IHA							Reported observations and take from previous ITRs and 5-year LOA					Authorized takes from more recent project ITA (ITRs and 5-year LOA)	
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	Annual	5-year
California sea lion	10,048	36,417	23,173	22,752	17,487	10,408	.....	34,510	38,344	33,402	38,516	39,269	40,059	200,295
Northern elephant seal	145	175	119	202	85	79	.....	90	67	10	6	26	239	1,195
Harbor seal	284	292	175	234	229	82	.....	91	99	94	88	72	321	1,605

TABLE 2—REPORTED TAKE OBSERVATIONS FROM PREVIOUS ITAs, AND REQUESTED ANNUAL TAKES BY LEVEL B HARASSMENT—Continued

Species	Reported observations and take from previous IHA							Reported observations and take from previous ITRs and 5-year LOA					Authorized takes from more recent project ITA (ITRs and 5-year LOA)	
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	Annual	5-year
Steller sea lion ..	59	31	32	35	5	50	.....	15	9	50	36	36	72	360
Northern fur seal	0	0	0	0	0	1	.....	0	0	13	25	26	20	100

Note: NMFS was unable to locate monitoring data related to the 2020 survey activities (85 FR 9740, February 20, 2020).

TABLE 3—PROPOSED TAKE, BY LEVEL B HARASSMENT ONLY, AND PERCENTAGE OF MMPA STOCK PROPOSED TO BE TAKEN

Species	Stock	Estimated stock abundance (NMFS SARs)	Proposed take for authorization	Percent of stock to be taken
California sea lion	U.S	257,606	50,000	19.4
Northern elephant seal	California breeding	194,907	239	0.1
Harbor seal	California	30,968	321	1.04
Steller sea lion	Eastern U.S	36,308	72	0.2
Northern fur seal ^a	California	19,634	120	0.61
	Eastern Pacific	626,618		<0.1

^a As either stock may occur in the project area, for the purposes of calculating the percentage of the stock impacted, the take is being analyzed as if all proposed takes occurred within each stock.

Proposed Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks, and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, NMFS considers two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat, as well as subsistence uses. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if

implemented as planned), the likelihood of effective implementation (probability implemented as planned), and;

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, and impact on operations.

The mitigation requirements described in the following were proposed by Point Blue in its adequate and complete application or are the result of subsequent coordination between NMFS and Point Blue. Point Blue has agreed that all the mitigation measures are practicable. NMFS has fully reviewed the specified activities and the mitigation measures to determine if the mitigation measures would result in the least practicable adverse impact on marine mammals and their habitat, as required by the MMPA, and has determined the proposed measures are appropriate. NMFS describes these below as proposed mitigation requirements and has included them in the proposed IHA.

In addition to the measures described later in this section, Point Blue would follow these general mitigation measures:

- Takes proposed for authorization, by Level B harassment only, would be limited to the species and numbers listed in table 3. Research activities would be required to be halted upon observation of either a species for which incidental take was not authorized or for a species for which incidental take has been authorized but the number of takes has been met, entering or is within the harassment zone, if the IHA is issued;

- The taking by Level A harassment, serious injury, or death of any of the species listed in tables 1 or 3 or any taking of any other species of marine mammal would be prohibited and would result in the modification, suspension, or revocation of the IHA, if issued. Any taking exceeding the authorized amounts listed in table 3 would be prohibited and would result in the modification, suspension, or revocation of the IHA, if issued;

- Ensure that relevant Point Blue staff are trained prior to the start of all research activities, so that responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures are clearly understood. New personnel joining during the project must be trained prior to commencing work;

- Point Blue staff must avoid direct physical interaction with marine mammals during construction activity;

- Point Blue staff must maintain a safe distance for field personnel from marine mammals and not approach any marine mammal while conducting research, unless it is absolutely necessary to flush a marine mammal in order to continue conducting research (*i.e.*, if a site cannot be accessed or sampled due to the presence of pinnipeds);s

- Conduct seabird observations in an observation blind, shielded from the view of hauled-out pinnipeds where possible;

- Monitoring for offshore predators and not approach hauled out pinnipeds if predators are present.

Based on our evaluation of Point Blue's proposed measures, as well as

other measures considered by NMFS, NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present while conducting the activities. Effective reporting is critical to both compliance, as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which

take is anticipated (e.g., presence, abundance, distribution, density);

- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) action or environment (e.g., source characterization, propagation, ambient noise); (2) affected species (e.g., life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (e.g., age, calving or feeding areas);

- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;

- How anticipated responses to stressors impact either: (1) long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;

- Effects on marine mammal habitat (e.g., marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and/or

- Mitigation and monitoring effectiveness.

The monitoring and reporting requirements described in the following were proposed by Point Blue in its adequate and complete application or are the result of subsequent coordination between NMFS and Point

Blue following receipt of the application. Point Blue has agreed that all of the mitigation measures are appropriate. NMFS describes these below as proposed requirements and has included them in the proposed IHA.

Point Blue will contribute to the knowledge of pinnipeds on SEFI, ANI, and PRNS by noting observations of: (1) unusual behaviors, numbers, or distributions of pinnipeds, such that any potential follow-up research can be conducted by the appropriate personnel; (2) tag-bearing carcasses of pinnipeds, allowing transmittal of the information to appropriate agencies and personnel; and (3) rare or unusual species of marine mammals for agency follow-up.

Proposed monitoring requirements in relation to the research activities will include observations made by Point Blue. Information recorded will include species counts (with numbers of pups/juveniles) of animals present before approaching, numbers of observed disturbances (based on the scale below), and descriptions of the disturbance behaviors during the project activities, including location, date, and time of the event. For consistency, any reactions by pinnipeds to field personnel will be recorded according to a three-point scale, as shown in table 4. We specifically note that only observations of disturbance levels 2 and 3 would be recorded as takings. The lead biologist/project-lead in the field will serve as an observer to record the incidental take.

TABLE 4—LEVELS OF PINNIPED BEHAVIORAL DISTURBANCE

Level	Type of response	Definition
0	Observation	Observation by field personnel from a distance; no disturbance to pinniped.
1	Alert	Seal head orientation or brief movement in response to disturbance, which may include turning head towards the disturbance, craning head and neck while holding the body rigid in a u-shaped position, changing from a lying to a sitting position, or brief movement of less than twice the animal's body length.
2	Movement	Movements in response to the source of disturbance, ranging from short withdrawals at least twice the animal's body length to longer retreats over the beach, or if already moving a change of direction of greater than 90 degrees.
3	Flush	All retreats (flushes) to the water.

Note: Only Levels 2 and 3 would be recorded as takes by Level B harassment.

Furthermore, the following monitoring protocols for Point Blue are proposed:

(1) Record of date, time, and location (or closest point of ingress) of each visit to the research site;

(2) Composition of the marine mammals sighted, such as species, gender, and life history stage (e.g., adult, sub-adult, pup);

(3) Information on the numbers (by species) of marine mammals observed during the activities;

(4) Estimated number of marine mammals (by species) that may have been harassed during the activities;

(5) Behavioral responses or modifications of behaviors that may be attributed to the specific activities and a description of the specific activities occurring during that time (e.g., human approach, vessel approach, helicopter take-off/landing/flyover); and

(6) Information on the weather, including the tidal state and horizontal visibility.

In addition, observations regarding the number and species of any marine mammals observed (either in the water or hauled out at, or adjacent to, a research site) are recorded as part of field observations during research activities. Information regarding

physical and biological conditions pertaining to a site, as well as the date and time that research was conducted, will also be recorded. This information will be incorporated into a monitoring report (along with other information, as required below in the *Proposed Reporting* section) for NMFS and all raw data will be provided.

Proposed Reporting

Point Blue would be required to submit an annual draft summary report on all research activities and marine mammal monitoring results to NMFS within 90 days following the end of the project activities or 60 calendar days

prior to the requested issuance of any subsequent IHA for similar activity at the same location, whichever comes first. The draft summary report would include an overall description of the research activities completed, a narrative regarding marine mammal sightings, and associated raw PSO data sheets (in electronic spreadsheet format). Specifically, the report must include:

- Dates and times (begin and end) of all marine mammal monitoring;
- Observer locations during marine mammal monitoring; and
- Environmental conditions during monitoring periods (at beginning and end of observer shift and whenever conditions change significantly), including Beaufort sea state and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon, and estimated observable distance.
- Upon observation of a marine mammal, the following information must be reported:
 - Name of the observer who sighted the animal(s) and observer location and activity at the time of the sighting;
 - Time of the sighting;
 - Identification of the animal(s) (e.g., genus/species, lowest possible taxonomic level, or unidentified), observer confidence in identification, and the composition of the group if there is a mix of species;
 - Estimated number of animals (min/max/best estimate);
 - Estimated number of animals by cohort (e.g., adults, juveniles, neonates, group composition, etc.);
 - Animal's closest point of approach;
 - Description of any marine mammal behavioral observations (e.g., observed behaviors such as feeding or traveling), including an assessment of behavioral responses thought to have resulted from the activity (e.g., no response or changes in behavioral state such as ceasing feeding, changing direction, flushing, etc.);
 - Number of marine mammals detected, by species; and
 - Detailed information about implementation of any mitigation, a description of specified actions that ensued, and resulting changes in behavior of the animal(s), if any.

If no comments are received from NMFS within 30 days after the submission of the draft summary report, the draft report would constitute the final report. If Point Blue receives comments from NMFS, a final summary report addressing NMFS' comments must be submitted within 30 days after receiving comments.

Additionally, Point Blue would be required to undertake some situational reporting for the NMFS West Coast Regional Office (562–980–3230) for marked or tag-bearing pinnipeds or carcasses, or any unusual behaviors, distributions, or numbers of pinnipeds.

Reporting Injured or Dead Marine Mammals

If, at any time, the specified activities clearly causes the take of a marine mammal in a prohibited manner such as an injury (i.e., Level A harassment), serious injury, or mortality, Point Blue would immediately cease the specified activities and report the incident to the NMFS Office of Protected Resources (PR.ITP.MonitoringReports@noaa.gov and ITP.Cockrell@noaa.gov) and the NMFS West Coast Regional Stranding Coordinator (562–980–3230). The report must include the following information:

- (1) Time and date of the incident;
- (2) Description of the incident;
- (3) Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- (4) Description of all marine mammal observations in the last 24 hours preceding the incident;
- (5) Species identification or description of the animal(s) involved;
- (6) Fate of the animal(s); and
- (7) Photographs or video footage of the animal(s) (if the equipment is available).

Activities would not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with Point Blue to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. Point Blue may not resume the activities until notified by the NMFS Office of Protected Resources.

In the event that Point Blue discovers an injured or dead marine mammal and determines that the cause of the injury or death is unknown and the death is relatively recent (e.g., in less than a moderate state of decomposition), Point Blue would immediately report the incident to the Office of Protected Resources (PR.ITP.MonitoringReports@noaa.gov and ITP.Cockrell@noaa.gov) and the West Coast Regional Stranding Coordinator (562–980–3230). The report must include the same information identified in the paragraph above. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with Point Blue to determine whether additional mitigation measures or modifications to the activities are appropriate.

In the event that an injured or dead marine mammal is discovered and it is

determined that the injury or death is not associated with or related to the activities authorized in any issued IHA (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), Point Blue would report the incident to the NMFS Office of Protected Resources (PR.ITP.MonitoringReports@noaa.gov and ITP.Cockrell@noaa.gov) and the West Coast Regional Stranding Coordinator ((562) 980–3230) within 24 hours of the discovery. Point Blue would provide photographs, video footage (if available), or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network. Activities may continue while NMFS reviews the circumstances of the incident.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact 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 (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (i.e., population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be “taken” through harassment, NMFS considers other factors, such as the likely nature of any responses (e.g., intensity, duration), the context of any responses (e.g., critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338, September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (e.g., as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, the discussion of our analysis applies to all of the species listed in tables 1 and 3, given that the anticipated effects of this activity on these different marine mammal stocks are expected to be similar. There is little

information about the nature or severity of the impacts, or the size, status, or structure of any of these species or stocks that would lead to a different analysis for this activity.

For reasons stated previously in this document and based on the following factors, NMFS does not expect Point Blue's proposed specified activities to cause long-term behavioral disturbance that would be expected to negatively impact an individual animal's fitness, or result in injury, serious injury, or mortality. Although Point Blue's activities may disturb marine mammals, NMFS expects those impacts to occur to localized groups of animals at or near survey and activity sites. Behavioral disturbance is expected to be limited to short-term startle responses and localized behavioral changes due to the short duration. Minor and brief responses including short-duration startle reactions, are not likely to constitute disruption of behavioral patterns, such as migration, nursing, breeding, feeding, or sheltering. These short duration disturbances (in many cases animals are expected to return within a short period of time) will generally allow marine mammals to reoccupy haul-outs relatively quickly; therefore, these disturbances would not be anticipated to result in long-term disruption of important behaviors. Therefore, NMFS does not expect mother and pup separation or crushing of pups during stampedes.

Regarding effects on animals at SEFI, ANI, and PRNS, field personnel will delay ingress into the landing areas, where possible, until after the pinnipeds enter the water and will cautiously operate vessels at slow speeds. Some limited effects from motorboats have been known to occur (see the *Effects* section), but any behavioral effects are expected to be temporary and fleeting, given the motorboat would be primarily transiting, landing, or leaving the study sites. Limited access would be permitted to pinniped pupping areas so mother-pup separation is not expected to occur.

In summary and as described above, the following factors primarily support our preliminary determination that the impacts resulting from this activity are not expected to adversely affect any of the species or stocks through effects on annual rates of recruitment or survival:

- No serious injury or mortality is anticipated or authorized;
- No take by Level A harassment is expected, or is proposed for authorization;
- The intensity of anticipated takes by Level B harassment is relatively low for all stocks. Level B harassment would

be in the form of behavioral disturbance, resulting in temporary avoidance of the project areas and locations where Point Blue staff are working;

- Given pinnipeds are carnivores, no prey species (*i.e.*, fish) would be impacted by the proposed activities or would only be temporarily impacted for a short duration during in-water activities (*i.e.*, small motorboat use). Therefore, any associated impacts on marine mammal foraging is not expected to result in significant or long-term consequences for individuals, or to accrue to adverse impacts on their populations;

- No impacts to pinniped habitat are anticipated; and
- Only limited behavioral disturbance in the form of short-duration startle reactions is expected, and mitigation requirements employed by field personnel (*e.g.*, moving slowly, hushed voices) should further decrease disturbance levels.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from the proposed activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted previously, only the take of small numbers of marine mammals may be authorized under sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the predicted number of individuals to be taken is fewer than one-third of the species or stock abundance, the take is considered to be of small numbers (see 86 FR 5322, January 19, 2021). Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

The instances of take NMFS has proposed to authorize is below one-third of the estimate stock abundance for all species. The number of animals proposed for authorization that could be taken from these stocks would be considered small relative to the relevant

stocks' abundances even if each estimate taking occurred to a new individual. While there is a potential for some individuals to be taken multiple times per day, Point Blue staff would count them as separate takes if they cannot be individually identified.

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals would be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act

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

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to Point Blue for conducting seabird research activities on SEFI, ANI, and PRNS from July 1, 2026, through June 30, 2027, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed IHA can be found at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-research-and-other-activities>.

Request for Public Comments

We request comments on our analyses, the proposed authorization, and any other aspect of this notice of proposed IHA for the proposed project. We also request at this time comment on the potential renewal of this proposed IHA as described in the paragraph below. Please include with your comments any supporting data or literature citations to help inform decisions on the request for this IHA or a subsequent renewal IHA.

On a case-by-case basis, NMFS may issue a 1-time, one-year renewal IHA following notice to the public providing

an additional 15 days for public comments when (1) up to another year of identical or nearly identical activities as described in the Description of Proposed Activities section of this notice is planned or (2) the activities as described in the Description of Proposed Activities section of this notice would not be completed by the time the IHA expires and a renewal would allow for completion of the activities beyond that described in the *Dates and Duration* section of this notice, provided all of the following conditions are met:

- A request for renewal is received no later than 60 days prior to the needed renewal IHA effective date (recognizing that the renewal IHA expiration date cannot extend beyond one year from expiration of the initial IHA).

- The request for renewal must include the following:

(1) An explanation that the activities to be conducted under the requested renewal IHA are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (*e.g.*, reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take).

(2) A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

Upon review of the request for renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

Dated: April 8, 2026.

Kimberly Damon-Randall,

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

[FR Doc. 2026-07024 Filed 4-9-26; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Alaska Region Amendment 80 Program

AGENCY: National Oceanic & Atmospheric Administration (NOAA), 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 June 9, 2026.

ADDRESSES: Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at NOAA.PRA@noaa.gov. Please reference OMB Control Number 0648-0565 in the subject line of your comments. All comments received are part of the public record and will generally be posted on <https://www.regulations.gov> without change. 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 Steve Whitney, Fisheries Management Specialist, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802-1668, 907-586-7228, Steven.whitney@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Marine Fisheries Service (NMFS), Alaska Regional Office, is requesting extension of a currently approved information collection that contains applications for permits and transfers necessary for NMFS to manage the Amendment 80 Program (A80 Program).

Under the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*, the Secretary of Commerce is responsible for the conservation and management of marine fishery resources within the Exclusive Economic Zone (EEZ) of the United States through NOAA/NMFS. NMFS Alaska Region manages the EEZ off Alaska under the Fishery Management Plan (FMP) for Groundfish of the Bering Sea and Aleutian Islands (BSAI) Management Area (BSAI FMP) and the Fishery Management Plan for Groundfish of the Gulf of Alaska. The North Pacific Fishery Management Council recommended A80 to the BSAI FMP in June 2006 (72 FR 52668, September 14, 2007). A80 allocates several BSAI non-pollock trawl groundfish species among trawl fishery sectors, established a limited access privilege program (LAPP), and facilitated the formation of harvesting cooperatives in the non-American Fisheries Act (non-AFA) trawl catcher/processor sector. More information on the A80 Program is provided on the NMFS Alaska Region website at <https://www.fisheries.noaa.gov/alaska/sustainable-fisheries/bering-sea-and-aleutian-islands-amendment-80-groundfish-trawl-fishery>.

This collection contains applications used by an individual or business entity to apply for A80 quota share, used by A80 quota shareholders to transfer A80 quota share and to apply for an A80 limited access fishery permit, used by A80 cooperatives to apply for cooperative quota and transfer cooperative quota, used by cooperatives or Community Development Quota groups to exchange community quota for one eligible flatfish species with community quota of a different eligible flatfish species, and used by A80 vessel owners to replace their vessels. This information collection also contains the appeals process for an application that is denied.

The type of information collected includes information on the applicants, transferors, transferees, permits, vessels, quota share, cooperative quota, and flatfish harvest quota.

NMFS uses this information to establish eligibility to receive A80 quota share, cooperative quota, and permits; transfer and assign harvest quota; replace vessels used in the A80 Program; determine A80 species initial total allowable catch assignments; determine which vessels must be tracked for catch accounting; and review ownership and control information to ensure that quota share and cooperative quota use caps are not exceeded.

II. Method of Collection

The information is collected primarily by mail, fax, electronically through eFISH, or delivery. The Flatfish Exchange Application must be submitted through eFISH on the NMFS Alaska Region website at <https://alaskafisheries.noaa.gov/webapps/efish/login>. The Application for Inter-cooperative Transfer of Amendment 80 CQ is submitted to NMFS online through eFISH with the option to mail, fax, or deliver the application. The applications are available as fillable PDFs on the NMFS Alaska Region website at <https://alaskafisheries.noaa.gov/fisheries-applications>.

III. Data

OMB Control Number: 0648–0565.

Form Number(s): None.

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

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

Estimated Number of Respondents: 11.

Estimated Time per Response: 2 hours for each of the following: Application for A80 Quota Share; Application for A80 Limited Access Fishery Permit; Application for A80 Cooperative Quota Permit; Application to Transfer A80 Quota Share; Application for Inter-cooperative Transfer of A80 Cooperative Quota; and Application for A80 Vessel Replacement; 4 hours for an A80 appeals letter; and 5 minutes for the Flatfish Exchange Application.

Estimated Total Annual Burden Hours: 14 hours.

Estimated Total Annual Cost to Public: \$467.

Respondent's Obligation: Required to Obtain or Retain Benefits.

Legal Authority: Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*

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. 2026–06985 Filed 4–9–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF559]

34th General Advisory Committee to the U.S. Section to the Inter-American Tropical Tuna Commission and 19th Scientific Advisory Subcommittee to the General Advisory Committee; Meeting Announcement

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

ACTION: Notice of public meeting.

SUMMARY: NMFS announces a public meeting of the 34th General Advisory Committee (GAC) to the U.S. Section to the Inter-American Tropical Tuna Commission (IATTC) and the 19th Scientific Advisory Subcommittee (SAS) to the GAC in accordance with the Tuna Conventions Act (TCA; 16 U.S.C. 951 *et seq.*). This meeting will be held on July 20 and 21, 2026 via webinar. The meeting topics are described under the **SUPPLEMENTARY INFORMATION** section of this notice.

DATES: The virtual meeting of the SAS and GAC will be held on Monday July 20, 2026, and Tuesday July 21, 2026, from 9 a.m. to 2 p.m. PDT each day (or until business is concluded). You must complete the registration process by July 6, 2026, if you plan to attend the meeting (see **ADDRESSES**).

ADDRESSES: If you plan to attend the meeting, which will be held by webinar, please register at <https://forms.gle/wjSfQ5cuzEtN5pjQ8>. Instructions for attending the meeting will be emailed to meeting participants before the meeting occurs.

FOR FURTHER INFORMATION CONTACT:

Lucille Bulkeley, NMFS West Coast Region, at Lucille.bulkeley@noaa.gov or at (858) 546–5620.

SUPPLEMENTARY INFORMATION: The timing of U.S. SAS and GAC meetings are adjusted based on the dates of the IATTC and Agreement on International Dolphin Conservation Program (AIDCP) Annual Meetings. This year, the IATTC will convene its 17th Meeting of the Scientific Advisory Committee (SAC) June 8–12, 2026, and the 104th Annual Meeting of the IATTC, subsidiary bodies, and meetings of the AIDCP will be held on August 24–September 4, 2026. For 2026, the combined U.S. SAS and GAC Meeting will be held on July 20–21, after the IATTC SAC Meeting and before the IATTC and AIDCP meetings. This timing allows for scientific topics presented at the IATTC SAC Meeting, including stock assessments, to be discussed and used to inform U.S. positions at the combined U.S. SAS and GAC Meeting. This meeting will also include updates from IATTC working groups and is expected to include presentations of draft U.S. proposals to be submitted to the IATTC. An executive session may be called in order to discuss sensitive information, including possible U.S. negotiating positions for the upcoming IATTC Annual Meeting.

In accordance with the TCA, the U.S. Department of Commerce, in consultation with the Department of State, appoints a GAC to the U.S. Section to the IATTC and a SAS that advises the GAC. The U.S. Section consists of U.S. Commissioners and alternate U.S. Commissioners to the IATTC and representatives of the State Department, NOAA, Department of Commerce, other U.S. Government agencies, and stakeholders. The GAC provides recommendations to the U.S. section of the IATTC. The purpose of the SAS is to advise the GAC on scientific matters and provide recommendations to the GAC. Per the TCA, the SAS advises the GAC on matters including the conservation of ecosystems, the sustainable uses of living marine resources related to the tuna fishery in the eastern Pacific Ocean, and the long-term conservation and management of stocks of living marine resources in the eastern tropical Pacific Ocean. NMFS West Coast Region

staff provide administrative and technical support services as necessary for the effective functioning of the SAS and GAC.

The meetings of the SAS and GAC are open to the public, unless in executive session. The time and manner of public comment will be at the discretion of the Chairs for the SAS and GAC. For more information and updates on the upcoming IATTC meetings, please visit the IATTC's website: <https://www.iattc.org/MeetingsENG.htm>.

SAS and GAC Meeting Topics

Given the virtual nature of these meetings, the agenda will be concise. The SAS and GAC meeting to prepare for the 104th IATTC Annual Meeting is expected to cover a broad spectrum of topics including but not limited to:

(1) Outcomes from recent IATTC working groups, committees, and AIDCP meetings;

(2) Outcomes of the most recent IATTC stock assessments and updates for tuna, tuna-like species, and other species caught in association with those fisheries in the eastern Pacific Ocean;

(3) Evaluation of the IATTC Staff's Recommendations to the Commission for 2026;

(4) Potential proposals to the IATTC;
 (5) Updates from Joint IATTC-Western and Central Pacific Fisheries Commission Northern Committee Working Group on Pacific Bluefin Tuna;
 (6) Recommendations from the SAS and GAC members; and
 (7) Other issues as they arise.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Lucille Bulkeley (see **FOR FURTHER INFORMATION CONTACT**).
Authority: 16 U.S.C. 951 *et seq.*

Dated: April 8, 2026.

David R. Blankinship,

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

[FR Doc. 2026-07000 Filed 4-9-26; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF660]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Ad Hoc Marine Planning Committee (MPC) will hold an online public meeting.

DATES: The online meeting will be held Thursday, April 30, 2026, from 9 a.m. to 12 p.m. Pacific Time or until business for the day has been completed.

ADDRESSES: This meeting will be held online. Specific meeting information, including a proposed agenda and directions on how to attend the meeting and system requirements, will be provided in the meeting announcement on the Pacific Council's website (see www.pcouncil.org). You may send an email to Mr. Hayden York (hayden.york@pcouncil.org) or contact him at 503-820-2424 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, Staff Officer, Pacific Council; telephone: (503) 820-2409.

SUPPLEMENTARY INFORMATION: The purpose of this online meeting is for the MPC to consider current marine planning issues, including oil and gas leasing, NOAA Aquaculture Opportunity Areas, and other ocean development or planning activities that may impact commercial or recreational fishing and West Coast fishing dependent communities. The MPC will provide an informational report in the Advanced Briefing Book for the Pacific Council's June 2026 meeting.

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. Hayden York (hayden.york@pcouncil.org; 503-820-2424) at least 10 days prior to the meeting date.

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

Dated: April 8, 2026.

Rey Israel Marquez,

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

[FR Doc. 2026-06969 Filed 4-9-26; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF098]

Fisheries of the Exclusive Economic Zone off Alaska; Bering Sea and Aleutian Islands Management Area; Cost Recovery Fee Notice for the Pacific Cod Trawl Cooperative Program

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

ACTION: Notice of standard prices fee percentage.

SUMMARY: NMFS publishes the fee percentage for cost recovery for the Pacific Cod Trawl Cooperative (PCTC) Program. The fee percentage for 2025 is 3 percent. This notice is intended to provide the 2025 fee percentage to calculate the required payment for cost recovery fees that were due by August 31, 2025.

DATES: The fee percentage is valid on April 10, 2026.

FOR FURTHER INFORMATION CONTACT: Dana Whitely, Fee Coordinator, 907-586-7105.

SUPPLEMENTARY INFORMATION:

Background

Section 304(d) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) authorizes and requires that NMFS collect cost recovery fees for limited access privilege programs. Cost recovery fees include NMFS' actual costs directly related to its management, data collection, and enforcement of the programs. Section 304(d) of the Magnuson-Stevens Act mandates that cost recovery fees not exceed 3 percent of the annual ex-vessel value of fish harvested under any program subject to a cost recovery fee and that the fee be collected either at the time of landing, filing of a landing report, or sale of such fish during a fishing season or in the last quarter of the calendar year in which the fish is harvested.

NMFS manages the PCTC Program as a limited access privilege program. On August 8, 2023, NMFS published a final

rule to implement the PCTC Program (88 FR 53704). The PCTC Program allocates total allowable catch of Pacific cod to trawl catcher vessels and processors in the Bering Sea and Aleutian Islands Management Area (BSAI). Participants in the PCTC Program must form a cooperative and associate with a processor. The PCTC Program includes a process for calculating and administering cost recovery fees under 50 CFR 679.135. The annual PCTC Program cost recovery process builds on other existing cost recovery requirements implemented under other programs. The fee liability is based on the ex-vessel value of fish harvested in the PCTC Program. Each year, NMFS publishes a notice announcing the fee percentage in the **Federal Register**. The Regional Administrator sends invoices to cooperatives before July 31.

Each PCTC Program cooperative is responsible for payment of the cost recovery fee assessed on Pacific cod landed under the PCTC Program. Each cooperative must submit any cost recovery fee liability payment(s) no later than August 31. The total dollar amount of the fee due is determined by multiplying the NMFS published fee percentage by the annual ex-vessel value of Cooperative Quota (CQ) landings under the PCTC Program, as described in this notice.

Failure to pay cost recovery fee liabilities by August 31 will result in NMFS disapproval of a cooperative's application to transfer CQ or issue a CQ permit the following year until full payment of the fee liability is received by NMFS. NMFS will not issue a CQ permit until NMFS receives a complete application for CQ issuance and confirmation of the full payment of any cost recovery fee liability.

Standard Price

For purposes of calculating cost recovery fees, NMFS uses a standard ex-vessel price (standard price) for Pacific cod. A standard price is determined using information on landings purchased (volume) and ex-vessel value paid (value). NMFS annually receives information used to calculate the Pacific cod standard price in the existing BSAI Pacific cod Ex-vessel Volume and Value Report, which is submitted in early November of each year. NMFS uses this existing data source to calculate standard prices and thus determine the annual PCTC Program fishery value, which, along with the direct program costs, is used to calculate the annual PCTC Program cost recovery fee percentage. The standard prices are described in U.S. dollars per pound for

landings made during the previous year. NMFS published the standard price of \$0.25 per pound for Pacific cod for 2025 in the **Federal Register** on November 29, 2024 (89 FR 94710).

Each landing made under the PCTC Program is multiplied by the standard price to arrive at an ex-vessel value for each landing. These values are summed together to arrive at the ex-vessel value of Pacific cod (*i.e.*, fishery value).

Fee Percentage

Annually, NMFS calculates the total costs directly related to the management, data collection, and enforcement of the program (direct program costs). NMFS captures direct PCTC program costs through an established accounting system that allows NMFS staff to track labor, travel, contracts, rent, and procurement costs. For 2025, the direct program costs for the PCTC Program were tracked from July 1, 2024, to June 30, 2025. A more detailed explanation will be provided in the annual Cost Recovery Report, which will be published in April of 2026.

NMFS then calculates the applicable fee percentage according to the factors and methods described at § 679.135 for the PCTC Program. NMFS used the standard price of \$0.25 to calculate the fee percentage applied to landings made in 2025. NMFS determined the fee percentage that applies to landings made in the A and B seasons, which extend from January 20 to June 10, 2025, by dividing the direct program costs by the value of the catch subject to the cost recovery fee.

Using the fee percentage formula described generally above, the estimated percentage of direct program costs to fishery value for the 2025 calendar year is 3.56 percent for the PCTC Program; however, the fee percentage must not exceed 3 percent pursuant to section 304(d)(2)(B) of the Magnuson-Stevens Act. Therefore, the 2025 fee percentage is set at 3 percent. For 2025, NMFS applied the fee percentage to each PCTC landing that was debited from a CQ allocation between January 20 and June 10 to calculate the fee liability for each cooperative. A PCTC Program cooperative's 2025 fee payments must be submitted to NMFS on or before August 31, 2025. Payment must be made in accordance with the payment methods set forth in § 679.135(a)(3).

The 2025 fee percentage of 3 percent is higher than the 2024 fee percentage of 1.92 percent. Net fishery management costs for 2025 increased by 1.02 percent when compared to 2024 and total fishery value decreased by 54.89 percent, resulting in a capped fee percentage.

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

Dated: April 7, 2026.

David R. Blankinship,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2026-06917 Filed 4-9-26; 8:45 am]

BILLING CODE 3510-22-P

U.S. INTERNATIONAL DEVELOPMENT FINANCE CORPORATION

[DFC-020]

Submission for OMB Review; Comments Request

AGENCY: U.S. International Development Finance Corporation (DFC).

ACTION: Notice of information collection; request for comment.

SUMMARY: Under the provisions of the Paperwork Reduction Act, agencies are required to publish a Notice in the **Federal Register** notifying the public that the agency is creating a new information collection for OMB review and approval and requests public review and comment on the submission. The agencies received no comments in response to the sixty (60) day notice. The purpose of this notice is to allow an additional thirty (30) days for public comments to be submitted. Comments are being solicited on the need for the information; the accuracy of the burden estimate; the quality, practical utility, and clarity of the information to be collected; and ways to minimize reporting the burden, including automated collected techniques and uses of other forms of technology.

DATES: Comments must be received by May 11, 2026.

ADDRESSES: Comments and requests for copies of the subject information collection may be sent by any of the following methods:

- *Mail:* Carla Cooper, Agency Submitting Officer, U.S. International Development Finance Corporation, 1100 New York Avenue NW, Washington, DC 20527.

- *Email:* fedreg@dfc.gov.

Instructions: All submissions received must include the agency name and agency form number or OMB form number for this information collection. Electronic submissions must include the agency form number in the subject line to ensure proper routing. Please note that all written comments received in response to this notice will be considered public records.

FOR FURTHER INFORMATION CONTACT:

Agency Submitting Officer: Carla Cooper, (202) 926-7241.

SUPPLEMENTARY INFORMATION: The agency received no comments in response to the sixty (60) day notice published in **Federal Register** volume 91 page 4907 on February 3, 2026. Upon publication of this notice, DFC will submit to OMB a request for approval of the following information collection.

Summary Form Under Review

Title of Collection: Request for SAM Assistance.

Type of Review: New information collection.

Agency Form Number: DFC-020.

OMB Form Number: Not assigned, new information collection. 3015-XXXX.

Frequency: Once per investor per project.

Affected Public: Business or other for-profit; not-for-profit institution; individuals.

Total Estimated Number of Annual Number of Respondents: 100.

Estimated Time per Respondent: 1.0 hours.

Total Estimated Number of Annual Burden Hours: 100 hours.

Abstract: DFC will use the Request for SAM Assistance form to help potential investors obtain an active *SAM.gov* registration so that they can conduct business with DFC. The collection is limited to information necessary for assistance with registration.

Lisa Wischkaemper,

Administrative Counsel, Office of the General Counsel.

[FR Doc. 2026-06918 Filed 4-9-26; 8:45 am]

BILLING CODE 3210-02-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD-2026-OS-0661]

Privacy Act of 1974; System of Records

AGENCY: Office of Inspector General (OIG), Department of Defense (DoD).

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the DoD is modifying and reissuing a current system of records notice titled "Case Reporting and Information Management System Records," CIG-04. The system of records is being retitled, "Inspector General Criminal Investigation Records (IGCIR)." This system of records was originally established by the DoD OIG to collect and maintain records on individuals suspected of criminal

misconduct and investigated pursuant to the Inspector General Act. This system of records is being combined with CIG-06, "Investigative Files," to consolidate criminal investigative records and investigative files into a single system. A separate notice rescinding CIG-06 is being published elsewhere in today's issue of the **Federal Register**. This system of records notice (SORN) is being updated to incorporate the DoD standard routine uses and to support additional information sharing outside of the DoD in furtherance of external oversight, case management, and required reporting. The DoD is also modifying various other sections within the SORN to add exemptions, improve clarity, and update information that has changed. Additionally, the DoD is issuing a Notice of Proposed Rulemaking (NPRM), which proposes to exempt this system of records from certain provisions of the Privacy Act, elsewhere in today's issue of the **Federal Register**.

DATES: This system of records is effective upon publication; however, comments on the Routine Uses will be accepted on or before May 11, 2026. The Routine Uses are effective at the close of the comment period, unless comments have been received from interested members of the public that require modification and republication of the notice.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments.

* *Mail:* Department of Defense, Office of the Director of Administration and Management, Privacy, Civil Liberties, and Transparency Directorate, Regulatory Division, 4800 Mark Center Drive, Attn: Mailbox #24, Suite 05F16, Alexandria, VA 22350-1700.

Instructions: 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 on the internet at <https://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Anna Rivera, Government Information Specialist, FOIA, Privacy and Civil Liberties Office, Department of Defense, Office of Inspector General, 4800 Mark Center Drive, Alexandria, VA 22350-

1500; privacy@dodig.mil; (703) 699-5680.

SUPPLEMENTARY INFORMATION:

I. Background

The Inspector General Criminal Investigation Records (IGCIR) system of records is used by the DoD OIG to carry out its responsibilities pursuant to the Inspector General Act of 1978, as amended. The DoD OIG is statutorily authorized to investigate matters relating to DoD programs and operations; to detect and deter fraud, waste, and abuse; and to help ensure ethical conduct throughout the DoD. Specifically, the CIG-04 system of records, which is now consolidated with the CIG-06 system of records, contains records of DoD OIG mission activities such as records related to criminal investigations, crime prevention, criminal intelligence activities, and the criminal investigative process. These records include case management notes and evidence tracking. The system also provides users with the capability to record allegations and requests for assistance. Through the system, DoD OIG compiles statistical information on the data stored, provides responsive and accurate information regarding the status of ongoing cases, and provides a record of complaint disposition, actions taken, and notifications to interested parties. Subject to public comment, the DoD is updating this SORN to add the standard DoD routine uses (routine uses A through J) and to allow for additional disclosures outside DoD related to the purpose of this system of records. The DoD also proposes to claim exemptions for the system pursuant to subsection (k) of the Privacy Act. Additionally, the following sections of this SORN are being modified to include retitling the system name. The DoD OIG also restructured and updated the purpose of the system, categories of individuals, and categories of records in the system, to reflect consolidation with the CIG-06 system of records. In line with these modifications, changes have been made to the system location; system manager; authority for maintenance of the system; record source categories; policies and practices for storage, retrieval, and disposal of records; administrative, technical, and physical safeguards; and records access, contesting record, and notification procedures.

The DoD is issuing a NPRM to exempt this system of records from certain provisions of the Privacy Act, elsewhere in today's issue of the **Federal Register**. This rulemaking will seek public

comment on the proposed exemptions under 5 U.S.C. 552a(k)(1) and (k)(2).

DoD SORNs have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at the Privacy and Civil Liberties Division website at <https://pclt.defense.gov/DIRECTORATES/Privacy-and-Civil-Liberties-Directorate/Privacy/>.

II. Privacy Act

Under the Privacy Act, a “system of records” is a group of records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined as a U.S. citizen or lawful permanent resident.

In accordance with 5 U.S.C. 552a(r) and Office of Management and Budget (OMB) Circular No. A-108, DoD has provided a report of this system of records to the OMB and to Congress.

Dated: April 7, 2026.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

SYSTEM NAME AND NUMBER:

Inspector General Criminal Investigation Records (IGCIR), CIG-04.

SECURITY CLASSIFICATION:

Unclassified; classified.

SYSTEM LOCATION:

Department of Defense (Department or DoD), located at 1000 Defense Pentagon, Washington, DC 20301-1000, and other Department installations, offices, or mission locations. Information may also be stored within a government-certified cloud, implemented and overseen by the Department's Chief Information Officer, 6000 Defense Pentagon, Washington, DC 20301-6000.

SYSTEM MANAGER(S):

DoD Office of Inspector General (OIG), Defense Criminal Investigative Service Program Manager, 4800 Mark Center Drive, Alexandria, VA 22350-1500.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 141, Inspector General; 5 U.S.C. 4, Inspector General Act; Public Law 117-286; 10 U.S.C. 113, Secretary of Defense; DoD Directive (DoDD) 5106.01, Inspector General of the Department of Defense; DoDD 5106.04, Defense Inspectors General; and E.O. 9397 (SSN), as amended.

PURPOSE(S) OF THE SYSTEM:

This system supports DoD OIG staff and investigators in support of the law

enforcement investigative process and associated activities within its jurisdiction, specifically:

A. To conduct criminal investigations, crime prevention, and criminal intelligence activities that impact the health, life, safety, and mission-readiness of U.S. warfighters.

B. To coordinate with and provide information to other investigative elements of the DoD having jurisdiction over the substance of the allegations or a related investigative interest in criminal law enforcement investigations including statutory violations, counterintelligence, counter-espionage and counter-terrorist activities and other security matters.

Note 1: The DoD OIG may become involved in joint investigations with other investigative elements. In these situations, case records may also be maintained within a system of records of the other investigative element.

C. To support case management to include case tracking, evidence, statements, reports, and other records necessary to support subsequent actions taken as a result of a criminal investigation.

Note 2: Records maintained for the purpose of supporting adjudication and litigation in judicial, administrative, or disciplinary proceedings are maintained in DoD-0006, Military Justice and Civilian Criminal Case Records, or DoD-0020, Military Human Resource Records. Records from this system may also be maintained in those other systems when they are relevant and necessary to a proceeding.

Note 3: DoD OIG Administrative Investigation records are excluded from this system of records and instead covered by CIG-16, Inspector General Administrative Investigation Records.

D. To document and respond to requests for information for investigative reports or report disposition to include requests in accordance with a court order, attorneys general requests to provide facts and evidence upon which to base prosecution, requests to identify offenders, and congressional inquiries.

Note 4: Records related to reporting, tracking, and processing access requests made pursuant to the Freedom of Information Act, 5 U.S.C. 552, or subsection (d) of the Privacy Act, 5 U.S.C. 552a, are covered by DoD-0008, Freedom of Information Act and Privacy Act Records.

E. To support mandatory reporting requirements, the compilation of statistical information, and the provision of data for analysis and decision-making related to the activities described.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system are persons who have been identified as a target, subject, or informant, as well as victims and witnesses, of the law enforcement investigative process and associated activities, to include:

A. DoD civilian personnel.

B. Military personnel and members of the Armed Forces, to include Reserve components and National Guard units.

C. DoD contract employees that are or have been the subject of a DoD OIG criminal investigation.

D. Individuals residing on, having authorized official access to, or contracting or operating any business or other functions at any DoD installation or facility.

E. Individuals not affiliated with DoD, when their activities have directly threatened the functions, property or personnel of the DoD; or they have threatened any high ranking government individual who are provided protective service mandated by the Secretary of Defense; or have engaged in or are alleged to engage in criminal acts on DoD installations, or directed at the DoD, its personnel or functions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system are from the referral of and inquiry into criminal wrongdoing. Records include Reports of Investigation, Information Reports, case summaries, and investigative information. The criminal investigative file may contain the following data points:

A. *Biographic information:* Full name, social security number (SSN), or driver's license number, photo, alien registration number, passport number, sex, race and ethnicity, date and place of birth, home and email address, home or cellular telephone number, and marital status.

B. *Employment information:* Office mailing address, office or work cellular telephone number, work email address, employer(s), date(s) of employment, and salaries.

C. *Law enforcement data:* Case control number, polygraph records, charts, rights waivers, polygraph waivers, interview logs, disposition and suspense of offenders, criminal intelligence reports, witness, suspect, subjects, and special agent statements, fingerprints, laboratory reports, ballistic summaries, consensual and nonconsensual monitoring, agent notes and summaries, working papers, confidential source documents, subpoenas, and Grand Jury documents.

D. *Financial information:* Any financial record associated to personal, corporate, and government financial

accounts where criminal conduct may be documented. Financial records include, but are not limited to, monthly bank statements, signature cards, loan applications, contract payments information, electronic funds transfer documents, wire transfer instructions, Society for Worldwide Interbank Financial Telecommunication (SWIFT) international payment transactions, and credit card records.

E. *Medical records*: Medical records associated with suspected criminal activity involving healthcare providers, healthcare facilities, and patients where the suspected criminal activity is deemed to impact the DoD or its personnel.

F. Other records gathered during the course of the investigation that are relevant to the nature of the investigation, such as a description of physical evidence, basis for allegations, location, year and date of offense, photos of persons who are subject to electronic surveillance, special investigative techniques, and any other type of record deemed necessary to support the investigation.

RECORD SOURCE CATEGORIES:

Records and information stored in this system of records are obtained from:

A. Special agents, private industry, non-profit organizations, internet websites, subjects, suspects, witnesses, and informants interviewed and questioned during the course of a criminal investigation.

B. Federal, State, Tribal and local agencies and departments.

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 of 1974, as amended, all or a portion of the records or information contained herein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the federal government when necessary to accomplish an agency function related to this system of records.

B. To the appropriate Federal, State, local, territorial, tribal, foreign, or international law enforcement authority or other appropriate entity where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law, whether criminal, civil, or regulatory in nature.

C. To any component of the Department of Justice for the purpose of representing the DoD, or its components, officers, employees, or members in pending or potential litigation to which the record is relevant and necessary.

D. In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body or official, when the DoD or other Agency representing the DoD determines that the records are relevant and necessary 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 the National Archives and Records Administration for the purpose of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

F. 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.

G. To appropriate agencies, entities, and persons when (1) the DoD suspects or confirms a breach of the system of records; (2) the DoD determines as a result of the suspected or confirmed breach there is a risk of harm to individuals, the DoD (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 the DoD's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

H. To another Federal agency or Federal entity, when the DoD 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.

I. To another Federal, State or local agency, in coordination with an Office of Inspector General, for the purpose of conducting an audit, investigation, inspection, evaluation, or other review as authorized by the Inspector General Act of 1978, as amended.

J. To such recipients and under such circumstances and procedures as are mandated by Federal statute or treaty.

K. To other Federal Inspector General offices, the Council of the Inspectors General on Integrity and Efficiency (CIGIE), and/or other law enforcement agencies for the purpose of coordinating and conducting administrative inquiries and civil and criminal investigations, or when responding to such offices, CIGIE, and agencies in connection with the investigation of potential wrongdoing, including violations of law, rule, and/or regulation.

L. To other Federal Inspector General offices, the CIGIE, and/or the Department of Justice for purposes of conducting external reviews to ensure that adequate internal safeguards and management procedures continue to exist within the Office of Inspector General of the Department of Defense.

M. To designated officers, contractors, and employees of Federal, State, local, territorial, tribal, international, or foreign agencies, upon request, for the purpose of the hiring or retention of an individual, the conduct of a suitability or security investigation, the letting of a contract, or the issuance of a license, grant or other benefit, to the extent that the information is relevant and necessary to the agency's decision on the matter.

N. To the Office of Management and Budget for the purpose of review of private relief legislation as set forth in OMB Circular A-19 at any stage of the legislative coordination and clearance process as set forth in that circular.

O. To any individual or entity employed by or connected with an overseas Military Banking Facility who is reimbursed by the Government for certain checking and loan losses, in response to its request, for the purpose of identifying Armed Forces personnel and their last known residential or home of record address.

P. To any individual or entity when necessary to elicit information that will assist an OIG investigation, inspection, or audit.

Q. To foreign or international law enforcement, security, investigatory authorities to comply with requirements imposed by, or to claim rights conferred in, international agreements and arrangements, including those regulating the stationing and status in foreign countries of DoD military and civilian personnel.

R. To the Merit Systems Protection Board or the Office of Special Counsel for the purpose of litigation, including administrative proceedings, appeals, special studies of the civil service and other merit systems; review of Office of Personnel Management (OPM) or component rules and regulations; investigation of alleged or possible

prohibited personnel practices, including administrative proceedings involving any individual subject of a DoD investigation.

S. To OPM for the purpose of addressing civilian pay and leave, benefits, retirement deduction, and any other information necessary for OPM to carry out its legally authorized government-wide personnel management functions and studies.

T. To the news media and the public with the approval of the DoD Inspector General in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information, when disclosure is necessary to preserve confidence in the integrity of DoD, or when disclosure is necessary to demonstrate the accountability of DoD's officers, employees, or individuals covered by the system, except to the extent the Inspector General determines that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

U. To the Department of Justice (DOJ) and other Federal, State, or local government prosecuting or litigating agencies for the purpose of satisfying obligations under Giglio (405 U.S. 150 (1972)) and Henthorn (931 F.2d 29 (9th Cir. 1991)), as well as the DOJ United States Attorneys' Manual, Section 9–5.100 and DoD Inspector General Instruction 5500.1, DOJ Requirements for Potential Impeachment Information (Giglio Policy), or OIG initiated notifications of similar information.

V. To the appropriate Federal, State, local, territorial, tribal, foreign, or international law enforcement authority or other appropriate governmental entity tasked with public health and safety, for the purpose of sharing such information as is necessary and relevant to the detection, prevention, disruption, and mitigation of threats to public health or safety, where a record, either alone or in conjunction with other information, indicates a violation or potential violation of administrative standards or indicates a threat or potential threat to public health and safety.

W. To appropriate Federal, State, local, territorial, tribal, foreign, or international agencies for the purpose of counterintelligence activities authorized by U.S. law or Executive Order, or for the purpose of executing or enforcing laws designed to protect the national security or homeland security of the United States, including those relating to the sharing of records or information concerning terrorism, homeland security, or law enforcement.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records may be stored electronically or on paper in secure facilities in a locked drawer and behind a locked door. Electronic records may be stored on magnetic disc, tape, or digital media; in agency-owned cloud environments; or in vendor Cloud Service Offerings certified under the Federal Risk and Authorization Management Program (FedRAMP).

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by case control number, name and date of birth, social security number, driver's license number, alien registration number, and passport number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Permanent. Retire to WNRC 3 years after case closure. Transfer to the National Archives in 5-year blocks when the newest case in the block has been closed for 25 years.

TEMPORARY. Retire to WNRC 3 years after case closure. Destroy 25 years after case closure.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

DoD safeguards records in this system of records according to applicable rules, policies, and procedures, including all applicable DoD automated systems security and access policies. DoD administrative safeguards include policies requiring the use of controls to minimize the risk of compromise of personally identifiable information (PII) in paper and electronic form and restrict access to those individuals who have a need-to-know and appropriate clearances. Additionally, DoD has established security audit and accountability policies and procedures which support the safeguarding of PII and detection of incidents involving PII (breaches). DoD also employs administrative controls including mandatory information assurance and privacy training for individuals who will have access; identification, marking, and safeguarding of PII. Personnel, including contractors, must pass a background investigation and receive a security clearance, when necessary. Personnel must also sign nondisclosure documents. DoD routinely employs technical safeguards such as the following: multifactor authentication including presentation of a Common Access Card (CAC) and password; and use of a physical token. Other technological controls are employed such as network encryption to protect data transmitted over the

network; disk encryption securing disks storing data; key management services to safeguard encryption keys; masking of sensitive data as practicable; detection and electronic alert systems for access to servers and other network infrastructure; and electronic intrusion detection systems in DoD facilities. Computerized records in a controlled area accessible only to authorized personnel. Records are maintained in a controlled facility and physical entry is restricted by the use of locks, guards, and is accessible only to authorized personnel. Physical and electronic access is restricted to designated individuals having a need for access in the performance of official duties and who are properly screened and cleared for need-to-know.

RECORD ACCESS PROCEDURES:

Individuals seeking access to their records should address written inquiries to the DoD OIG Freedom of Information Act, Privacy and Civil Liberties Office, 4800 Mark Center Drive, Alexandria, VA 22350–1500, www.dodig.mil/FOIA or foiarequests@dodig.mil. Signed written requests should contain the name and number of this system of records notice along with the full name, current address, and email address of the individual. In addition, the requester must provide either a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the appropriate format:

If executed outside the United States: “I declare (or certify, verify, or state) under penalty correct. Executed on (date). (Signature).”

If executed within the United States, its territories, possessions, or commonwealths: “I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).”

CONTESTING RECORD PROCEDURES:

The DoD rules for accessing records, contesting contents, and appealing initial agency determinations are contained within 32 CFR part 310, or may be obtained from the system manager.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this system of records should follow the instructions for Record Access Procedures above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(j)(2), portions of this system are exempt from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3) and (4), (d),

(e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8); (f) and (g). Additionally, pursuant to 5 U.S.C. 552a(k)(1) and (k)(2) portions of this system are exempt from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3), (d)(1)-(4), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I); and (f). An exemption rule for this record system has been promulgated in accordance with the requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 310. In addition, when exempt records received from other systems of records become part of this system, the DoD also claims the same exemptions for those records that are claimed for the original primary systems of records from which they originated and claims any additional exemptions set forth here.

HISTORY:

June 16, 2014, 79 FR 34297; February 10, 2009, 74 FR 6587.

[FR Doc. 2026-06950 Filed 4-9-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

Extension of the TRICARE Childbirth and Breastfeeding Support Demonstration

AGENCY: Department of Defense.

ACTION: Notice of demonstration extension.

SUMMARY: The Department will extend the Childbirth and Breastfeeding Support Demonstration (CBSD) by five years. The Department is also soliciting comments on the CBSD and its potential integration into the TRICARE Basic benefit. The comment period will end 30 days after the publication of this notice. The Department will receive and consider comments but will not issue responses to comments.

DATES: The CBSD extension will run from January 1, 2027, to December 31, 2031. The comment period will end on May 11, 2026.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail:* Department of Defense, Privacy, Civil Liberties, and Transparency Directorate, Office of the Director of Administration & Management, Regulatory Division, 4800 Mark Center Drive, Mailbox #24, Suite 05F16, Alexandria, VA 22350-1700.

Instructions: 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 on the internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT:

Erica Ferron, 303-676-3626, erica.c.ferron.civ@health.mil. Questions regarding specific claims or cases should be addressed to the appropriate TRICARE Managed Care Support Contractor in whose jurisdiction a claim has been or would be filed.

SUPPLEMENTARY INFORMATION: Section 746 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year (FY) 2021 directed the Secretary to establish a five-year demonstration project under TRICARE to evaluate the cost, quality of care, and impact on maternal and fetal outcomes of covering the services of doulas and lactation consultants or counselors not otherwise TRICARE authorized, and to determine whether it would be appropriate to add permanent coverage to the TRICARE benefit. This demonstration was implemented as the CBSD, with details announced in a **Federal Register** notice (FRN) published by the Assistant Secretary of Defense for Health Affairs, now referred to as the Assistant Secretary of War for Health Affairs (ASW(HA)), on October 29, 2021 (86 **Federal Register** (FR) 60006). The FRN prescribed the qualifications for the three extra medical maternal health providers (certified labor doulas, certified lactation consultants, and certified lactation counselors), the number and type of services to be reimbursed, and the reimbursement rates for the services. The initial FRN indicated that the CBSD would begin on January 1, 2022, in the United States, and last for five years, consistent with Section 746 of the NDAA for FY 2021. The CBSD was modified for implementation overseas by an FRN published August 2, 2023 (88 FR 50850), with overseas coverage commencing on January 1, 2025.

The ASW(HA), consistent with 10 U.S.C. 1092, is extending the CBSD that was originally mandated by Section 746 of the NDAA for FY 2021 by an additional five years in order to ensure sufficient time for the Defense Health Agency to complete the program evaluation required by Section 746, as well as to engage in any rulemaking that may be necessary if it is deemed appropriate to make some or all of the

CBSD permanent under the TRICARE program. The extension of the CBSD is estimated to cost approximately \$19.6M over five years.

The Department is requesting comments regarding the public's support of and concerns about the services and providers under the CBSD. The Department will not respond to these comments but may consider them in making changes to the CBSD or the TRICARE Basic benefit. Comments regarding specific beneficiary claims or comments requesting a response or intervention regarding a specific case should be addressed to the appropriate TRICARE Managed Care Support Contractor. The Department receives feedback from most beneficiaries via the CBSD's Maternity Survey and so in particular requests comments from providers and other impacted members of the public.

Dated: April 7, 2026.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2026-06913 Filed 4-9-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD-2026-OS-0793]

Privacy Act of 1974; System of Records

AGENCY: Office of the Inspector General (OIG), Department of Defense (DoD).

ACTION: Rescindment of a system of records notice.

SUMMARY: In accordance with the Privacy Act of 1974, the OIG is rescinding a SORN titled, "Investigative Files," CIG-06. This system was established to conduct criminal investigations, crime prevention and criminal intelligence activities, to accomplish management studies involving the analysis, compilation of statistics, quality control, to ensure that completed investigations are legally sufficient and result in overall improvement in techniques, training and professionalism.

DATES: The rescindment of this SORN is effective April 10, 2026.

ADDRESSES: You may submit comments, identified by docket number and title, by either of the following methods:

- * *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments.
- * *Mail:* Department of Defense, Office of the Director of Administration and

Management, Privacy, Civil Liberties, and Transparency Directorate, Regulatory Division, 4800 Mark Center Drive, Attn: Mailbox #24, Suite 05F16, Alexandria, VA 22350-1700.

Instructions: 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 on the internet at <https://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Anna Rivera, Government Information Specialist, FOIA, Privacy and Civil Liberties Office, Department of Defense, Office of Inspector General, 4800 Mark Center Drive, Alexandria, VA 22350-1500; privacy@dodig.mil; (703) 699-5680.

SUPPLEMENTARY INFORMATION:

I. Background

The OIG system of records “Investigative Files,” CIG-06 (November 14, 2014, 79 FR 34297) was established to conduct criminal investigations, crime prevention and criminal intelligence activities, to accomplish management studies involving the analysis, compilation of statistics, quality control, to ensure that completed investigations are legally sufficient and result in overall improvement in techniques, training and professionalism. OIG is rescinding CIG-06 because the records are now maintained as part of the CIG-04, “Inspector General Criminal Investigation Records (IGCIR),” published elsewhere in today’s issue of the **Federal Register**.

DoD SORNs have been published in the **Federal Register** and are available from the address in FOR FURTHER INFORMATION CONTACT or at the Privacy and Civil Liberties Division website at <https://dpcl.d.defense.gov>.

II. Privacy Act

Under the Privacy Act, a “system of records” is a group of records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined as a United States citizen or alien lawfully admitted for permanent residence.

In accordance with 5 U.S.C. 552a(r) and Office of Management and Budget

(OMB) Circular No. A-108, DoD has provided a report of this SORN rescindment to OMB and Congress.

SYSTEM NAME AND NUMBER:

Investigative Files, CIG-06.

HISTORY:

November 14, 2014, 79 FR 68223; October 15, 2008, 73 FR 61084; June 5, 2006, 71 FR 32313.

Dated: April 8, 2026.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2026-07025 Filed 4-9-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF EDUCATION

Notice Announcing Innovative Approaches to Literacy Program Competition

AGENCY: Department of Education; Department of Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration at U.S. Department of Labor (DOL) is soliciting applications in support of the administration of the Innovative Approaches to Literacy (IAL) program, Assistance Listing Number 84.215G, on behalf of the U.S. Department of Education (ED).

DATES: Complete proposals must be submitted electronically through the *Grants.gov* “APPLY” function by 11:59:59 p.m. Eastern time June 9, 2026.

FOR FURTHER INFORMATION CONTACT: Simon Earle. Telephone: (202) 453-7923. Email: Simon.Earle@ed.gov.

SUPPLEMENTARY INFORMATION: The IAL program supports high-quality programs designed to develop and improve literacy skills for children and students from birth through 12th grade in high-need local educational agencies and schools. IAL promotes innovative literacy programs that support the development of literacy skills in low-income communities, including programs that (1) develop and enhance effective school library programs, which may include providing professional development for school librarians, books, and up-to-date materials to high-need schools; (2) provide early literacy services, including pediatric literacy programs through which, during well-child visits, medical providers trained in research-based methods of early language and literacy promotion provide developmentally appropriate books and recommendations to parents

to encourage them to read aloud to their children starting in infancy; and (3) provide high-quality books on a regular basis to children and adolescents from low-income communities to increase reading motivation, performance, and frequency. The FY 2026 competition includes two absolute priorities, two competitive preference priorities, selection criteria, and requirements. The absolute priorities are: Projects, Carried Out in Coordination with School Libraries, for Book Distribution, Childhood Literacy Activities, or Both; and Returning Education to the States. The competitive preference priorities are: Rural Applicants and Meaningful Learning Opportunities for Students.

Eligible Applicants: To be considered for an award under this competition, an applicant must be one or more of the following:

(1) A local educational agency (LEA) in which 20 percent or more of the students served by the LEA are from families with an income below the poverty line (as defined in section 8101(41) of the Elementary and Secondary Education Act, as amended).

(2) A consortium of such LEAs described in paragraph (1) above.

(3) The Bureau of Indian Education.

(4) An eligible national nonprofit organization that serves children and students within the attendance boundaries of one or more eligible LEAs.

Program Authority: 20 U.S.C. 6646.

To Apply: The complete funding opportunity announcement and all information needed to apply, including the priority and program requirements, are available on ED’s website at <https://oese.ed.gov/offices/office-of-discretionary-grants-support-services/well-rounded-education-programs/innovative-approaches-to-literacy/>, on DOL’s website at www.dol.gov/agencies/eta/grants/apply/find-opportunities, and on *Grants.gov* at <https://www.grants.gov/search-results-detail/361808>. The full application package is available at <https://apply07.grants.gov/apply/opportunities/instructions/PKG00292370-instructions.pdf>. The application notice and instructions on *Grants.gov* is the official document governing the grant competition.

Accessible Format: On request to the person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format.

Note: Henry Maklakiewicz signs this notice in furtherance of DOL's role in providing support to ED.

Kirsten Baesler,

Assistant Secretary, Office of Elementary and Secondary Education, Department of Education.

In concurrence.

Henry Maklakiewicz,

Assistant Secretary for Employment and Training, Department of Labor.

[FR Doc. 2026-07030 Filed 4-9-26; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

[Docket No.: ED-2026-SCC-1288]

Agency Information Collection Activities; Comment Request; Application for Approval To Participate in Federal Student Aid Programs

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a revision of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before June 9, 2026.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED-2026-SCC-1288. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the [regulations.gov](http://www.regulations.gov) site is not available to the public for any reason, the Department will temporarily accept comments at ICDocketMgr@ed.gov. Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. Please note that comments submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to Carolyn Rose, U.S. Department of Education, Federal Student Aid, 400 Maryland Avenue SW, Washington, DC 20202-1200.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Carolyn Rose, (202) 453-5967.

SUPPLEMENTARY INFORMATION: The Department, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Department is soliciting comments on the proposed information collection request (ICR) that is described below. The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Application for Approval to Participate in Federal Student Aid Programs.

OMB Control Number: 1845-0012.

Type of Review: Revision of a currently approved ICR.

Respondents/Affected Public: Private Sector; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 4,248.

Total Estimated Number of Annual Burden Hours: 16,097.

Abstract: Section 487(c) of the Higher Education Act (HEA) of 1965, as amended, requires that the Secretary of Education prescribe regulations to ensure that any funds postsecondary institutions receive under the HEA are used solely for the purposes specified in and in accordance with the provision of the applicable programs.

The One Big Beautiful Bill Act (OBBBA), signed into law on July 4, 2025, made statutory changes to Federal Pell Grants that impact regulatory requirements proposed in this information collection. Section 83002(b) of the OBBBA established a new academic program in which eligible students can receive Pell Grants. Programs must meet several criteria to become eligible workforce programs which the Department must obtain,

review and maintain as outlined in the law and regulations.

This is a request for a revision of 1845-0012 to add Eligible Workforce Programs to the Application. There have been no other changes to the collection since the last ICR approved by OMB on 03/31/2026. All additional burden currently assessed to this collection remain the same.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026-07028 Filed 4-9-26; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

Notice Announcing Teacher and School Leader Incentive Program Competition

AGENCY: Department of Education; Department of Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration at the U.S. Department of Labor (DOL) is soliciting applications in support of the administration of Teacher and School Leader Incentive Program (TSL), Assistance Listing Number 84.374A, on behalf of the U.S. Department of Education (ED).

DATES: Complete proposals must be submitted electronically through the [Grants.gov](https://www.grants.gov) "APPLY" function by 11:59:59 p.m. Eastern time, June 8, 2026.

FOR FURTHER INFORMATION CONTACT: Cynthia Hunter. Telephone: (202) 987-1670. Email: Cynthia.Hunter@ed.gov or TSL@ed.gov.

SUPPLEMENTARY INFORMATION: The purpose of TSL is to assist States, local educational agencies (LEAs), and nonprofit organizations to develop, implement, improve, or expand comprehensive performance-based compensation systems or human capital management systems for teachers, principals, or other school leaders who raise student growth and academic achievement, support workforce readiness, and close the achievement gap between high- and low-performing students. The FY 2026 competition includes two absolute priorities, two competitive preference priorities, selection criteria, and requirements. The absolute priorities are: Human Capital Management Systems (HCMS) and Performance Based Compensation Systems (PBCS), and High-Need Schools. The competitive preference priorities are: Returning Education to

the States and Meaningful Learning Opportunities for Students.

Eligible Applicants: To be considered for an award under this competition, an applicant must be one or more of the following:

(a) An LEA in which 20 percent or more of the students served by the LEA are from families with an income below the poverty line (as defined in section 8101(41) of the Elementary and Secondary Education Act, as amended (ESEA)).

(b) A consortium of such LEAs described in paragraph (1) above.

(c) The Bureau of Indian Education.

(d) An eligible national nonprofit organization that serves children and students within the attendance boundaries of one or more eligible LEAs.

Program Authority: Sections 2211–2213 of the ESEA.

To Apply: The complete funding opportunity announcement and all information needed to apply, including the priorities and program requirements, are available on ED's website at <https://www.ed.gov/grants-and-programs/teacher-prep/teacher-and-school-leader-incentive-program>, on DOL's website at www.dol.gov/agencies/eta/grants/apply, find opportunities, and on [Grants.gov](https://www.grants.gov/search-results-detail/361809) at <https://www.grants.gov/search-results-detail/361809>. The full application package is available at <https://apply07.grants.gov/apply/opportunities/instructions/PKG00292371-instructions.pdf>. The application notice and instructions on Grants.gov is the official document governing the grant competition.

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format.

Note: Henry Maklakiewicz signs this notice in furtherance of DOL's role in providing support to ED.

Kirsten Baesler,

Assistant Secretary, Office of Elementary and Secondary Education, Department of Education.

In concurrence.

Henry Maklakiewicz,

Assistant Secretary for Employment and Training, Department of Labor.

[FR Doc. 2026-07029 Filed 4-9-26; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2026–SCC–1190]

Agency Information Collection Activities; Comment Request; Prison Education Program Application

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing an extension without change of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before June 9, 2026.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED–2026–SCC–1190. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the www.regulations.gov site is not available to the public for any reason, the Department will temporarily accept comments at ICDocketMgr@ed.gov. Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. Please note that comments submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to Carolyn Rose, U.S. Department of Education, Federal Student Aid, 400 Maryland Avenue SW, Washington, DC 20202–1200.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Carolyn Rose, (202) 453–5967.

SUPPLEMENTARY INFORMATION: The Department, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The

Department is soliciting comments on the proposed information collection request (ICR) that is described below. The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Prison Education Program Application.

OMB Control Number: 1845–0171.

Type of Review: Extension without change of a currently approved ICR.

Respondents/Affected Public: Private Sector; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 800.

Total Estimated Number of Annual Burden Hours: 800.

Abstract: Prison Education Programs (PEP) is authorized under section 484(t) of the Higher Education Act of 1965, as amended (HEA) with the requirements for participation outlined in 34 CFR 668, Subpart P. These are the regulatory requirements for a school to offer a PEP to confined or incarcerated students.

This is a request for an extension without change for the application form from institutions that wish to participate in PEP under the regulations in 668, Subpart P. There have been no changes to the regulations.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–06987 Filed 4–9–26; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2026–SCC–1189]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Application Package for Strengthening Historically Black Graduate Institutions (HBGI) (1894–0001)

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a reinstatement with change of a previously approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before May 11, 2026.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link www.reginfo.gov/public/do/PRAMain to access the site. Find this information collection request (ICR) by selecting "Department of Education" under "Currently Under Review," then check the "Only Show ICR for Public Comment" checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the "View Information Collection (IC) List" link. Supporting statements and other supporting documentation may be found by clicking on the "View Supporting Statement and Other Documents" link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Wendy Lawrence, 202–453–7821.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Application Package for Strengthening Historically Black Graduate Institutions (HBGI) (1894–0001).

OMB Control Number: 1840–0836.

Type of Review: A reinstatement with change of a previously approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments; Private Sector.

Total Estimated Number of Annual Responses: 48.

Total Estimated Number of Annual Burden Hours: 1,666.

Abstract: The Strengthening Historically Black Graduate Institutions (HBGI) Program provides grants to assist institutions in establishing and strengthening their physical plants, development offices, endowment funds, academic resources and student services so that they may continue to participate in fulfilling the goal of equality of educational opportunity in graduate education.

Since OMB's last review and approval of the package, the application has been updated to include only the program-specific forms required for this collection. All standard forms that have already been approved by OMB and are not unique to this information collection, as well as additional information not directly related to the program-specific forms associated with this program, have been removed from the collection.

This collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1894–0001). Therefore, the 30-day public comment period notice will be the only public comment notice published for this information collection.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation, and Policy Development.

[FR Doc. 2026–06939 Filed 4–9–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice Announcing Special Education Parent Information Centers—Community Parent Resource Centers Program Competition

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (ED) announces the opportunity to apply for competitive grants for the Fiscal Year (FY) 2026 for the Special Education Parent Information Centers—Community Parent Resource Centers, Assistance Listing Number 84.328C.

DATES: Complete proposals must be submitted electronically through the *Grants.gov* "APPLY" function by 11:59:59 p.m. Eastern time, June 5, 2026.

FOR FURTHER INFORMATION CONTACT: Yolanda Lusane, Telephone: (202) 987–0146, Email: Yolanda.Lusane@ed.gov.

SUPPLEMENTARY INFORMATION: The purpose of the Special Education Parent Information Centers program is to

ensure that parents of children with disabilities receive high-quality, relevant, and useful training and information to help improve outcomes for their children. The FY 2026 competition includes one absolute priority, selection criteria, and requirements. The absolute priority is: Community Parent Resource Centers.

Maximum Award: We will not make an award exceeding \$150,000 for a single budget period of 12 months, with a total award not to exceed \$750,000.

Eligible Applicants: Local parent organizations.

Note: Section 1472a)(2) of the Individuals with Disabilities Education Act (IDEA) defines a "local parent organization" as a private nonprofit organization (other than an institution of higher education) that—

(a) Has a board of directors—

(1) The majority of whom are parents of children with disabilities ages birth through 26 from the community to be served;

(2) That includes—

(i) Individuals working in the fields of special education, related services, and early intervention; and

(ii) Individuals with disabilities; and

(3) The parent and professional members of which are broadly representative of the population to be served, including low-income parents and parents of limited English proficient children; and

(b) Has as its mission serving families of children with disabilities who are ages birth through 26 and have the full range of disabilities described in section 1401(3) of IDEA.

Program Authority: 20 U.S.C. 1472 and 1481.

To Apply: The complete funding opportunity announcement and all information needed to apply, including the priorities and program requirements, are available on ED's website at <https://www.ed.gov/grants-and-programs/grants-special-populations/grants-special-education-and-individuals-disabilities/special-education-parent-information-centers/community-parent-resource> and on *Grants.gov* at <https://grants.gov/search-results-detail/361760>. The application notice and instructions on *Grants.gov* is the official document governing the grant competition.

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**,

individuals with disabilities can obtain this document in an accessible format.

Kimberly Richey,

Acting Assistant Secretary and Deputy Assistant Secretary, Delegated the authority to perform the functions and duties of Assistant Secretary for the Office of Special Education and Rehabilitative Services.

[FR Doc. 2026-07027 Filed 4-9-26; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

Privacy Act of 1974; System of Records

AGENCY: U.S. Department of Energy.

ACTION: Notice of a modified system of records.

SUMMARY: As required by the Privacy Act of 1974 and the Office of Management and Budget (OMB) Circulars A-108 and A-130, the Department of Energy (DOE or the Department) is publishing notice of a modification to an existing Privacy Act System of Records. DOE proposes to amend system of records DOE-41 Legal Files (Claims, Litigation, Criminal Violations, Patents, and Others). The system is used to settle claims, prepare for litigation, and resolve matters in which the agency is involved or has an interest in. This System of Records Notice (SORN) is being modified to align with new formatting requirements, published by OMB, and to ensure appropriate Privacy Act coverage of business processes and Privacy Act information.

DATES: This modified SORN will become applicable following the end of the public comment period on May 11, 2026 unless comments are received that result in a contrary determination.

ADDRESSES: Written comments should be sent to Nicole Sanchez, Chief Privacy Officer, U.S. Department of Energy, 1000 Independence Avenue SW, Rm. 8H-085, Washington, DC 20585, by facsimile at (202) 586-8151, or by email at privacy@hq.doe.gov.

FOR FURTHER INFORMATION CONTACT: Nicole Sanchez, Chief Privacy Officer, U.S. Department of Energy, 1000 Independence Avenue SW, Rm. 8H-085, Washington, DC 20585, by facsimile at (202) 586-8151, by email at privacy@hq.doe.gov, or by telephone at (202) 586-0166.

SUPPLEMENTARY INFORMATION: On January 9, 2009, DOE published a Compilation of its Privacy Act systems of records, which included system of records DOE-41 Legal Files (Claims, Litigation, Criminal Violations, Patents,

and Others). This notice proposes amendments to the system locations section of that system of records by removing the following system locations where DOE-41 is no longer applicable: Alaska Power Administration, Bartlesville Energy Technology Center, Grand Forks Energy Technology Center, Los Alamos Site Office, and the NNSA Nevada Site Office. In the "Routine Uses" section, this modified notice deletes a previous routine use concerning efforts responding to a suspected or confirmed loss of confidentiality of information as it appears in DOE's compilation of its Privacy Act systems of records (January 9, 2009) and replaces it with one to assist DOE with responding to a suspected or confirmed breach of its records of Personally Identifiable Information (PII), modeled with language from OMB's Memorandum M-17-12, "Preparing for and Responding to a Breach of Personally Identifiable Information" (January 3, 2017). Further, this notice adds one new routine use to ensure that DOE may assist another agency or entity in responding to the other agency's or entity's confirmed or suspected breach of PII, as appropriate, as aligned with OMB's Memorandum M-17-12. An administrative change required by the FOIA Improvement Act of 2016 extends the length of time a requestor is permitted to file an appeal under the Privacy Act from 30 to 90 days. Both the "System Locations" and "Administrative, Technical and Physical Safeguards" sections have been modified to reflect the Department's usage of cloud-based services for records storage. Language throughout the SORN has been updated to align with applicable Federal privacy laws, policies, procedures, and best practices.

SYSTEM NAME AND NUMBER:

DOE-41 Legal Files (Claims, Litigation, Criminal Violations, Patents, and Others).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Systems leveraging this SORN may exist in multiple locations. All systems storing records in a cloud-based server are required to use government-approved cloud services and follow National Institute of Standards and Technology (NIST) security and privacy standards for access and data retention including NIST Special Publication (SP) 800-53. Records maintained in a government-approved cloud server are accessed through secure data centers in the continental United States.

U.S. Department of Energy
Headquarters, 1000 Independence
Avenue SW, Washington, DC 20585.

U.S. Department of Energy,
Bonneville Power Administration, P.O.
Box 3621, Portland, OR 97208.

U.S. Department of Energy,
Environmental Management
Consolidated Business Center (EMCBC),
550 Main Street, Rm 7-010, Cincinnati,
OH 45202.

U.S. Department of Energy, Idaho
Operations Office, 1955 Fremont
Avenue, Idaho Falls, ID 83415.

U.S. Department of Energy, Office of
Science, Chicago Office, Consolidated
Service Center, 9800 South Cass
Avenue, Lemont, IL 60439.

U.S. Department of Energy, Office of
Science, Consolidated Service Center,
P.O. Box 2001, Oak Ridge, TN 37831.

U.S. Department of Energy, National
Energy Technology Laboratory,
(Pittsburgh) 626 Cochran Mill Road,
Pittsburgh, PA 15236.

U.S. Department of Energy, National
Energy Technology Laboratory
(Morgantown), 3610 Collins Ferry Road,
Morgantown, WV 26505.

U.S. Department of Energy, National
Energy Technology Laboratory, (Albany)
1450 Queen Avenue SW, Albany, OR
97321.

U.S. Department of Energy, NNSA
General Counsel, 1000 Independence
Avenue SW, Washington, DC 20585.

U.S. Department of Energy, NNSA
General Counsel, John A. Gordon
Albuquerque Complex, 24600 20th
Street SE, Albuquerque, NM 87116.

U.S. Department of Energy, Hanford
Field Office, P.O. Box 550, Richland,
WA 99352.

U.S. Department of Energy, Savannah
River Operations Office, P.O. Box A,
Aiken, SC 29801.

U.S. Department of Energy,
Southeastern Power Administration,
1166 Athens Tech Road, Elberton, GA
30635-6711.

U.S. Department of Energy,
Southwestern Power Administration,
One West Third Street, Suite 1500,
Tulsa OK 74103.

U.S. Department of Energy, Strategic
Petroleum Reserve Project Management
Office, 900 Commerce Road East, New
Orleans, LA 70123.

U.S. Department of Energy, Western
Area Power Administration, P.O. Box
281213, Lakewood, CO 80228-8213.

SYSTEM MANAGER(S):

Headquarters: Deputy General
Counsel, Office of the General Counsel,
U.S. Department of Energy, 1000
Independence Avenue SW, Washington,
DC 20585.

Field Offices: The Chief Counsels of
the "System Locations" listed

previously are the system managers for their respective portions of this system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PURPOSE(S) OF THE SYSTEM:

Records in this system are maintained and used by the Department to settle claims and prepare for litigation and resolve disputes.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons identified in files maintained by the Office of the General Counsel, which includes attorneys and legal support staff/contractors at all DOE offices, including the National Nuclear Security Administration (NNSA), from which information is retrieved by name or other personal identifier, including: Litigants and other claimants against the Department and its contractors asserting matters including, but not limited to, personal injury, property damage or infringement (including intellectual property), contract violation and harms resulting from employer-employee relationships; persons who are the subjects of claims by the DOE, such as persons who may have violated criminal laws, DOE regulations and contracts with the DOE and persons against whom the DOE considered asserting such claims; DOE's contractors and potential contractors; persons holding copyrights and issued patents pertaining to the DOE's activities; DOE employees, subject to garnishment or assignments; and DOE employees and contractor employees who use Alternative Dispute Resolution (ADR).

CATEGORIES OF RECORDS IN THE SYSTEM:

Records concerning legal matters that include, but are not limited to: (1) Litigation and all other claims against, and by, the DOE and its contractors, which have been assigned to the Office of General Counsel; (2) DOE agreements (including contracts, grants, cooperative agreements, other transactions, and related subagreements); (3) inventions (including licensing and records pertaining to U.S. manufacturing), invention utilization, issued patents, trademarks, and copyright matters; (4) records pertaining ADR. Litigation and claim records may, among others, include correspondence, pleadings such as complaints, answers, and motions; depositions, court orders and briefs. Records in this system also may include accident reports, inspection reports, investigation reports, audit reports, personnel files, contracts, consultant agreements, reports pertaining to criminal matters of interest to the DOE,

Personnel Security Review Board documents, medical records, photographs, telephone records, patents and related documents, correspondence, and memoranda.

RECORD SOURCE CATEGORIES:

Subject individuals, inspection reports, other agencies, Office of General Counsel attorneys, other agency officers and staff, contractors, investigators, and auditors.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to (1) persons representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; (3) witnesses, potential witnesses, or their representatives and assistants; and (4) any other persons who possess information pertaining to the matter when it is relevant and necessary to obtain information or testimony relevant to the matter.

2. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publicly available pleadings, filings or discussion in open court) when such disclosure: (1) is relevant to, and necessary for, the proceeding; (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

a. The Department, its predecessor agencies, current or former contractor of the Department, or other United States Government agencies and their components, or

b. A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

3. A record from this system may be disclosed as a routine use to a federal, state, tribal, or local agency to facilitate the requesting agency's decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an

investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

4. A record from this system may be disclosed as a routine use to the appropriate local, tribal, state, or federal agency when records, alone or in conjunction with other information, indicate 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.

5. A record from this system may be disclosed as a routine use to a member of Congress submitting a request involving a constituent when the constituent has requested assistance from the member concerning the subject matter of the record. The member of Congress must provide a copy of the constituent's signed request for assistance.

6. A record from this system may be disclosed to foreign governments or international organizations in accordance with treaties, international conventions, or executive agreements.

7. A record from this system may be disclosed as a routine use to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

8. A record from this system may be disclosed as a routine use to the personnel, contractors, grantees, and cooperative agreement holders of the Department of Labor, the Department of Health and Human Services, the Department of Justice, and other Federal agencies and their components, designated by the President to implement the Federal compensation program established by the Energy Employees Occupational Illness Compensation Program Act, for the purpose of assisting in the adjudication or processing of a claim under the Energy Employees Occupational Illness Compensation Program Act. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

9. A record from this system may be disclosed as a routine use to appropriate

agencies, entities, and persons when (1) the Department suspects or has confirmed that there has been a breach of the system of records; (2) the Department has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, DOE (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 the Department's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

10. A record from this system may be disclosed as a routine use to another Federal agency or Federal entity, when the Department 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.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records may be stored as paper records and electronic media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by name, case name, claim name, or assigned identifying number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records retention and disposal authorities are contained in the General Records Schedule and DOE record schedules that have been approved by the National Archives and Records Administration (NARA). Some records in this system are retained as permanent, while other records will be destroyed between 5–250 years.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records may be secured and maintained on a cloud-based software server and operating system that resides in Federal Risk and Authorization Management Program (FedRAMP) and Federal Information Security Management Act (FISMA) hosting environment. Data located in the cloud-based server is firewalled and encrypted at rest and in transit. The security mechanisms for handling data

at rest and in transit are in accordance with DOE encryption standards. Records are protected from unauthorized access through the following appropriate safeguards:

- *Administrative:* Access to all records is limited to lawful government purposes only, with access to electronic records based on role and either two-factor authentication or password protection. The system requires passwords to be complex and to be changed frequently. Users accessing system records undergo frequent training in Privacy Act and information security requirements. Security and privacy controls are reviewed on an ongoing basis.

- *Technical:* Computerized records systems are safeguarded on Departmental networks configured for role-based access based on job responsibilities and organizational affiliation. Privacy and security controls are in place for this system and are updated in accordance with applicable requirements as determined by the National Institute for Standards and Technology (NIST) and DOE directives and guidance.

- *Physical:* Computer servers on which electronic records are stored are located in secured Department facilities, which are protected by security guards, identification badges, and cameras. Paper copies of all records are locked in file cabinets, file rooms, or offices and are under the control of authorized personnel. Access to these facilities is granted only to authorized personnel and each person granted access to the system must be an individual authorized to use or administer the system.

RECORD ACCESS PROCEDURES:

The Department follows the procedures outlined in 10 CFR 1008.4. Valid identification of the individual making the request is required before information will be processed, given, access granted, or a correction considered, to ensure that information is processed, given, corrected, or records disclosed or corrected only at the request of the proper person.

CONTESTING RECORD PROCEDURES:

Any individual may submit a request to the System Manager and request a copy of any records relating to them. In accordance with 10 CFR 1008.11, any individual may appeal the denial of a request made by him or her for information about or for access to or correction or amendment of records. An appeal shall be filed within 90 calendar days after receipt of the denial. When an appeal is filed by mail, the postmark is

conclusive as to timeliness. The appeal shall be in writing and must be signed by the individual. The words "PRIVACY ACT APPEAL" should appear in capital letters on the envelope and the letter. Appeals relating to DOE records shall be directed to the Director, Office of Hearings and Appeals (OHA), 1000 Independence Avenue SW, Washington, DC 20585.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, 10 CFR part 1008, a request by an individual to determine if a system of records contains information about themselves should be directed to the U.S. Department of Energy, Headquarters, Privacy Act Officer. The request should include the requester's complete name and the time period for which records are sought.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

This system is exempt under subsection (k)(1), (k)(2), and (k)(5) of the Privacy Act, to the extent that information within the System meets the criteria of those subsections of the Privacy Act. Such information has been exempted from the provisions of subsections (c)(3), (d), and (e)(1) of the Privacy Act; see the DOE Privacy Act regulation at 10 CFR part 1008.

HISTORY:

This SORN was last published in the **Federal Register**, 74 FR 1042–1044, on January 9, 2009.

Signing Authority

This document of the Department of Energy was signed on April 7, 2026, by Dawn Zimmer, Senior Agency Official for Privacy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on April 8, 2026.

Treena V. Garrett,
Federal Register Liaison Officer, U.S.
Department of Energy.

[FR Doc. 2026–06994 Filed 4–9–26; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY**Energy Information Administration****[6450–01–P]****Agency Information Collection Extension**

AGENCY: U.S. Energy Information Administration (EIA), U.S. Department of Energy (DOE).

ACTION: Notice.

SUMMARY: DOE submitted an information collection request for extension as required by the Paperwork Reduction Act of 1995. The information collection requests a three-year extension without changes to Form FE–746R, “Natural Gas Imports and Exports,” OMB Control Number 1901–0294. The information collection request supports DOE’s Hydrocarbons and Geothermal Energy Office (HGEO) in gathering critical information on the U.S. trade in natural gas, including liquefied natural gas (LNG). The data are used to monitor natural gas trade, assess the adequacy of U.S. energy resources to meet near and longer-term domestic demands, and support various market and regulatory analyses done by HGEO.

DATES: Comments on this information collection must be received no later than May 11, 2026. 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: Tu Tran, Hydrocarbons and Geothermal Energy Office, by telephone at (202) 235–5873, or by email at Tu.tran@hq.doe.gov. The forms and instructions are available at <https://www.energy.gov/hgeo/guidelines-filing-monthly-reports>.

SUPPLEMENTARY INFORMATION:

This information collection request contains:

- (1) *OMB No.:* 1901–0294;
- (2) *Information Collection Request Title:* Natural Gas Imports and Exports;
- (3) *Type of Request:* Three-year extension without changes;
- (4) *Purpose:* The Federal Energy Administration Act of 1974 (15 U.S.C. 761 *et seq.*) and the DOE Organization Act (42 U.S.C. 7101 *et seq.*) require EIA to carry out a centralized, comprehensive, and unified energy information program. This program collects, evaluates, assembles, analyzes, and disseminates information on energy

resource reserves, production, demand, technology, and related economic and statistical information. Additionally, DOE is authorized to regulate natural gas imports and exports, including LNG, under section 3 of the Natural Gas Act (15 U.S.C. 717b). In order to carry out its statutory responsibilities, DOE requires anyone seeking to import or export natural gas to file an application and provide basic information on the scope and nature of the proposed import/export activity. Additionally, once an importer or exporter receives an authorization from DOE, they are required to submit monthly reports of all import and/or export transactions.

Specifically, the Form FE–746R requires the reporting of the following information by every holder of a DOE import or export authorization: the name of importer/exporter; country of origin/destination; international point of entry/exit; name of supplier; volume; price; transporters; U.S. geographic market(s) served; and duration of supply contract on a monthly basis. This information is used by both EIA and HGEO to assess the adequacy of energy resources to meet near and longer-term domestic demands, and by HGEO in the management of its natural gas regulatory program.

Data collected on Form FE–746R are published in reports made available on DOE’s website at <https://www.energy.gov/hgeo/regulation>, and in EIA official statistics on U.S. natural gas supply and disposition. In addition, the data are used to monitor the North American natural gas trade, which, in turn, enables the Federal government to perform market and regulatory analyses; improve the capability of industry and the government to respond to any future energy-related supply problems; and keep the general public informed of international natural gas trade;

(5) *Annual Estimated Number of Respondents:* 396;

(6) *Annual Estimated Number of Total Responses:* 4,752;

(7) *Annual Estimated Number of Burden Hours:* 14,256;

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* The cost of the burden hours is estimated to be \$1,354,177. DOE estimates that respondents will have no additional costs associated with the surveys other than the burden hours and the maintenance of the information during the normal course of business.

Statutory Authority: 15 U.S.C. 772(b), 42 U.S.C. 7101 *et seq.*, 15 U.S.C. 717b.

Signed in Washington, DC, on April 8, 2026.

Debra Coaxum,

Acting Director, Office of Statistical Methods and Research, U.S. Energy Information Administration.

[FR Doc. 2026–06993 Filed 4–9–26; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****Combined Notice of Filings**

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP26–749–000.

Applicants: Columbia Gas Transmission, LLC.

Description: § 4(d) Rate Filing: TCO Negotiated Rate Agreement Vitol 342846 to be effective 4/7/2026.

Filed Date: 4/6/26.

Accession Number: 20260406–5161.

Comment Date: 5 p.m. ET 4/20/26.

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.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or OPP@ferc.gov.

Dated: April 7, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–06991 Filed 4–9–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****Combined Notice of Filings #2**

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG18–28–001.

Applicants: GSP Merrimack LLC.

Description: GSP Merrimack LLC submits Notice of Self-Recertification of Exempt Wholesale Generator Status.

Filed Date: 3/20/26.

Accession Number: 20260320–5401.

Comment Date: 5 p.m. ET 4/28/26.

Docket Numbers: EG18–31–001.

Applicants: GSP White Lake LLC.

Description: GSP White Lake LLC submits Notice of Self-Recertification of Exempt Wholesale Generator Status.

Filed Date: 3/20/26.

Accession Number: 20260320–5393.

Comment Date: 5 p.m. ET 4/28/26.

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

Docket Numbers: ER26–1726–001.

Applicants: Panther Grove Wind, LLC.

Description: Tariff Amendment: Panther Grove Wind Deficiency Filing Initial MBR to be effective 5/12/2026.

Filed Date: 4/7/26.

Accession Number: 20260407–5180.

Comment Date: 5 p.m. ET 4/28/26.

Docket Numbers: ER26–1727–001.

Applicants: Panther Grove 2 LLC.

Description: Tariff Amendment: Panther Grove 2 Deficiency Filing Initial MBR to be effective 5/12/2026.

Filed Date: 4/7/26.

Accession Number: 20260407–5187.

Comment Date: 5 p.m. ET 4/28/26.

Docket Numbers: ER26–2061–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Generation Self-Scheduling Market Rules to be effective 6/7/2026.

Filed Date: 4/7/26.

Accession Number: 20260407–5212.

Comment Date: 5 p.m. ET 4/28/26.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <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.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or OPP@ferc.gov.

Dated: April 7, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–06988 Filed 4–9–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant

to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. Each filing may be viewed on the Commission's website at <http://www.ferc.gov> using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Docket Nos.	File date	Presenter or requester
<i>Prohibited:</i> NONE.		
<i>Exempt:</i>		
1. P–2100–000	4–3–2026	FERC Staff. ¹
2. P–2100–000	4–3–2026	FERC Staff. ²
3. P–2100–000	4–3–2026	FERC Staff. ³
4. P–2100–000	4–3–2026	FERC Staff. ⁴
5. P–2100–000	4–3–2026	FERC Staff. ⁵
6. P–2100–000	4–3–2026	FERC Staff. ⁶

¹ Communication dated 3/31/2026 from the City of Oroville Mayor David W. Pittman.

²Letter communication dated 03/31/26 City of Oroville, CA addressed to Chairman Swett.

³Letter communication dated 03/31/26 City of Oroville, CA addressed to Commissioner Chang.

⁴Letter communication dated 03/31/26 City of Oroville, CA addressed to Commissioner LeCerte.

⁵Letter communication dated 03/31/26 City of Oroville, CA addressed to Commissioner Rosner.

⁶Letter communication dated 03/31/26 City of Oroville, CA addressed to Commissioner See.

Dated: April 7, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026-06989 Filed 4-9-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

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

Docket Numbers: EC26-85-000.

Applicants: Wabash Valley Transmission Company, LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act of Wabash Valley Transmission Company, LLC.

Filed Date: 4/6/26.

Accession Number: 20260406-5236.

Comment Date: 5 p.m. ET 4/27/26.

Take notice that the Commission received the following Complaints and Compliance filings in EL Dockets:

Docket Numbers: EL26-58-000.

Applicants: International Transmission Co. d/b/a ITC Transmission, et al. v. Midcontinent Independent System Operator, Inc.; and Southwest Power Pool, Inc.

Description: Complaint of International Transmission Co. d/b/a ITC Transmission, et al. v. Midcontinent Independent System Operator, Inc., and Southwest Power Pool, Inc.

Filed Date: 4/7/26.

Accession Number: 20260407-5046.

Comment Date: 5 p.m. ET 4/27/26.

Docket Numbers: EL26-59-000.

Applicants: Richland-Stryker Generation HoldCo LLC v. PJM Interconnection, L.L.C.

Description: Complaint of Richland-Stryker Generation HoldCo LLC v. PJM Interconnection, L.L.C.

Filed Date: 4/7/26.

Accession Number: 20260407-5065.

Comment Date: 5 p.m. ET 5/7/26.

Docket Numbers: EL26-60-000.

Applicants: LS Power Development, LLC v. PJM Interconnection, L.L.C. and Monitoring Analytics, LLC, as the Independent Market Monitor for PJM.

Description: Complaint of LS Power Development, LLC v. PJM Interconnection, L.L.C.

Filed Date: 4/7/26.

Accession Number: 20260407-5071.

Comment Date: 5 p.m. ET 5/7/26.

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

Docket Numbers: ER10-2881-046;

ER10-2882-045; ER10-2883-043;

ER10-2884-043; ER16-2509-014;

ER17-2400-015; ER17-2401-015;

ER17-2403-015; ER17-2404-015.

Applicants: SP Sandhills Solar, LLC, SP Pawpaw Solar, LLC, SP Decatur Parkway Solar, LLC, SP Butler Solar, LLC, Rutherford Farm, LLC, Georgia Power Company, Mississippi Power Company, Southern Power Company, Alabama Power Company.

Description: Notice of Change in Status of Alabama Power Company, et al.

Filed Date: 1/30/26.

Accession Number: 20260130-5574.

Comment Date: 5 p.m. ET 4/28/26.

Docket Numbers: ER20-2054-000.

Applicants: ISO New England Inc., Central Maine Power Company, Versant Power, Fitchburg Gas and Electric Light Company, Green Mountain Power Corporation, New England Power Company, New Hampshire Transmission, LLC, NSTAR Electric Company, Public Service Company of New Hampshire, The Connecticut Light and Power Company, The United Illuminating Company, Unitil Energy Systems, Inc., Vermont Electric Cooperative, Inc., Vermont Transco LLC.

Description: Formal Challenge of New England States Committee on Electricity, Inc. to the Annual Update Rate Schedules filed by Connecticut Light and Power Company et al.

Filed Date: 4/1/26.

Accession Number: 20260401-5429.

Comment Date: 5 p.m. ET 4/22/26.

Docket Numbers: ER25-1966-002; ER25-1967-001.

Applicants: Lockhart Solar PV IV, LLC, Desert Breeze Solar, LLC.

Description: Notice of Non-Material Change in Status of Desert Breeze Solar, LLC, et al.

Filed Date: 4/6/26.

Accession Number: 20260406-5244

Comment Date: 5 p.m. ET 4/27/26.

Docket Numbers: ER26-1003-002.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Amendment SA No. 7767—NITSA among PJM and Hyperscale Energy to be effective 1/20/2026.

Filed Date: 4/7/26.

Accession Number: 20260407-5084.

Comment Date: 5 p.m. ET 4/28/26.

Docket Numbers: ER26-1363-000.

Applicants: Base Retail, LLC.

Description: Response to 03/27/2026, Deficiency Letter of Base Retail, LLC.

Filed Date: 4/6/26.

Accession Number: 20260406-5247.

Comment Date: 5 p.m. ET 4/27/26.

Docket Numbers: ER26-2047-000.

Applicants: Florida Power & Light Company.

Description: § 205(d) Rate Filing: RS No. 110 FMPA 2nd Rest. and Rev. Contract for Interchange Service to be effective 6/6/2026.

Filed Date: 4/6/26.

Accession Number: 20260406-5198.

Comment Date: 5 p.m. ET 4/27/26.

Docket Numbers: ER26-2048-000.

Applicants: Mid-Atlantic Interstate Transmission, LLC.

Description: § 205(d) Rate Filing: MAIT submits 4 New Construction Agmts—SA Nos. 7269, 7270, 7271 & 7275 to be effective 6/7/2026.

Filed Date: 4/7/26.

Accession Number: 20260407-5011.

Comment Date: 5 p.m. ET 4/28/26.

Docket Numbers: ER26-2049-000.

Applicants: Ameren Illinois Company, Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: Ameren Illinois Company submits tariff filing per 35.13(a)(2)(iii): 2026-04-07 _ SA 4731 Ameren Illinois-IMEA RA (Metropolis) to be effective 6/7/2026.

Filed Date: 4/7/26.

Accession Number: 20260407-5051.

Comment Date: 5 p.m. ET 4/28/26.

Docket Numbers: ER26-2050-000.

Applicants: Ameren Illinois Company, Midcontinent Independent System Operator, Inc., Ameren Illinois Company.

Description: § 205(d) Rate Filing: Ameren Illinois Company submits tariff filing per 35.13(a)(2)(iii): 2026-04-07 _ SA 2685 Ameren-SIPC_MCEC Fulsts to Victor Proj Spec No. 6 to be effective 6/7/2026.

Filed Date: 4/7/26.

Accession Number: 20260407-5054.

Comment Date: 5 p.m. ET 4/28/26.

Docket Numbers: ER26-2051-000.

Applicants: AEP Texas Inc.

Description: § 205(d) Rate Filing: AEPTX-Barilla Solar Third Amended Generation Interconnection Agreement to be effective 3/13/2026.

Filed Date: 4/1/26.

Accession Number: 20260401–5534.

Comment Date: 5 p.m. ET 4/22/26.

Docket Numbers: ER26–2052–000.

Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.

Description: § 205(d) Rate Filing: Alabama Power Company submits tariff filing per 35.13(a)(2)(iii): AMEA NITSA Amendment Filing (Add Alex City Dadeville Rd DP and DFC) to be effective 3/9/2026.

Filed Date: 4/7/26.

Accession Number: 20260407–5086.

Comment Date: 5 p.m. ET 4/28/26.

Docket Numbers: ER26–2053–000.

Applicants: Bitter Ridge Wind Farm, LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.

Filed Date: 4/7/26.

Accession Number: 20260407–5105.

Comment Date: 5 p.m. ET 4/28/26.

Docket Numbers: ER26–2054–000.

Applicants: Gonzaga Ridge Battery Facility, LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.

Filed Date: 4/7/26.

Accession Number: 20260407–5107.

Comment Date: 5 p.m. ET 4/28/26.

Docket Numbers: ER26–2055–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 4706 Wolf Tail Solar GIA to be effective 3/10/2026.

Filed Date: 4/7/26.

Accession Number: 20260407–5130.

Comment Date: 5 p.m. ET 4/28/26.

Docket Numbers: ER26–2056–000.

Applicants: Gonzaga Ridge Wind Farm, LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.

Filed Date: 4/7/26.

Accession Number: 20260407–5138.

Comment Date: 5 p.m. ET 4/28/26.

Docket Numbers: ER26–2057–000.

Applicants: Nimbus Wind Farm, LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.

Filed Date: 4/7/26.

Accession Number: 20260407–5140.

Comment Date: 5 p.m. ET 4/28/26.

Docket Numbers: ER26–2058–000.

Applicants: Sweetland Wind Farm, LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 4/16/2026.

Filed Date: 4/7/26.

Accession Number: 20260407–5145.

Comment Date: 5 p.m. ET 4/28/26.

Docket Numbers: ER26–2059–000.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Notice of Cancellation of ICSA, SA No. 5630; Project Identifier V3–028/AB2–170 to be effective 8/16/2023.

Filed Date: 4/7/26.

Accession Number: 20260407–5146.

Comment Date: 5 p.m. ET 4/28/26.

Docket Numbers: ER26–2060–000.

Applicants: California Independent System Operator Corporation.

Description: § 205(d) Rate Filing: 2026–04–07 Certificate of Concurrence—Unexecuted LGIA btwn CAISO, SCE & RTSW to be effective 10/29/2025.

Filed Date: 4/7/26.

Accession Number: 20260407–5149.

Comment Date: 5 p.m. ET 4/28/26.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercensearch.asp>) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <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.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or OPP@ferc.gov.

Dated: April 7, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–06986 Filed 4–9–26; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–13283–01–R8]

Clean Air Act Operating Permit Program; Order on Petition for Objection to State Operating Permits for Bonanza Creek Energy Operating Company, LLC—Antelope CPF 13–21 Production Facility, State Antelope O–1 Central Production Facility, State North Platte 42–26 Central Production Facility and State Pronghorn 41–32 Central Production Facility

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final order on petition.

SUMMARY: The Environmental Protection Agency (EPA) Administrator signed an order dated December 10, 2025, denying a petition dated May 19, 2025, from the Center for Biological Diversity (CBD). The petition requested that the EPA object to Clean Air Act (CAA) operating permits issued by the Colorado Department of Public Health and Environment (CDPHE) to Bonanza Creek Energy Operating Company, LLC for its Antelope CPF 13–21 Production Facility, State Antelope O–1 Central Production Facility, State North Platte 42–26 Central Production Facility, and State Pronghorn 41–32 Central Production Facility located in Weld County, Colorado.

FOR FURTHER INFORMATION CONTACT: Matt Pollard, Air and Radiation Division, EPA Region 8, 1595 Wynkoop Street, Mail Code: 8ARD–AP–P, Denver, CO 80202, telephone number: (303) 312–6878, email address: pollard.matthew@epa.gov. The final order and petition are available electronically at: <https://www.epa.gov/title-v-operating-permits/title-v-petition-database>.

SUPPLEMENTARY INFORMATION: The EPA received a petition from CBD dated May 19, 2025, requesting that the EPA object to the issuance of operating permit nos. 20OPWE417, 20OPWE418, 20OPWE419, and 20OPWE420 issued by CDPHE to Bonanza Creek Energy Operating Company, LLC in Weld County, Colorado. On December 10, 2025, the EPA Administrator issued an order denying the petition. The order itself explains the basis for the EPA's decision.

Sections 307(b) and 505(b)(2) of the CAA provide that a petitioner may request judicial review of those portions of an order that deny issues in a petition. Any petition for review shall be filed in the United States Court of

Appeals for the appropriate circuit no later than June 9, 2026.

Cyrus M. Western,

Regional Administrator, Region 8.

[FR Doc. 2026-06910 Filed 4-9-26; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL OPRM-FAD-217]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202-993-3272 or <https://www.epa.gov/nepa>. Weekly receipt of Environmental Impact Statements (EIS) Filed March 30, 2026 10 a.m. EST Through April 6, 2026 10 a.m. EST Pursuant to CEQ Guidance on 42 U.S.C. 4332.

Notice: Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: <https://cdxapps.epa.gov/cdx-enepa-II/public/action/eis/search>.

EIS No. 20260032, Draft, FERC, MS, Gulf South Pipeline Company, LLC et al. re the Kosciusko Junction Pipeline Project, Comment Period Ends: 05/26/2026, Contact: Office of External Affairs 866-208-3372.

EIS No. 20260033, Draft, USAF, OR, Basing F-35A Lightning II Formal Training Unit at Kingsley Field Air National Guard Base Klamath Falls, Oregon, Comment Period Ends: 05/11/2026, Contact: Alicia Treece 240-612-8531.

EIS No. 20260034, Final, NRCS, IA, The Clarke County Water Supply Project, Review Period Ends: 05/11/2026, Contact: Michael Scott Cagle 515-323-2211.

EIS No. 20260035, Draft, FERC, TX, Sabine Pass Stage 5 Expansion Project, Comment Period Ends: 05/26/2026, Contact: Office of External Affairs 866-208-3372.

EIS No. 20260036, Final Supplement, NRC, TN, Construction Permit at the Clinch River Nuclear Site, Final Report, Contact: Madelyn Nagel 301-415-0371.

EIS No. 20260037, Draft, USDA, ND, Upper Maple River Watershed Plan, North Dakota, Comment Period Ends: 05/29/2026, Contact: Erica Althoff 701-658-3352.

Amended Notice:

EIS No. 20260024, Final, USDA, GA, Dresden-Talbot County 500 kV

Transmission Line and Dresden 500 kV and Talbot County 230 kV Substation Modifications, Contact: Suzanne Kopich 202-961-8514.

Revision to FR Notice Published 3/13/2026; Removed Review Due Date at Request of Lead Agency.

Dated: April 6, 2026.

Nancy Abrams,

Deputy Director, Federal Activities Division.

[FR Doc. 2026-06965 Filed 4-9-26; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-13172-01-R8]

Clean Air Act Operating Permit Program; Order on Petition for Objection To State Operating Permit for Caerus Piceance, LLC—Hunter Mesa Water Treatment Facility

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final order on petition.

SUMMARY: The Environmental Protection Agency (EPA) Administrator signed an order dated November 19, 2025, denying a petition dated March 27, 2025, from the Center for Biological Diversity (CBD). The petition requested that the EPA object to a Clean Air Act operating permit issued by the Colorado Department of Public Health and Environment (CDPHE) to Caerus Piceance, LLC for its water treatment facility, Hunter Mesa Water Treatment Facility, located in Garfield County, Colorado.

FOR FURTHER INFORMATION CONTACT: Julia Witteman, EPA Region 8, telephone number: (303) 312-6156, email address: witteman.julia@epa.gov. The final order and petition are available electronically at: <https://www.epa.gov/title-v-operating-permits/title-v-petition-database>.

SUPPLEMENTARY INFORMATION: The EPA received a petition from CBD dated March 27, 2025, requesting that the EPA object to the issuance of operating permit no. 03OPGA267, issued by CDPHE to Caerus Piceance, LLC for the Hunter Mesa water treatment facility. On November 19, 2025, the EPA Administrator issued an order denying the petition. The order itself explains the basis for the EPA's decision.

Sections 307(b) and 505(b)(2) of the CAA provide that a petitioner may request judicial review of those portions of an order that deny issues in a petition. Any petition for review shall be filed in the United States Court of

Appeals for the appropriate circuit no later than June 9, 2026.

Cyrus Western,

Regional Administrator, Region 8.

[FR Doc. 2026-06905 Filed 4-9-26; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL DEPOSIT INSURANCE CORPORATION

Privacy Act of 1974; System of Records

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Federal Deposit Insurance Corporation (FDIC) is modifying an existing system of records titled FDIC-004, "Changes in Financial Institution Control Ownership Records." The information in this system of records is used in support of the FDIC's regulatory and supervisory functions. This modified system of records notice combines FDIC-004 with FDIC-008, "Chain Banking Organizations Identification Records" and rescinds FDIC-008. The FDIC is updating this system of records to retitle it as "Financial Institution Ownership Records," to modify several sections of this notice, and to seek public comment on four proposed routine uses. Additionally, this notice includes non-substantive changes to simplify the formatting and text of the previously published notice and improve consistency across system of records notices.

DATES: This action will become effective on April 10, 2026. The routine uses in this action will become effective May 11, 2026, unless the FDIC makes changes based on comments received. Written comments should be submitted on or before May 11, 2026.

ADDRESSES: Interested parties are invited to submit written comments identified by Privacy Act Systems of Records (FDIC-004) by any of the following methods:

- *Agency Website:* <https://www.fdic.gov/resources/regulations/federal-register-publications/>. Follow the instructions for submitting comments on the FDIC website.
- *Email:* comments@fdic.gov. Include "Comments-SORN (FDIC-004)" in the subject line of communication.
- *Mail:* Jennifer M. Jones, Deputy Executive Secretary, Attention: Comments SORN (FDIC-004), Legal Division, Office of the Executive

Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

- *Hand Delivery/Courier:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street NW building (located on F Street NW) on business days between 7:00 a.m. and 5:00 p.m.

Public Inspection: Comments received, including any personal information provided, may be posted without change to <https://www.fdic.gov/resources/regulations/federal-register-publications/>. Commenters should submit only information that the commenter wishes to make available publicly. The FDIC may review, redact, or refrain from posting all or any portion of any comment that it may deem to be inappropriate for publication, such as irrelevant or obscene material. The FDIC may post only a single representative example of identical or substantially identical comments and in such cases will generally identify the number of identical or substantially identical comments represented by the posted example. All comments that have been redacted, as well as those that have not been posted, that contain comments on the merits of this document will be retained in the public comment file and will be considered as required under all applicable laws. All comments may be accessible under the Freedom of Information Act (FOIA).

FOR FURTHER INFORMATION CONTACT:

Shannon Dahn, Assistant Director, Privacy, 703-516-5500, privacy@fdic.gov.

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act of 1974, 5 U.S.C. 552a, FDIC is modifying an existing system of records, FDIC-004, "Changes in Financial Institution Control Ownership Records." This modification combines and renames two existing systems of records notices (SORNs), FDIC-004, "Changes in Financial Institution Control Ownership Records" and FDIC-008, "Chain Banking Organizations Identification Records" into a single SORN titled FDIC-004, "Financial Institution Ownership Records" and rescinds FDIC-008. Both systems of records rely on the same authority, cover the same individuals, and have similar purposes of tracking ownership of financial institutions. As modified, FDIC-004 maintains information about (1) individuals who acquire or dispose of ownership stakes in a FDIC-insured financial institution and (2) individuals who have ownership stakes in more than one financial institution or bank holding companies which, due to their common ownership,

present a concentration of resources that could be susceptible to common risks. The FDIC uses information in this system of records to support its regulatory and supervisory functions.

In this notice, the FDIC proposes to update various sections of the SORN to, among other things, cover all individuals who have ownership stakes in financial institutions. The System Title section is being updated to better reflect the types of records covered. The System Location section is updated to reflect that the records may be maintained at various FDIC locations including authorized cloud environments. The Purpose(s) of the System section is being modified to combine the purposes of FDIC-004 and FDIC-008 and to clarify existing language.

The Routine Uses section is being renumbered and modified to list FDIC's standard routine uses (routine uses 1-10) first and to propose four new routine uses. Proposed standard Routine Use 2 supports disclosures as it relates to litigation. Proposed standard routine use 8 supports the disclosure of information from the system of records as may be required by Federal statute or treaty. Proposed standard routine use 9 supports the disclosure of information as may be needed to support the comparison of FDIC's records to another agency's system of records or to non-Federal records, in coordination with an Office of Inspector General in conducting an audit, investigation, inspection, evaluation, or other review. Proposed routine use 11 will permit sharing with other Federal or State financial institution supervisory authorities.

The FDIC is modifying the Policies and Practices for Storage, and Retention and Disposal sections to provide detail on the storage of electronic records and to include language on the disposal of records in accordance with approved FDIC record retention schedules. The FDIC is also modifying the Administrative, Technical, and Physical Safeguards section to provide additional detail on the safeguards used to protect this information. The FDIC is also modifying the sections containing the Procedures for Notification, Access, Contesting Records to improve the clarity of the instructions to the public and to direct the public to the appropriate FDIC website for information on how to request notification of, access to, or to contest the contents of records in FDIC-004.

This modified system will be included in FDIC's inventory of record systems.

SYSTEM NAME AND NUMBER:

Financial Institution Ownership Records, FDIC-004.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

The Federal Deposit Insurance Corporation (FDIC) located at 550 17th Street NW, Washington, DC 20429, and other FDIC office locations. Information may also be stored within an appropriately authorized cloud environments or in other secure locations.

SYSTEM MANAGER(S):

Chief, Risk Management Applications, Division of Risk Management Supervision, FDIC, 550 17th Street NW, Washington, DC 20429.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 7(j) and 9 of the Federal Deposit Insurance Act (12 U.S.C. 1817(j) and 1819).

PURPOSE(S) OF THE SYSTEM:

This system:

(1) collects, tracks, and assesses information about individuals who have direct or indirect ownership stakes in an FDIC-insured financial institution, and

(2) tracks ownership of possible linked financial institutions and bank holding companies which present a concentration of resources that could be susceptible to common risks, otherwise known as chain banking. Chain banking organizations generally involve a group of financial institutions or holding companies that are controlled by one individual or company. The FDIC is responsible for maintaining a record system for chain banking organizations and for developing an overall supervisory strategy for these organizations. The information in this system is used to support the FDIC's regulatory and supervisory functions.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Individuals who acquire or dispose of voting stock in an FDIC-insured financial institution; and

(2) Individuals who directly, indirectly, or in concert with others, own or control two or more financial institutions and bank holding companies.

CATEGORIES OF RECORDS IN THE SYSTEM:

For individuals identified in the paragraph (1) above, records include the name of the individual who is the proposed acquirer and their statement of assets and liabilities; statement of income and sources of income; name

and location of the financial institution; number of shares to be acquired and outstanding; dates ownership forms were filed; name and location of the newspaper in which the notice was published and date of publication. For disposal transactions, names of sellers/transferors; names of purchasers/transferees and number of shares owned after transaction; date of transaction on financial institution's books, number of shares acquired and outstanding. If stock of a bank holding company is involved, the name and location of the bank holding company and the institution(s) it controls.

For individuals identified in the paragraph (2) above, records include the names of and contact information for individuals who, either alone or in concert with others, own or control two or more financial institutions, the names of those financial institutions, locations, stock certificate numbers, total asset size, and percentage of outstanding stock owned by the controlling individual or group of individuals; charter types and, if applicable, name of intermediate bank holding entity and percentage of bank holding company held by controlling individual or group.

RECORD SOURCE CATEGORIES:

Information contained in this system is obtained from individuals listed in the Categories of Individuals; the financial institution or bank holding company in which control changed; filed ownership forms; federal and state financial institution supervisory authorities; examination reports and related materials; and regulatory filings.

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 the FDIC as a routine use as follows:

(1) To appropriate Federal, State, local, tribal, territorial, and foreign agencies responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information, either alone or in conjunction with other information, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto.

(2) To a court or adjudicative body before which the FDIC is authorized to

appear when, (a) the FDIC or any component thereof; or (b) any employee of the FDIC in his or her official capacity; or (c) any employee of the FDIC in his or her individual capacity where the FDIC has agreed to represent the employee; or (d) the United States; where the FDIC determines that litigation is likely to affect the FDIC or any of its components, is a party to litigation or has an interest in such litigation, and the FDIC determines that use of such records is relevant and necessary to the litigation, provided, however, that in each case, the FDIC determines that disclosure of the records is a use of the information contained in the records which is compatible with the purpose for which the records were collected.

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record.

(4) To appropriate agencies, entities, and persons when (a) the FDIC suspects or has confirmed that there has been a breach of the system of records; (b) the FDIC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems, programs, and operations), the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(5) To another Federal agency or Federal entity when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach; or (b) 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.

(6) To appropriate Federal, State, local, tribal, and territorial agencies in connection with hiring or retaining an individual; conducting a background security or suitability investigation; adjudication of liability; or eligibility for a license, contract, grant, or other benefit, to the extent that the information shared is relevant and necessary to the requesting agency's decision on the matter.

(7) To contractors, grantees, experts, consultants, students, volunteers, and

others performing or working on a contract, service, grant, cooperative agreement, or project for the FDIC or the Office of Inspector General for use in carrying out their obligations under such contract, grant, agreement or project.

(8) To such recipients and under such circumstances and procedures as are mandated by Federal statute or treaty.

(9) To a Federal, State, local, tribal, or territorial agency for the purpose of comparing to the agency's system of records or to non-Federal records, in coordination with an Office of Inspector General in conducting an audit, investigation, inspection, evaluation, or other review as authorized by the Inspector General Act of 1978, as amended.

(10) To Federal agencies, and to those Federal employees designated by the President or Agency Heads pursuant to Executive Order 14243, for the purposes of identifying and eliminating waste, fraud, and abuse, including the elimination of bureaucratic duplication and inefficiency and the enhancement of the Government's ability to detect overpayments and fraud.

(11) To other Federal or State financial institution supervisory authorities for: (a) coordination of examining resources when the chain banking organization is composed of financial institutions subject to multiple supervisory jurisdictions; (b) coordination of evaluations and analysis of the condition of the consolidated chain organization; and (c) coordination of supervisory, corrective or enforcement actions.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored electronically or in paper format in secure facilities. Electronic records may be stored locally on digital media, in FDIC-owned cloud environments, or in vendor cloud service offerings that are appropriately authorized and/or certified.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by: Individual name or Financial Institution

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Financial institution ownership records are maintained for 10 years and then dispositioned in accordance with approved records retention schedules.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records are protected from unauthorized access and improper use through administrative, technical, and

physical security measures. Administrative safeguards include written guidelines on handling personal information including agency-wide procedures for safeguarding personally identifiable information. In addition, all FDIC staff are required to take annual privacy and security training. Technical security measures within FDIC include restrictions on computer access to authorized individuals who have a legitimate need to know the information; multi-factor authentication for remote access and access to many FDIC systems; strong passwords when multi-factor authentication is not available; use of encryption for certain data types and transfers; firewalls and intrusion detection applications; and regular review of security procedures and best practices to enhance security. Physical safeguards include restrictions on building access to authorized individuals, security guard service, and maintenance of records in lockable offices and filing cabinets.

RECORD ACCESS PROCEDURES:

Individuals requesting access to records about them in this system of records should submit their request online through the FDIC FOIA Service Center at fdic.gov/foia. Alternatively, individuals can send a request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email efoia@fdic.gov. Individuals will be required to provide a detailed description of the records they seek including time period when the records were created and other supporting information where possible. Individuals will be required to provide proof of identity in accordance with FDIC regulations at 12 CFR part 310.

CONTESTING RECORD PROCEDURES:

Individuals contesting the content of or requesting an amendment to their records in this system of records should submit their request online through the FDIC FOIA Service Center at fdic.gov/foia. Alternatively, individuals can send a request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email efoia@fdic.gov. The request should contain the individual's reason for requesting the amendment and a description of the record (including the name of the appropriate designated system and category thereof) sufficient to enable the FDIC to identify the particular record or portion thereof with respect to which amendment is sought. Requests must specify which information is being contested, the reasons for contesting it, and the

proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310. Individuals will be required to provide proof of identity in accordance with FDIC regulations at 12 CFR part 310.

NOTIFICATION PROCEDURES:

Individuals seeking to know whether this system contains information about them should submit their request online through the FDIC FOIA Service Center at fdic.gov/foia. Alternatively, individuals can send a request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email efoia@fdic.gov. Individuals will be required to provide proof of identity in accordance with FDIC regulations at 12 CFR part 310.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

90 FR 51316 (Nov 17, 2025)

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on April 7, 2026.

Jennifer M. Jones,

Deputy Executive Secretary.

[FR Doc. 2026-06904 Filed 4-9-26; 8:45 am]

BILLING CODE 6714-01-P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage In or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage de novo, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

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 question whether the proposal complies with the standards of section 4 of the BHC 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.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Benjamin W. McDonough, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551-0001, not later than April 27, 2026.

A. Federal Reserve Bank of Kansas City (Jeffrey Imgarten, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198-0001. Comments can also be sent electronically to KCApplicationComments@kc.frb.org:

1. Inbankshares, Corp, Greenwood Village, Colorado; to engage in extending credit and servicing loans pursuant to section 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Associate Secretary of the Board.

[FR Doc. 2026-07010 Filed 4-9-26; 8:45 am]

BILLING CODE: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, Benjamin W. McDonough, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551-0001, not later than April 27, 2026.

A. Federal Reserve Bank of Atlanta (Erien O. Terry, Assistant Vice President) 1000 Peachtree Street NE, Atlanta, Georgia 30309. Comments can also be sent electronically to Applications.Comments@atl.frb.org:

1. *C1B Shares LLC, Bill Smith as manager, both of Birmingham, Alabama; Bill Ira Smith Family 2025 Irrevocable Trust, Bridgeford Trust Company, LLC, as trustee, both of Pierre, South Dakota, Bill Smith, as investment advisor, and Arlington Trust Company, LLC, as trust protector, both of Birmingham, Alabama; Bill and Pam Smith Foundation, Inc., Birmingham, Alabama; Jeffrey L. Smith 2014 Irrevocable Trust, Bill Smith, as trustee, and Arlington Trust Company, LLC, as trust protector, all of Birmingham, Alabama; Bill Smith Roth IRA, Pamela Smith Roth IRA, both of Birmingham, Alabama; Shirley E. Smith 2014 Irrevocable Trust, Mountain Brook, Alabama, Jeff Smith, as trustee, Arlington Trust Company, LLC, as trust protector, both of Birmingham, Alabama; Pamela Smith, Keith Jeffrey Smith, both of Birmingham, Alabama; Jennifer Conner Smith, Homewood, Alabama; and certain minor children all of Alabama, Bill Smith, as custodian for minor children, Birmingham, Alabama;* to join the Bill Smith Family Control Group, a group acting in concert, to retain voting shares of CommerceOne Financial Corporation, and thereby indirectly retain voting shares of CommerceOne Bank, both of Birmingham, Alabama. Bill Smith, a member of the Bill Smith Family Control Group, was previously

permitted by the Federal Reserve System to acquire voting shares of CommerceOne Financial Corporation in his individual capacity.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Associate Secretary of the Board.

[FR Doc. 2026-07009 Filed 4-9-26; 8:45 am]

BILLING CODE:P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, with revision, the Survey of Small Business and Farm Lending (FR 2028; OMB No. 7100-0061).

DATES: Comments must be submitted on or before June 9, 2026.

ADDRESSES: You may submit comments, identified by FR 2028, by any of the following methods:

- **Agency Website:** <https://www.federalreserve.gov/apps/proposals/>. Follow the instructions for submitting comments, including attachments. *Preferred Method.*
- **Mail:** Benjamin W. McDonough, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.
- **Hand Delivery/Courier:** Same as mailing address.
- **Other Means:** publiccomments@frb.gov. You must include the OMB number or the FR number in the subject line of the message.

Comments received are subject to public disclosure. In general, comments received will be made available on the Board's website at <https://www.federalreserve.gov/apps/proposals/> 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. Public comments may also be viewed electronically or in person in Room M-4365A, 2001 C St. NW, Washington, DC 20551, between 9 a.m. and 5 p.m. during Federal business weekdays.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395-6974.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, nuha.elmaghrabi@frb.gov, (202) 452-3884.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

During the comment period for this proposal, a copy of the proposed PRA OMB submission, including the draft reporting form and instructions, supporting statement (which contains more detail about the information collection and burden estimates than this notice), and other documentation, will be made available on the Board's public website at <https://www.federalreserve.gov/apps/reportingforms/review> or may be requested from the agency clearance officer, whose name appears above. On the page displayed at the link above, you can find the supporting information by referencing the collection identifier, FR 2028. Final versions of these documents will be made available at <https://www.reginfo.gov/public/do/PRAMain>, if approved.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

- a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;
- b. The accuracy of the Board's estimate of the burden of the proposed

information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, With Revision, the Following Information Collection

Collection title: Survey of Small Business and Farm Lending.

Collection identifier: FR 2028.

OMB control number: 7100-0061.

General description of collection: The Survey of Small Business and Farm Lending (SSBFL) comprises the following three reports:

- Survey of Terms of Bank Lending to Farmers (FR 2028B),
- Prime Rate Supplement of Survey of Terms of Lending (FR 2028S), and
- Small Business Lending Survey (FR 2028D).

The SSBFL collects unique information concerning price and certain nonprice terms of loans made to businesses and farmers each quarter from a sample of banks. The FR 2028B collects detailed data on individual farm loans funded during the first full business week of the mid-month of each quarter (February, May, August, and November) and the FR 2028S collects the prime interest rate for each day of the survey week. From these sample farm loan data, estimates of the terms of farm loans extended are constructed and published in the Federal Reserve Bank of Kansas City's quarterly release, *National Survey of Terms of Lending to Farmers*. The FR 2028D provides focused and enhanced information on nonfarm small business lending including rates, terms, credit availability, and reasons for their changes. The FR 2028D collects quarterly average quantitative data on terms of small business loans and qualitative information on changes and the reasons for changes in the terms of lending. Aggregate data for small business loans are published in the Federal Reserve Bank of Kansas City's

quarterly release, *Small Business Lending Survey*.

Proposed revisions: The Federal Reserve proposes to revise the FR 2028B form and instructions. The proposed revisions consist of combining the two separate report forms (FR 2028B and FR 2028S) into a single report form and instructions (FR 2028B). In addition, an email address field would be added to the respondent contact information section and a "no loans to report" indicator field would be added to the combined report. The Federal Reserve proposes these revisions in efforts to simplify the submission of these reporting series. The revisions would be effective for the August 3, 2026, as of date, with the transmission period beginning on August 10, 2026, based on loan activity during the first week of August 2026.

FR 2028B Additions

Additions to the FR 2028B form include the integration of the FR 2028S line items into the report. Two additional line items would be added to the FR 2028B report in an effort to reduce administrative and respondent burden. An email field would be added to the respondent contact information section and a "no loans to report" indicator field would be added to reduce respondent burden from current outreach procedures in efforts to reduce redundant communication.

FR 2028S Deletions

The FR 2028S report would be discontinued and integrated into the FR 2028B report. The combination of reports is aimed at reducing burden for respondents.

FR 2028D Clarifications

The Federal Reserve proposes to revise the FR 2028D instructions, effective for the September 30, 2026, as of date with the transmission period beginning on October 1, 2026, based on loan activity over the third quarter 2026. The revisions would add clarity in reporting instructions and requirements, and improve data quality. These proposed revisions include clarifying the instructions for items 5e and 7e, with respect to the meaning of "maximum maturity" and for items 6 and 8, with respect to the meaning of "commitment." These wording changes are proposed to the instructions to add clarity to respondents as they complete the survey and improve data quality in response to feedback from respondents.

Frequency: Quarterly.

Respondents: The FR 2028B and FR 2028S panels have an authorized size of 250 domestically chartered commercial

banks. The panel of banks has been drawn from a random sample of banks stratified according to farm loan volumes since 1989. The authorized panel for the FR 2028D panel is 398 domestically chartered commercial banks. The size is based on obtaining survey results with a 95% confidence level and 5% standard error, allowing for a 10% nonresponse rate. The panel of banks is a random sample of banks stratified according to the dollar volumes of commercial and industrial loans with original amounts of \$1,000,000 or less.

Total estimated number of respondents:

FR 2028B—250.

FR 2028D—398.

Estimated average hours per response:

FR 2028B—1.45.

FR 2028D—2.75.

Total estimated change in burden: 0.

Total estimated annual burden hours: 5,828.

Board of Governors of the Federal Reserve System, April 8, 2026.

Erin M. Cayce,

Assistant Secretary of the Board.

[FR Doc. 2026-06970 Filed 4-9-26; 8:45 am]

BILLING CODE 6210-01-P

FEDERAL RESERVE SYSTEM

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

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

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments received are subject to public disclosure. In general, comments received will be made available without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would not be appropriate for public disclosure.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Benjamin W. McDonough, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551-0001, not later than May 11, 2026.

A. Federal Reserve Bank of Minneapolis (Mark Nagle, Assistant Vice President), 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291. Comments can also be sent electronically to MA@mpls.frb.org:

1. *Fulda Bancorporation, Inc.*, Britton, South Dakota; to acquire Root River State Bank, Chatfield, Minnesota.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Associate Secretary of the Board.

[FR Doc. 2026-07011 Filed 4-9-26; 8:45 am]

BILLING CODE 6210-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS-R-43]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of

this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by June 9, 2026.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to <http://www.regulations.gov>. Follow the instructions for "Comment or Submission" or "More Search Options" to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier: __/OMB Control Number: __, Room C4-26-05, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing>.

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786-4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

Under the PRA (44 U.S.C. 3501-3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or

provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Reinstatement without change of a previously approved collection; *Title of Information Collection:* Conditions of Coverage for Portable X-ray Suppliers and Supporting Regulations; *Use:* Portable X-ray services are basic radiology studies (predominately chest and extremity X-rays) that are performed on residents in Skilled Nursing Facilities (SNFs) or Long-term Care Facilities (LTCs) or those who are homebound and unable to travel to an outpatient radiology facility. Portable X-ray suppliers must comply with health and safety requirements under Title 42 Code of Regulations (CFR) Section 486, Subpart C in order to receive payment for services from the Medicare and Medicaid programs. The Centers for Medicare and Medicaid Services (CMS) use the ICs to ensure suppliers are in compliance. *Form Number:* CMS-R-43 (OMB Control number: 0938-0338); *Frequency:* Yearly; *Affected Public:* Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 540; *Total Annual Responses:* 1,080; *Total Annual Hours:* 340. (For policy questions regarding this collection contact Claudia Molinar at 410-786-8445.)

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2026-06946 Filed 4-9-26; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS-10952A-D]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by June 9, 2026.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. Electronically. You may send your comments electronically to <http://www.regulations.gov>. Follow the instructions for "Comment or Submission" or "More Search Options" to find the information collection document(s) that are accepting comments.

2. By *regular mail*. You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier: __/OMB Control Number: R Room C4-26-05, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing>.

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786-4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

Under the PRA (44 U.S.C. 3501-3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* Self-Attestation for Recertification of CORFs, OPT/SLP, and RHCs Providers and PXR Suppliers; *Use:* We are requesting OMB approval for the Self-Attestation for Recertification of Comprehensive Outpatient Rehabilitation Facility (CORFs), Outpatient Physical Therapy/Speech Language Pathology (OPT/SLP), and Rural Health Clinics (RHCs) Providers and Portable X-Ray (PXR) Suppliers which consists of 4 new collection instruments. A CORF, or "facility" is defined as a nonresidential facility that is established and operated exclusively for the purpose of providing diagnostic, therapeutic, and restorative services to outpatients for the rehabilitation of injured, disabled, or sick persons, at a single fixed location, by or under the supervision of a physician. CORFs must meet all requirements set forth at 42 CFR 481.50 to § 485.74 titled "Conditions of Participation: Comprehensive Outpatient Rehabilitation Facilities".

OPT/SLP services can be provided by a clinic, health care organization, public health agency or rehabilitation agency. In addition, providers of OPT/SLP services may have extension locations. The location or site from which an OPT/SLP provider provides services within a

specific geographic area is referred to as the "primary site." Additional locations from which the same OPT/SLP provider provides services to another geographic areas are referred to as "extension locations." The extension location is part of the rehabilitation agency. The extension location should be located sufficiently close to the main location to allow it to share administration, supervision, and services in a manner that renders it unnecessary for the extension location to independently meet the conditions of participation as a rehabilitation agency.

OPT/SLP providers must meet the CMS requirements set forth at § 485.701 to § 485.729, and titled "Conditions of Participation for Clinics, Rehabilitation Agencies, and Public Health Agencies as Providers of Outpatient Physical Therapy and Speech-Language Pathology Services".

RHCs or "clinics" are clinics that are in rural areas designated as shortage areas. An RHC is not a rehabilitation agency or a facility primarily for the care and treatment of mental diseases. RHCs must meet all the CMS requirements of 42 CFR 491.1 through 491.12 titled "Rural Health Clinics: Conditions for Certification; and FQHCs Conditions for Coverage."

PXR suppliers are entities that provide portable diagnostic x-ray services at the patients' locations. This is most often the patient's residences, including private homes and group living facilities, such as nursing homes, rather than in a traditional clinical setting, such as a doctor's office or hospital. PXR suppliers must meet all the Medicare requirements set forth at 42 CFR 486.100 to § 486.110 titled "Conditions for Coverage: Portable X-Ray Services".

Currently, the above-stated provider and supplier types are certified for participation or enrollment in the Medicare/Medicaid program by State Survey Agencies (SAs). Certification is a process in which a determination is made by the State Survey Agency that a provider or supplier is in compliance with the applicable conditions of participation (42 CFR 488.1). We note that a portion of OPT/SLP providers opt to be surveyed by accrediting organizations and deemed as meeting CMS' requirements.

The current CMS certification process requires that an initial certification survey be performed when a CORF, OPT/SLP, RHC, or PXR provider/supplier first applies for participation/enrollment in the Medicare/Medicaid program. After being approved for participation or enrollment in the Medicare/Medicaid program, the

CORFs, OPT/SLPs, RHC, and PXR provider/supplier must undergo periodic recertification surveys to ensure that they continue to meet the applicable CMS requirements. The SAs perform recertification surveys every 6 years for CORFs, OPT/SLPs, RHC, and PXR providers/suppliers.

We plan to implement a program whereby the CORF, RHC OPT/SLP and PXR providers/suppliers may attest to meeting the applicable CMS CoPs in lieu of undergoing a SA recertification surveys every 6 years. We have developed separate attestation forms for CORF, OPT/SLP, RHC, and PXR providers/suppliers. We anticipate that these providers and suppliers would complete and submit the attestation form for their provider/supplier type prior to their recertification due date. A properly completed and timely submitted attestation form would be accepted by the applicable SA for the purpose of the recertification of each individual provider and supplier.

There are no statutory or regulatory provisions that require states to conduct onsite recertification surveys for PXR suppliers. In fact, CMS already uses the attestation process for certification of Federally Qualified Health Centers (FQHCs). *Form Number:* CMS-10952A-D (OMB control number: 0938-NEW); *Frequency:* Annually; *Affected Public:* Individuals and Households; Private Sector—Not-for-profit institutions and Business or other for-profits; Federal Government and State, Local or Tribal Governments; *Number of Respondents:* 1,360; *Total Annual Responses:* 1,360; *Total Annual Hours:* 1,360. (For policy questions regarding this collection contact Caroline Gallaher at (410) 786-8705.)

William N. Parham, III

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2026-07016 Filed 4-9-26; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2026-N-2742]

Agency Information Collection Activities; Proposed Collection; Comment Request; Color Additive Certification

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on color additive certification.

DATES: Either electronic or written comments on the collection of information must be submitted by June 9, 2026.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of June 9, 2026. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

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

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

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

Instructions: All submissions received must include the Docket No. FDA-2026-N-2742 for "Agency Information Collection Activities; Proposed Collection; Comment Request; Color Additive Certification." Received comments, those filed in a timely manner (see **ADDRESSES**), 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 a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the

heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

FOR FURTHER INFORMATION CONTACT:

Amber Barrett, Office of Operations, Food and Drug Administration, Three White Flint North, 10A-12M, 11601 Landsdown St., North Bethesda, MD 20852, 301-796-8867, PRASStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. “Collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information [including each proposed [extension/reinstatement] of an existing collection of information.] before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA’s functions, including whether the information will have practical utility; (2) the accuracy of FDA’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Color Additive Certification

OMB Control Number 0910-0216—Extension

This information collection supports FDA regulations governing certification for color additives used in foods, drugs, cosmetics, and medical devices. All color additives must have FDA approval for their intended use and be listed in the color additive regulations before they are permitted for use in food, drugs, cosmetics, and many medical devices. Some color additives have an additional requirement: they are permitted only if they are from batches that FDA has certified under section 721(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379e(a)). This means that FDA chemists have analyzed a sample from the batch and have found that it meets the requirements for composition and purity stated in the regulation, called a “listing regulation,” for that color additive. We list color additives that have been shown to be safe for their intended uses in Title 21 of the Code of Federal Regulations (CFR). We require batch certification for all color additives listed in 21 CFR part 74 and for all color additives provisionally listed in 21 CFR part 82. Color additives listed in 21 CFR part 73 are exempted from certification.

The requirements for color additive certification are established in 21 CFR part 80. Procedures for color additive certification are set forth in part 80, subpart B (§§ 80.21 through 80.39) and communicate required data elements for requests for certification, limitations of certificates, exemptions from certification for color additive mixtures, treatment of batches pending and after certification, and recordkeeping requirements for respondents to whom a certificate is issued. During the batch certification procedure, a manufacturer of color additives must submit a “request for certification” that provides information about the batch, accompanied by a representative sample of a new batch of color additive, to FDA’s Office of Cosmetics and Colors. FDA personnel perform chemical and other analyses of the representative sample and, providing the sample

satisfies all certification requirements, issue a certificate that contains a certification lot number for the batch. The batch can then be used in FDA-regulated products marketed in the United States, in compliance with the uses and restrictions in that color additive’s listing regulation. If the sample does not meet the requirements, the batch will be rejected. We require manufacturers to keep complete records showing disposal of all of the color additive covered by the certification.

FDA’s web-based color certification information system is available for respondents to request color certification online, track their submissions, and obtain account status information. Prior to submitting a request for certification, the manufacturer must open a color certification account by sending a letter, as an email attachment, signed by responsible company representative, to FDA’s Office of Cosmetics and Colors at color.cert@fda.hhs.gov. System certification results are returned electronically, allowing submitters to sell their certified color before receiving hard copy certificates.

We charge a fee for certification based on the batch weight and require manufacturers to keep records of the batch pending and after certification. The user fees support FDA’s color certification program. Additional information about color additive certification is available at: <https://www.fda.gov/industry/color-additives/color-certification>.

The purpose for collecting this information is to help the Agency assure that only safe color additives will be used in foods, drugs, cosmetics, and medical devices sold in the United States.

Description of Respondents: The respondents include businesses engaged in the manufacture of color additives used in FDA-regulated foods, drugs, cosmetics, and medical devices. Respondents are from the private sector (for-profit businesses).

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN¹

21 CFR section; activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
80.21 and 80.22; Request for certification accompanied by sample	67	112	7,504	0.22 (13 minutes)	1,651

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN ¹

21 CFR section; activity	Number of recordkeepers	Number of records per record-keeper	Total annual records	Average burden per recordkeeping	Total hours
80.39; Record of distribution	67	112	7,504	0.25 (15 minutes)	1,876

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

We base our estimate on our review of the certification requests received over the past 3 years. Using information from industry personnel, we estimate that an average of 0.22 hour per response is required for reporting (preparing certification requests and accompanying samples) and an average of 0.25 hour per response is required for recordkeeping.

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026-06936 Filed 4-9-26; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2026-N-2743]

Agency Information Collection Activities; Proposed Collection; Comment Request; Submission of Petitions: Food Additive, Color Additive (Including Labeling), Submission of Information to a Master File in Support of Petitions; and Electronic Submission Using Food and Drug Administration Form 3503

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection provisions of FDA's

regulations for submission of petitions, including food and color additive petitions (including labeling), submission of information to a master file in support of petitions, and electronic submission using Form FDA 3503.

DATES: Either electronic or written comments on the collection of information must be submitted by June 9, 2026.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of June 9, 2026. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

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

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

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

Instructions: All submissions received must include the Docket No. FDA-2026-N-2743 for "Agency Information Collection Activities; Proposed Collection; Comment Request; Submission of Petitions: Food Additive, Color Additive (Including Labeling), Submission of Information to a Master File in Support of Petitions; and Electronic Submission Using Food and Drug Administration Form 3503." Received comments, those filed in a timely manner (see **ADDRESSES**), 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 a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly

available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

FOR FURTHER INFORMATION CONTACT: Michael Ellison, Office of Operations, Food and Drug Administration, Three White Flint North, 10A-12M, 11601 Landsdown St., North Bethesda, MD 20852, 240-402-2093, PRAStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. “Collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA’s functions, including whether the information will have practical utility; (2) the accuracy of FDA’s estimate of the burden of the proposed collection of information, including the validity of the methodology and

assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Submission of Petitions: Food Additive, Color Additive (Including Labeling), Submission of Information to a Master File in Support of Petitions; and Electronic Submission Using Form FDA 3503—21 CFR 21 CFR 70.25, 71.1, and 171.1 and 21 CFR Parts 172, 173, 179, and 180

OMB Control Number 0910-0016—Extension

Section 409(a) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 348(a)) provides that a food additive shall be deemed to be unsafe, unless: (1) the additive and its use, or intended use, are in conformity with a regulation issued under section 409 that describes the condition(s) under which the additive may be safely used; (2) the additive and its use, or intended use, conform to the terms of an exemption for investigational use; or (3) a food contact notification submitted under section 409(h) is effective. Food additive petitions (FAPs) are submitted by individuals or companies to obtain approval of a new food additive or to amend the conditions of use permitted under an existing food additive regulation. Section 171.1 of FDA’s regulations (21 CFR 171.1) specifies the information that a petitioner must submit in order to establish that the proposed use of a food additive is safe and to secure the publication of a food additive regulation describing the conditions under which the additive may be safely used. Parts 172, 173, 179, and 180 (21 CFR parts 172, 173, 179, and 180) contain labeling requirements for certain food additives to ensure their safe use.

Section 721(a) of the FD&C Act (21 U.S.C. 379e(a)) provides that a color additive shall be deemed to be unsafe unless the additive and its use are in conformity with a regulation that describes the condition(s) under which the additive may safely be used, or the additive and its use conform to the terms of an exemption for investigational use issued under section 721(f). Color additive petitions (CAPs) are submitted by individuals or companies to obtain approval of a new color additive or a change in the conditions of use permitted for a color

additive that is already approved. Section 71.1 of the Agency’s regulations (21 CFR 71.1) specifies the information that a petitioner must submit to establish the safety of a color additive and to secure the issuance of a regulation permitting its use. FDA’s color additive labeling requirements in § 70.25 (21 CFR 70.25) require that color additives that are to be used in food, drugs, cosmetics, or medical devices be labeled with sufficient information to ensure their safe use.

FDA scientific personnel review FAPs to ensure the safety of the intended use of the additive in or on food, or that may be present in food as a result of its use in articles that contact food. Likewise, FDA personnel review CAPs to ensure the safety of the color additive prior to its use in food, drugs, cosmetics, or medical devices.

Respondents may transmit FAP or CAP regulatory submissions in electronic format or paper format to the Human Foods Program (HFP) using Form FDA 3503. Form FDA 3503 helps the respondent organize their submission to focus on the information needed for FDA’s safety review. Form FDA 3503 can also be used to organize information within a master file submitted in support of petitions according to the items listed on the form. Master files can be used as repositories for information that can be referenced in multiple submissions to the Agency, thus minimizing paperwork burden for food and color additive approvals.

We improved the information collection by using the HFP Centralized Online Submission Module (COSM). COSM provides a real-time user interface process that assists respondents in preparing and making submissions to HFP. COSM, available 24 hours a day and 7 days a week, is a web-based tool that supports electronic submissions, thereby eliminating the need for printing and mailing of paper submissions. Further information about COSM, including user instruction, is available on the internet at: <https://www.fda.gov/food/registration-food-facilities-and-other-submissions/centralized-online-submission-module-cosm>.

Description of Respondents: Respondents are businesses engaged in the manufacture or sale of food, food ingredients, color additives, or substances used in materials that come into contact with food.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN ¹

Activity/21 CFR section; or form #	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours	Total operating and maintenance costs
Submission of Petitions: Color Additive Including Labeling—70.25, 71.1	4	1	4	1,337	5,348	\$11,200
Submission of Petitions: Food Additive Including Labeling—171.1	3	1	3	7,093	21,279	0
Form FDA 3503 ²	5	1	5	1	5	0
Total					26,632	11,200

¹ There are no capital costs associated with this collection of information.

² Form FDA 3503 is used for both CAPs and FAPs.

Based on a review of the information collection since our last request for OMB approval, we have adjusted our burden estimate for CAPs since the average number submitted has increased over the last 10 years. Due to the increase of submissions, we estimate that 4 CAPs will be submitted annually. Thus, the estimated burden for the information collection reflects an overall increase of 2,674 hours. Our estimate of burden attributable to FAPs or CAPs is based on our experience with the information collection, which FAPs has not changed since our last review and reflects the average number of petitions we have received annually over a period of 10 years. The attendant burden we estimate also reflects an industry average, although burden associated with individual petitions may vary depending on the complexity of the petition, and the amount and type of data needed for scientific analysis.

CAPs are subject to fees. The listing fee for a CAP ranges from \$1,600 to \$3,000, depending on the intended use of the color additive and the scope of the requested amendment. A complete schedule of fees is set forth in 21 CFR 70.19. An average of one Category A and one Category B CAP is expected per year. The maximum CAP fee for a Category A petition is \$2,600, and the maximum CAP fee for a Category B petition is \$3,000. Because an average of four CAPs are expected per calendar year, the estimated total annual operating and maintenance cost burden to petitioners for this startup cost would be less than or equal to \$11,200 ($(2 \times \$2,600) + (2 \times \$3,000)$ listing fees). There are no capital costs associated with CAPs.

The labeling requirements for food and color additives were designed to specify the minimum information needed for labeling so that food and color manufacturers may comply with all applicable provisions of the FD&C Act and other specific labeling acts administered by FDA. Label information

does not require any additional information gathering beyond what is already required to assure conformance with all specifications and limitations in any given food or color additive regulation. Label information does not have any specific recordkeeping requirements unique to preparing the label. Therefore, because labeling requirements under § 70.25 for a particular color additive involve information required as part of the CAP safety review process, the estimate for number of respondents is the same for §§ 70.25 and 71.1, and the burden hours for labeling are included in the estimate for § 71.1. Also, because labeling requirements under parts 172, 173, 179, and 180 for particular food additives involve information required as part of the FAP safety review process under § 171.1, the burden hours for labeling are included in the estimate for § 171.1.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–06935 Filed 4–9–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2026–N–2915]

Agency Information Collection Activities; Proposed Collection; Comment Request; Premarket Approval of Medical Devices

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are

required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection associated with premarket approval of medical devices.

DATES: Either electronic or written comments on the collection of information must be submitted by June 9, 2026.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of June 9, 2026. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

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

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

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

Instructions: All submissions received must include the Docket No. FDA-2026-N-2915 for Premarket Approval of Medical Devices. Received comments, those filed in a timely manner (see **ADDRESSES**), 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 a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

FOR FURTHER INFORMATION CONTACT:

Amber Barrett, Office of Operations, Food and Drug Administration, Three White Flint North, 10A-12M, 11601 Landsdown St., North Bethesda, MD 20852, 301-796-8867, PRASStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501-3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. “Collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA’s functions, including whether the information will have practical utility; (2) the accuracy of FDA’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Premarket Approval of Medical Devices

OMB Control Number 0910-0231—Extension

This information collection supports implementation of statutory and regulatory requirements that govern premarket approval of medical devices. Premarket approval (PMA) is the FDA process of scientific and regulatory review to evaluate the safety and effectiveness of Class III medical devices. Class III devices are those that support or sustain human life, are of substantial importance in preventing impairment of human health, or which present a potential, unreasonable risk of illness or injury. Due to the level of risk associated with Class III devices, FDA has determined that general and special controls alone are insufficient to assure the safety and effectiveness of Class III devices. Therefore, these devices require a premarket approval (PMA) application under section 515 of the FD&C Act (21 U.S.C. 360e) in order to obtain marketing approval. Please note that PMA requirements apply differently to pre-amendments devices, post amendments devices, and transitional class III devices and some Class III pre-amendment devices may require a Class III 510(k). See the PMA Historical Background web page at <https://www.fda.gov/medical-devices/premarket-approval-pma/pma-historical-background> for additional information. Section 515A of the FD&C Act (21 U.S.C. 360e-1) governs pediatric uses of devices.

The PMA is the most stringent type of device marketing application required by FDA. Applicants must receive FDA approval of a PMA application prior to marketing the device. PMA approval is based on a determination that the PMA contains sufficient valid scientific evidence to assure that the device is safe and effective for its intended use(s). Respondents to the information collection are PMA applicants, or persons who own the rights, or otherwise have authorized access, to the data and other information to be submitted in support of FDA approval. This person may be an individual, partnership, corporation, association, scientific or academic establishment, government agency or organizational unit, or other legal entity. The applicant is often the inventor/developer and ultimately the manufacturer. A Class III device that fails to meet PMA requirements is considered to be adulterated under section 501(f) of the FD&C Act (21 U.S.C. 351(f)) and may not be marketed.

FDA regulations in part 814 (21 CFR part 814) implement section 515 and

515A of the FD&C Act and establish procedures for the premarket approval of medical devices intended for human use, including the submission of information concerning use in pediatric patients. Regulations in part 814, subpart A (§§ 814.1 to 814.19) set forth general provisions pertaining to the confidentiality of data and information submitted to FDA in a PMA, research conducted outside the United States, service of orders, and product development protocols. Provisions in part 814, subparts B and C (§§ 814.20 to 814.47) establish format and content elements that must be included in an application, explain submission, and review schedules, and address the withdrawal and temporary suspension of a PMA. Post approval requirements, including reports required under 21 CFR part 803 (medical device reporting), are covered in regulations in part 814, subpart E (§§ 814.80 to 814.84). Burden attributable to information collection associated with regulations in part 814, subpart H (§§ 814.100 to 814.126) pertaining to Humanitarian Use Devices is currently approved in OMB control number 0910–0332.

For operational efficiency, we are revising the information collection to include burden that may be associated with recommendations found in the Agency guidance document entitled, “Providing Information about Pediatric Uses of Medical Devices” (May 2014), currently approved in OMB control number 0910–0748. The guidance document describes how to compile and submit the readily available pediatric use information required under section 515A of the FD&C Act. The guidance document is available for download from our website at <https://www.fda.gov/regulatory-information/>

search-fda-guidance-documents/ providing-information-about-pediatric-uses-medical-devices.

Relatedly, we are revising the information collection to include burden that may be associated with the submission of information on pediatric use of medical devices under section 515A of the FD&C Act, also currently approved in OMB control number 0910–0748. Section 515A(a) of the FD&C Act requires applicants who submit information to include readily available information providing a description of any pediatric subpopulations that suffer from the disease or condition that the device is intended to treat, diagnose, or cure, and the number of affected pediatric patients. This information allows FDA to track the number of approved devices for which there is a pediatric subpopulation that suffers from the disease or condition that the device is intended to treat, diagnose, or cure and the review time for each such device application.

We are also revising the information collection to include burden applicable to implementing requirements under section 402(j)(5)(B) of the Public Health Service (PHS) Act (42 U.S.C. 282(j)(5)(B)), and set forth in regulations at 42 CFR part 11 (see 81 FR 64982, September 21, 2016). Specifically, applications under sections 505, 515, or 520(m) of the FD&C Act (21 U.S.C. 355, 360e, or 360j(m)), or under section 351 of the PHS Act (42 U.S.C. 262), or submission of a report under section 510(k) of the FD&C Act, must be accompanied by a certification. Where available, such certification must include the appropriate National Clinical Trial numbers. We have developed Form FDA 3674 “(Certification of Compliance Under 42

U.S.C. 282(j)(5)(B), with Requirements of *ClinicalTrials.gov* Data Bank (includes instructions)”, available at <https://www.fda.gov/science-research/clinical-trials-and-human-subject-protection/clinical-trial-forms> for respondents to submit the requisite information.

Respondents can make single submissions in an electronic format that includes eCopies, submissions submitted on CD, DVD, or flash drive and mailed to FDA and eSubmissions, submissions created using an electronic submission template (e.g., “electronic Submission Template and Resource” (eSTAR)). Consistent with our authority in section 745A(b) of the FD&C Act (21 U.S.C. 379k–1(b)), and performance goals found in our current Medical Device User Fee Amendments Commitment Letter, we developed eSTAR for use through the Center for Devices and Radiological Health Customer Collaboration Portal. We use eSTAR as a tool to facilitate the preparation of submissions in electronic format (available on FDA’s website at <https://www.fda.gov/medical-devices/how-study-and-market-your-device/voluntary-estar-program> and identified as Form FDA 4062 “Electronic Submission Template and Resource (eSTAR)” (for Non-In Vitro Diagnostic submissions) and form FDA 4078 “Electronic Submission Template and Resource (eSTAR)” (for In Vitro Diagnostic submissions)). We believe respondents’ use of eSTAR will significantly reduce burden attendant to application submissions by providing a uniform format for requisite elements and by enhancing user interface through the use of modernized technology.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN ¹

Activity/21 CFR or FD&C Act section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response (hours)	Total hours
Premarket Approval Submissions (“traditional” and eSTAR preparation; eCopy submission)					
21 CFR Part 814, Premarket Approval of Medical Devices					
Subpart A—General					
Research conducted outside the United States (814.15(b)).	18	1	18	2	36
Subpart B—Premarket Approval Application (PMA):					
PMA application (814.20)	61	1	61	654.6 (654 hours, 38 minutes)	39,931
Information on clinical investigations conducted outside the United States (814.20(b)(6)(ii)(C)).	18	1	18	0.5 (30 minutes)	9
PMA amendments and resubmitted PMAs (814.37(a)–(c) and (e)).	1,125	4	4,500	167	751,500
PMA supplements (814.39(a))	598	3	1,794	0.983 (59.11 minutes)	1,764
Special PMA supplement—changes being affected (814.39(d)).	85	2	170	6	1,020
30-day notice (814.39(f))	1,499	15	22,485	16	359,760
Subtotal subpart B					1,153,984
Subpart C—FDA Action on a PMA:					

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN ¹—Continued

Activity/21 CFR or FD&C Act section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response (hours)	Total hours
Panel of experts request (814.42 and 515(c)(3) of the FD&C Act).	4	1	4	30	120
Subpart E—Postapproval Requirements:					
Postapproval requirements (814.82(a)(9))	14	1	14	135	1890
Periodic reports (814.84(b))	860	2	1,720	10	17,200
Subtotal subpart E					19,090
42 CFR Part 11, Clinical Trials Registration and Results Information Submission, subparts D and E; and FDA Guidance “Form FDA 3674—Certifications To Accompany Drug, Biological Product, and Device Applications/Submissions”					
Certification to accompany PMA submissions (Form FDA 3674).	61	1	61	0.75 (45 minutes)	46
FD&C Act section 515A Pediatric Uses of Devices and FDA Guidance “Providing Information about Pediatric Uses of Medical Devices”					
Pediatric information in a PMA, PDP, or PMA supplement	659	6	3,954	2.10 (2 hours, 6 minutes)	8,303
Pediatric use information outside approved indication	6	1	6	0.5 (30 minutes)	3
Subtotal					8,306
Premarket Approval Submissions (eSTAR preparation)					
eSTAR setup	1,529	6	9,174	0.08 (5 minutes)	734
Total					1,182,316

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

Our estimate is based on the annual rate of receipt of PMA submissions, including PDPs and PMA supplements, for fiscal years 2022 through 2024 and our expectation of submissions to come in the next few years. We also account for referrals of PMAs to a panel for review, as provided for under

§ 814.44(a). FDA may refer the PMA to a panel on its own initiative, and will do so upon request of an applicant, unless FDA determines that the application substantially duplicates information previously reviewed by a panel. We have adjusted our figures to reflect an overall decrease, which we

attribute to respondents' use of modernized submission technologies including eSTAR. At the same time, we include in our estimate an initial burden attributable to respondents who need to set up an eSTAR account for the first time.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN ¹

Activity/21 CFR section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Maintenance of records (814.82(a)(5) and (a)(6))	860	2	1,720	17	29,240

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

The regulations require the maintenance of records, which are used to trace patients, and the organization and indexing of records into identifiable files to ensure a device's continued safety and effectiveness. These records are required of all applicants who have an approved PMA. Currently there are 860 active PMAs that could be subject to these requirements, based on FDA data, and approximately 33 new PMAs are approved each year. We estimate our annual recordkeeping burden based on an average of 860 PMA holders. The applicant determines which records should be maintained during product development to document and/or substantiate the device's safety and effectiveness. Records required under 21 CFR part 820 may be relevant to a PMA review and may be submitted as part of

an application. In individual instances, records may be required as conditions of approval to ensure the device's continuing safety and effectiveness.

The overall burden increase of approximately 244% for reporting and 212% for recordkeeping represents a substantial change in the estimated regulatory burden for the PMA program. The increases are driven primarily by changes in estimated submission frequency rather than changes in the number of regulated entities or per-response burden estimates. The most significant factor is the dramatic increase in responses per respondent across multiple categories, particularly for 30-day notices (15× increase), PMA amendments (4× increase), pediatric information (6× increase), and eSTAR setup (6× increase). These changes suggest that the current estimates better

capture the actual submission patterns and regulatory interactions that occur throughout the lifecycle of approved medical devices, reflecting more frequent modifications, updates, and communications between industry and FDA than were captured in the previous estimates based on 2019–2021 data.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–06906 Filed 4–9–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2026-N-0707]

GlaxoSmithKline; Withdrawal of Approval of a New Drug Application for Wellcovorin (Leucovorin Calcium) Tablets, EQ 5 mg Base and EQ 25 mg Base

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is withdrawing approval of a new drug application (NDA) for Wellcovorin (leucovorin calcium) tablets, EQ 5 mg base and EQ 25 mg base, held by GlaxoSmithKline, LLC, 2020 Walnut Street, Philadelphia, PA 19104 (GSK). GSK notified the Agency in writing that the drug products were no longer marketed and requested that the approval of the applications be withdrawn.

DATES: Approval is withdrawn as of April 10, 2026.

FOR FURTHER INFORMATION CONTACT: Kimberly Thomas, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Silver Spring, MD 20993-0002, 301-796-3601, druginfo@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: GSK has informed FDA that for Wellcovorin (leucovorin calcium) tablets, EQ 5 mg base and EQ 25 mg base, is no longer marketed and have requested that FDA withdraw approval of the applications under the process in § 314.150(c) (21 CFR 314.150(c)). GSK has also, by their requests, waived their opportunity for a hearing. Withdrawal of approval of an application or abbreviated application under § 314.150(c) is without prejudice to refiling.

Therefore, approval of NDA 018342, and all amendments and supplements thereto, is hereby withdrawn as of April 10, 2026. Approval of the entire application is withdrawn, including any strengths and dosage forms inadvertently missing from this notice. Introduction or delivery for introduction into interstate commerce of Wellcovorin (leucovorin calcium) tablets, EQ 5 mg base and EQ 25 mg base, without an approved NDA violates sections 505(a) and 301 (d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(a) and 331(d)). Any Wellcovorin (leucovorin calcium) tablets, EQ 5 mg base and EQ 25 mg base, that is in inventory on April

10, 2026 may continue to be dispensed until the inventories have been depleted or the drug products have reached their expiration dates or otherwise become violative, whichever occurs first.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026-06911 Filed 4-9-26; 8:45 am]

BILLING CODE 4164-01-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; Fellowships: HIV/AIDS Biological Review Panel.

Date: May 7, 2026.

Time: 10:00 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: Annie Walker-Abbey, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (240) 627-3390, aabbey@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Chemistry, Biochemistry and Biophysics A.

Date: May 7-8, 2026.

Time: 10:00 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: John J. Laffan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 443-7154, laffanjo@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowship: Infectious Disease and Immunology A.

Date: May 7, 2026.

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: Lee G. Klinkenberg, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 761-7749, lee.klinkenberg@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Neuroimaging Technologies.

Date: May 7, 2026.

Time: 10:00 a.m. to 2:00 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: Sudhir Kumar U. Yanpallewar, MD Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 443-4577, sudhirkumar.yanpallewar@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; P/R Panel: Psychosocial and Interpersonal Influences Impacting Youth.

Date: May 7, 2026.

Time: 10:00 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: Janetta Lun, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827-4588, janetta.lun@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Projects: Centers and Cooperative Agreements on Substance Abuse and Aging Disorders.

Date: May 7, 2026.

Time: 10:00 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: Jasenka Borzan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (667) 900-1640, jasenka.borzan@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Myalgic Encephalomyelitis-Chronic Fatigue Syndrome.

Date: May 7, 2026.

Time: 11:00 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: Myongsoo Matthew Oh, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1011F, Bethesda, MD 20892, (301) 451-7968, ohmm@csr.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 7, 2026,

Rosalind M. Niamke,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026-06981 Filed 4-9-26; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 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; Review of mentored training and research education applications.

Date: May 5-6, 2026.

Time: 10:00 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: Lee Warren Slice, MS, BA, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 867-5309, sliselw@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: AD/ADRD and Aging-Related Outcomes.

Date: May 5, 2026.

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: Sue Andersen, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 480-5404, sue.andersen-navalta@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR-25-444: Cancer Center Support Grant.

Date: May 6-7, 2026.

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: Mukesh Kumar, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 809 C, Bethesda, MD 20892, (301) 451-0359, mukesh.kumar3@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA-HD-26-001: Development of Novel or Improved Infertility Technologies.

Date: May 7, 2026.

Time: 9:00 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: Thomas John O'Farrell, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 402-8559, tom.ofarrell@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Support for Research Excellence and Research Enhancement Awards: Molecular Genetics, Cellular and Cancer Biology.

Date: May 7, 2026.

Time: 9:00 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: Sandip Bhattacharyya, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20852, (301) 594-7121, sandip.bhattacharyya@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Collaborative Applications: Aging Research Cooperative Research Centers (U19 Clinical Trial Optional).

Date: May 7-8, 2026.

Time: 9:30 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: Shilpakala Ketha, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 761-6821, shilpa.ketha@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR-25-438: Rare Diseases Clinical Research Consortia (RDCRC) for the Rare Diseases Clinical Research Network (RDCRN) (U54 Clinical Trial Optional).

Date: May 7, 2026.

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: Bruce Sundstrom, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594-4481, SundstromJ@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Adaptive and Innate Immunity.

Date: May 7, 2026.

Time: 10:00 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: Poonam Pegu, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (240) 292-0719, poonam.pegu@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: April 7, 2026.

Rosalind M. Niamke,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026-06914 Filed 4-9-26; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Council of Councils.

The meeting will be open to the public as indicated below, with

attendance limited to space available. Individuals who plan to attend as well as those who need special assistance, such as sign language interpretation or other reasonable accommodations, must notify the Contact Person listed below in advance of the meeting. The open session will be videocast and can be accessed from the NIH Videocasting and Podcasting website (<http://videocast.nih.gov/>).

A portion of 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: Council of Councils.

Dates: May 14–15, 2026.

Open: May 14, 2026, 09:00 a.m. to 01:00 p.m.

Agenda: Welcome and Opening Remarks; Reminders and Procedures; DPCPSI Reports and Other Business of the Committee.

Place: National Institutes of Health, Building 35A, 35A Convent Drive, Rooms 620/630/640, Bethesda, MD 20892.

Closed: May 14, 2026, 01:00 p.m. to 02:00 p.m.

Agenda: Review of Grant Applications.

Place: National Institutes of Health, Building 35A, 35A Convent Drive, Rooms 620/630/640, Bethesda, MD 20892.

Open: May 14, 2026, 02:00 p.m. to 03:45 p.m.

Agenda: NIH Updates and Other Business of the Committee.

Place: National Institutes of Health, Building 35A, 35A Convent Drive, Rooms 620/630/640, Bethesda, MD 20892.

Open: May 15, 2026, 09:00 a.m. to 11:50 a.m.

Agenda: Welcome and Recap of Day 1; Program Updates and Other Business of the Committee.

Place: National Institutes of Health, Building 35A, 35A Convent Drive, Rooms 620/630/640, Bethesda, MD 20892.

Contact Person: Robin I. Kawazoe, Deputy Director, Division of Program Coordination, Planning, and Strategic Initiatives, National Institutes of Health, Building 1, Room 260, 1 Center Drive, Bethesda, MD 20892, 301–402–9852, kawazoer@mail.nih.gov.

Any interested person may file written comments with the committee by forwarding the 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.

Information is also available on the Council of Council's home page at

<http://dpcpsi.nih.gov/council/> where an agenda will be posted before the meeting date.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: April 8, 2026.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–06982 Filed 4–9–26; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6144–N–07]

RIN 2506–AC50

HOME Investment Partnerships Program—Maximum Per-Unit Subsidy Limit Methodology and Amount; Notice for Comment

AGENCY: Office of the Assistant Secretary for Community Planning and Development, U.S. Department of Housing and Urban Development (HUD).

ACTION: Notice for comment.

SUMMARY: This notice for comment establishes HUD's methodology for determining maximum per-unit subsidy limits for the HOME Investment Partnerships Program (HOME) and seeks public comment on the methodology described within this notice for comment. This notice for comment also establishes the maximum per-unit subsidy limits consistent with this methodology.

DATES: Public comments are due on May 11, 2026. The maximum per-unit subsidy limits described in this notice for comment are in effect and applicable to projects for which HOME funds are committed on or after May 11, 2026.

ADDRESSES: Interested persons are invited to submit comments regarding this notice for comment. To receive consideration as public comments, comments must be submitted through one of the two methods specified in this section. All submissions must refer to the above docket number and title.

1. *Electronic Submission of Comments.* Interested persons may

submit comments electronically through the Federal eRulemaking Portal at www.regulations.gov. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make comments immediately available to the public. Comments submitted electronically through www.regulations.gov can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on www.regulations.gov to submit comments electronically.

2. *Submission of Comments by Mail.* Comments may be submitted by mail to the Regulations Division, Office of General Counsel, U.S. Department of Housing and Urban Development, 2415 Eisenhower Ave., Alexandria, VA 22314.

Public Inspection of Public Comments. HUD will make all properly submitted comments and communications available for public inspection and copying between 8:00 a.m. and 5:00 p.m. weekdays at the address listed in this section. Due to security measures at the HUD Headquarters building, you must schedule an appointment in advance to review the public comments by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>. Copies of all comments submitted are available for inspection and downloading at www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Henrietta Owusu, Deputy Director, Office of Affordable Housing Programs, Office of Community Planning and Development, U.S. Department of Housing and Urban Development, 451 7th Street SW, Room 7160, Washington, DC 20410; telephone number (202) 708–2684 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

SUPPLEMENTARY INFORMATION:**I. Background**

On January 6, 2025, HUD published the HOME Investment Partnerships Program: Program Updates and Streamlining final rule (HOME Final Rule) in the **Federal Register**, available at 90 FR 746. Consistent with the requirements of section 212(e) of the Cranston-Gonzalez National Affordable Housing Act (NAHA),¹ the HOME Final Rule states that HUD will publish its methodology for determining maximum per-unit dollar limits through a publication in the **Federal Register** with the opportunity for comment.² The HOME Final Rule, at 24 CFR 92.250(a), also requires HUD to determine the total amount of HOME funds that a participating jurisdiction may invest on a per-unit basis in affordable housing in accordance with NAHA and publish the maximum per-unit dollar limits for the area in which the housing is located annually.

II. Methodology for Determining Maximum Per-Unit Subsidy Limits for the HOME Program

Through this notice for comment, HUD is identifying and implementing a methodology for the annual determination of the maximum per-unit subsidy limit.

On May 29, 2024, HUD published the HOME Investment Partnerships Program: Program Updates and Streamlining proposed rule (HOME Proposed Rule) in the **Federal Register**, available at 89 FR 46618. In the HOME

Proposed Rule, HUD proposed to establish the maximum per-unit subsidy limit as 270 percent of the basic mortgage limitations for section 234 of the National Housing Act (12 U.S.C. 1715y) for condominium housing. In the HOME Final Rule, HUD responded to public comments on this proposal, which were generally supportive. For a summary of the comments and HUD's response, see the HOME Final Rule at 90 FR 802.

Following the publication of the HOME Final Rule, HUD reconsidered the public comments and assessed the impact of implementing the maximum per-unit subsidy limit as 270 percent of the basic mortgage limitations for section 234 of the National Housing Act for condominium housing. This would have constituted an increase from 240 percent of the basic mortgage limitations for section 234 of the National Housing Act for condominium housing that has been the basis for the maximum per-unit subsidy limits since the publication of Notice CPD–15–003: Interim Policy on Maximum Per-Unit Subsidy Limits for the HOME Program in 2015. Based on this review, HUD determined that permitting increased spending on HOME projects with higher per-unit costs would result in fewer affordable housing units. Accordingly, through this notice for comment, HUD is establishing the maximum per-unit subsidy limit for the HOME program as 240 percent of the basic mortgage limitations for section 234 of the National Housing Act for condominium housing. HUD believes that maintaining its existing

policy is consistent with the statute and will not negatively impact the production of affordable housing.

HUD is requesting comments from industry stakeholders and other interested persons on the practicability and appropriateness of this maximum per-unit subsidy limit methodology. Public comment in response to this notice for comment provides HUD with the opportunity to perform a higher level of review of current development and construction costs, evaluate ongoing changes in costs due to changes in building codes and industry practices, determine whether different eligible activities (*i.e.*, homeownership versus rental) should have different methodologies, and consider and respond to comments in the implementation of a revised maximum per-unit subsidy limit methodology. HUD will consider the comments it receives in response to this notice for comment when it considers making changes to the maximum per unit subsidy limit methodology or amount in the future.

III. Maximum Per-Unit Subsidy Limits for the HOME Program

Consistent with the HOME Final Rule codified at 24 CFR 92.250 and this notice for comment, HUD is establishing the maximum per-unit subsidy limit for the HOME program as 240 percent of the basic mortgage limitations for section 234 of the National Housing Act's condominium housing limit for elevator-type projects.³ The maximum per-unit subsidy limits are as follows:

Bedrooms	2025 Section 234 Elevator Statutory Limit	2025 HOME Maximum Per Unit Subsidy Limit
0	\$78,191	\$187,658
1	89,634	215,122
2	108,998	261,595
3	141,008	338,419
4	154,782	371,477

HUD intends to issue updated maximum per-unit subsidy limits using this methodology annually. HUD may revise this methodology through the issuance of a future publication for comment in the **Federal Register**.

IV. Environmental Impact

This notice involves a statutorily required establishment of maximum per-unit subsidy limits that does not

constitute a development decision affecting the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 50.19(c)(6), this notice for comment is categorically excluded from environmental review

under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Ronald J. Kurtz,

Assistant Secretary for Community Planning and Development.

[FR Doc. 2026–06926 Filed 4–9–26; 8:45 am]

BILLING CODE 4210–67–P

¹ Section 212(e) of NAHA (42 U.S.C. 12742(e)) requires HUD to establish limits on the amount of HOME funds that may be invested on a per-unit basis.

² See 24 CFR 92.250(a)

³ HUD's most recent publication of the Annual Indexing of Basic Statutory Mortgage Limits for Multifamily Housing Programs, including elevator-

type projects, was announced in the notice entitled "Annual Indexing of Basic Statutory Mortgage Limits for Multifamily Housing Programs" (89 FR 10089, Feb. 13, 2024).

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-7094-N-07; OMB Control No. 2506-0195]

60-Day Notice of Proposed Information Collection: Rural Capacity Building

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* June 9, 2026.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal.

Written comments and recommendations for the proposed information collection can be sent within 60 days of publication of this notice to www.regulations.gov. Interested persons are also invited to submit comments regarding this proposal and comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Urnell Johnson PRA Supervisor Correspondence Unit, Department of Housing and Urban Development, 451

7th Street SW, Room 7232, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT:

Anupama Abhyankar Management and Program Analyst, CPD Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Anupama.v.abhyankar@hud.gov, telephone (202) 402-3981. This is not a toll-free number. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>. Copies of available documents submitted to OMB may be obtained from Anupama Abhyankar.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Rural Capacity Building.

OMB Approval Number: 2506-0195.

Type of Request: Revision of a currently approved collection. Only for post award activities.

Pre award activities were submitted under a child PRA under collection number 2501-0044.

Form Number: SF 425 and Disaster Recovery Grant Reporting System. (DRGR).

Description of the need for the information and proposed use: The Rural Capacity Building for Community Development and Affordable Housing (RCB) program and the funding made available have been authorized by the Annual Appropriations Acts each year since FY 2012. The RCB program enhances the capacity and ability of rural housing development organizations, Community Development Corporations (CDCs), Community Housing Development Organizations (CHDOs), local governments, and Indian tribes (eligible beneficiaries) to carry out affordable housing and community development activities in rural areas for the benefit of low- and moderate-income families and persons. The RCB program achieves this by funding National Organizations with expertise in rural housing and rural community development who work directly to build the capacity of eligible beneficiaries. Grantees of the RCB program are required to submit certain information as part of the requirements as a grantee.

Estimated Number of Respondents: 5 respondents for 15 grant awards.

Estimated Number of Responses: 250.

Frequency of Response: Varies depending on collection item between 1 and 12 responses per year.

Average Hours per Response: 370 hours.

Total Estimated Burdens: Annual cost \$21,589.50.

TABLE 1—RCB INFORMATION COLLECTION BURDEN HOURS FOR THE PUBLIC

Description of information collection	Number of respondents	Frequency of responses	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Non-recurring:							
DRGR Activation & Account Setup	5	1	5	2	10	\$ 58.35	\$ 583.50
Action Plan Setup & Submission	5	1	5	12	60	58.35	3501.00
Recurring:							
Action Plan Revisions	15	2	30	0.5	15	58.35	875.25
Semi-Annual Report Submissions	15	2	30	8	240	58.35	14,004.00
Voucher Submission	15	12	180	0.25	45	58.35	2,625.75
Total Paperwork Burden	Varies	Varies	250	Varies	370	58.35	21,589.50

National Non-Profits and often staffed by mid-career individuals, the cost figures are estimated based on local staff earning the equivalent of a GS-13, Step 1, base hourly rate for FY 2026 is \$58.35/hour *OPM.gov*.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of

information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 2 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507.

Ronald J. Kurtz,

Assistant Secretary for Community Planning and Development.

[FR Doc. 2026-06973 Filed 4-9-26; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service**

[Docket No. FWS-HQ-IA-2026-0496;
FXIA16710900000-267-FF09A30000]

Wild Bird Conservation Act; Receipt of Permit Application

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit application; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), invite the public to comment on an application for the approval of a cooperative breeding program under the Wild Bird Conservation Act (WBCA). With some exceptions, the WBCA prohibits the importation of exotic birds unless Federal authorization is issued that allows the activity. The regulations implementing WBCA also require that we invite public comment on each application received requesting the approval of a cooperative breeding program.

DATES: We must receive comments by May 11, 2026.

To ensure your comment is received and considered, you must submit it using one of the methods identified in the **ADDRESSES** section of this document. Comments submitted through any method not authorized in this document, or sent to an address not listed here, will not be considered.

ADDRESSES:

Obtaining Documents: The application, application supporting materials, and any comments and other materials that we receive will be available for public inspection at <https://www.regulations.gov> in Docket No. FWS-HQ-IA-2026-0496.

Submitting Comments: All submissions must include the docket number [FWS-HQ-IA-2026-0496] for this document. You must submit comments using one of the following methods:

- *Electronic submission:* Federal eRulemaking Portal at: <https://www.regulations.gov>. In the Search box, enter FWS-HQ-IA-2026-0496, which is

the docket number for this action. Then click the Search button. On the resulting page, you may submit a comment by clicking on "Comment." Please ensure that you have found the correct document before submitting your comments.

- *U.S. mail:* Public Comments Processing, Attn: Docket No. FWS-HQ-IA-2026-0496, Policy and Regulations Branch, U.S. Fish and Wildlife Service, MS: PRB (JAO/3W), 5275 Leesburg Pike, Falls Church, VA 22041-3803.

Comments submitted through any method not authorized in this document, or sent to an address not listed here, will not be considered. We will not accept comments via email, fax, or hand delivery. We are not required to consider comments that are submitted after the comment period ends or that are submitted via a method outside of these instructions. Comments containing profanity, vulgarity, threats, or other inappropriate content will not be considered.

For more information, see Public Comment Procedures under **SUPPLEMENTARY INFORMATION**. **FOR FURTHER INFORMATION CONTACT:** Brenda Tapia, by phone at 703-358-2185 or via email at DMAFR@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:**I. Public Comment Procedures***A. How do I comment on submitted applications?*

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.

You may submit your comments and materials by one of the methods in **ADDRESSES**. We will not consider comments sent by email, or to an address not in **ADDRESSES**. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**).

When submitting comments, please specify the name of the applicant and the permit number at the beginning of your comment. Provide sufficient information to allow us to authenticate

any scientific or commercial data you include. The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) those that include citations to, and analyses of, the applicable laws and regulations.

B. May I review comments submitted by others?

You may view and comment on others' public comments at <https://www.regulations.gov> unless our allowing so would violate the Privacy Act (5 U.S.C. 552a) or Freedom of Information Act (5 U.S.C. 552).

C. Who will see my comments?

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.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 112(4) of the Wild Bird Conservation Act of 1992 (WBCA; 16 U.S.C. 4901-4916), we invite public comments on certain permit applications before final action is taken. With some exceptions, the WBCA prohibits importation of exotic birds unless Federal authorization is issued that allows such activity. Service regulations regarding permits for any activity otherwise prohibited by the WBCA with respect to any exotic birds are available in title 50 of the Code of Federal Regulations (CFR) in part 15.

III. Permit Applications

We invite comments on the following application.

Wild Bird Conservation Act

Applicant: Christine Touchton, Bushnell, FL; Permit No. PER27990770.

The applicant wishes to renew and amend Cooperative Breeding Program CB044, requesting to add 10.10 Dusky

Lory (*Pseudeos fuscata*) to the current CBP approvals listed here: 8.8 Collared lory (*Phigys solitaries*); 8.8 Blue-crowned lorikeet (*Vini australis*); and 8.8 Cardinal lory (*Chalcopsitta cardinalis*).

IV. Next Steps

After the comment period closes, we will make decisions regarding permit issuance. If we issue a permit to the applicant listed in this notice, the Permittee will be included in the list of approved cooperative breeding programs which is published periodically as appropriate as a notice in the **Federal Register**.

V. Authority

We issue this notice under the authority of the implementing regulations and under the authority of the Wild Bird Conservation Act of 1992 (16 U.S.C. 4901–4916). This notice is provided pursuant to section 112(4) of the Wild Bird Conservation Act of 1992, 50 CFR 15.26(c).

Scott Carleton,

Acting Branch Chief, Branch of Permits,
Division of Management Authority.

[FR Doc. 2026–07026 Filed 4–9–26; 8:45 am]

BILLING CODE 4333–15–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1441]

Certain Glass Substrates for Liquid Crystal Displays, Products Containing the Same, and Methods for Manufacturing the Same II; Notice of Request for Submissions on the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that on April 7, 2026, the presiding administrative law judge (“ALJ”) issued an Initial Determination on Violation of Section 337. The ALJ also issued a Recommended Determination on remedy and bonding should a violation be found in the above-captioned investigation. The Commission is soliciting submissions on public interest issues raised by the recommended relief should the Commission find a violation. This notice is soliciting comments from the public and interested government agencies only.

FOR FURTHER INFORMATION CONTACT: B. Rashmi Borah, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW,

Washington, DC 20436, telephone (202) 205–2518. 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: Section 337 of the Tariff Act of 1930 provides that, if the Commission finds a violation, it shall exclude the articles concerned from the United States unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry. (19 U.S.C. 1337(d)(1)).

The Commission is soliciting submissions on public interest issues raised by the recommended relief should the Commission find a violation, specifically: a limited exclusion order directed to certain glass substrates for liquid crystal displays, products containing the same, and methods for manufacturing the same imported, sold for importation, and/or sold after importation by respondents Caihong Display Devices Co., Ltd.; Xianyang CaiHong Optoelectronics Technology Co., Ltd.; TCL China Star Optoelectronics Technology Co., Ltd.; and TTE Technology, Inc. d/b/a TCL North America. Parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4).

The Commission is interested in further development of the record on the public interest in this investigation. Accordingly, members of the public and interested government agencies are invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the ALJ’s Recommended Determination on Remedy and Bonding issued in this investigation on April 7, 2026. Comments should address whether issuance of the recommended remedial orders in this investigation, should the Commission find a violation, would affect the public health and welfare in the United States, competitive

conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

- (i) explain how the articles potentially subject to the recommended remedial orders are used in the United States;
- (ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended orders;
- (iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;
- (iv) indicate whether complainant, complainant’s licensees, and/or third-party suppliers have the capacity to replace the volume of articles potentially subject to the recommended orders within a commercially reasonable time; and
- (v) explain how the recommended orders would impact consumers in the United States.

Written submissions must be filed no later than by close of business on May 8, 2026.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above pursuant to 19 CFR 210.4(f). Submissions should refer to the investigation number (“Inv. No. 337–TA–1441”) in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, https://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) and 210.5(e)(2) (19 CFR 201.6(b) & 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. Any non-party wishing to submit comments containing confidential information must serve those comments on the parties to the investigation pursuant to the applicable Administrative Protective Order. A redacted non-confidential version of the document must also be filed simultaneously with any confidential

filing and must be served in accordance with Commission Rule 210.4(f)(7)(ii)(A) (19 CFR 210.4(f)(7)(ii)(A)). All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

This action is taken under the authority of 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: April 8, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026-07031 Filed 4-9-26; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332-608]

United States-Mexico-Canada Agreement (USMCA) Automotive Rules of Origin: Economic Impact and Operation, 2027 Report; Proposed Information Collection; Comment Request; The USMCA Automotive Rules of Origin Motor Vehicle Producer Questionnaire

AGENCY: United States International Trade Commission.

ACTION: Notice of request for public comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the U.S. International Trade Commission (Commission or USITC) hereby gives notice that it plans to submit a request for approval of a questionnaire to the Office of Management and Budget (OMB) for review and requests public comment on its draft proposed collection.

DATES: To ensure that the Commission will consider your comments, it must receive them no later than 60 days after publication of this notice in the **Federal Register**.

ADDRESSES: All Commission offices are in the U.S. International Trade Commission Building, 500 E Street SW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Please direct all questions to the project team via email at USMCAAutoROO@usitc.gov or via phone to Conor Hargrove at 202-708-5409.

The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. General information concerning the Commission may be obtained by accessing its internet address (<https://www.usitc.gov>). Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on 202-205-1810.

SUPPLEMENTARY INFORMATION:

Background: The information requested by the questionnaire is for use by the Commission in connection with Investigation No. 332-608, *USMCA Automotive Rules of Origin: Economic Impact and Operation, 2027 Report*, instituted under section 202A(g)(2) of the United States-Mexico-Canada Agreement Implementation Act (19 U.S.C. 4532(g)(2)) (the Act). The Act requires the Commission to prepare a series of five biennial reports on the USMCA automotive rules of origin (ROOs) and the impact of the ROOs on the U.S. economy, effect on U.S. competitiveness, and relevancy considering recent technology changes, and to provide those reports to the President, the House Committee on Ways and Means, and the Senate Committee on Finance. The second of the five reports was delivered on July 1, 2025, with three additional reports due in 2027, 2029, and 2031.

This investigation was instituted on February 11, 2026, and the notice of investigation was published in the **Federal Register** on February 23, 2026 (91 FR 8521), and corrected on February 26, 2026 (91 FR 9640). The Commission will deliver its report in this investigation to the President and the committees no later than July 1, 2027. The Commission indicated in its notice of investigation that it will need to obtain data and information through a survey. The survey will assist the Commission in gathering responses and data from motor vehicle producers to determine the impacts of the ROOs on the aforementioned factors.

Summary of proposal: The Commission intends to submit the following draft information collection plan to OMB and invites public comment.

(1) *Number of forms submitted:* 1.

(2) *Title of forms:* The USMCA Automotive Rules of Origin Motor Vehicle Producer Questionnaire.

(3) *Type of request:* New.

(4) *Frequency of use:* Industry questionnaire, single data gathering, scheduled for 2026.

(5) *Description of respondents:* North American motor vehicle producers with U.S. production operations.

(6) *Estimated number of respondents:* 25.

(7) *Estimated total number of hours to complete the questionnaire per respondent:* 25 hours.

(8) Information obtained from the questionnaire will be treated as confidential business information by the Commission and not disclosed in a manner that would reveal the individual operations of a business.

Method of collection: Respondents will be sent an email with a link and individual code for accessing the online form. Once the online form is complete, respondents will be directed to submit the form by selecting a submit button.

Request for comments: Comments are invited on (1) the elements of the draft questionnaire; (2) whether the proposed collection of information is necessary; (3) the accuracy of the agency's estimate of the burden of the proposed information collection; (4) ways to enhance the quality, utility, and clarity of the information to be collected; and (5) 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.

The draft questionnaire and other supplementary documents may be downloaded from the USITC website at <https://www.usitc.gov/USMCAAutoROO>.

Any comments on the draft questionnaire should be sent via email at USMCAAutoROO@usitc.gov. 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. As such, proprietary or confidential business information should not be submitted as part of comments on the draft questionnaire.

By order of the Commission.

Issued: April 6, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026-06944 Filed 4-9-26; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Pickleball Paddles, DN 3898*; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (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 United States International Trade Commission (USITC) at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at <https://edis.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: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Sport Squad, Inc. on April 7, 2026. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain pickleball paddles. The complaint names as respondents: Franklin Sports, Inc. of Stoughton, MA; Proton Sports, Inc. of Scottsdale, AZ; Vegas Pickleball LLC d/

b/a RPM Pickleball of Delray Beach, FL; Engage Pickleball, LLC of Oxford, FL; Friday Labs, LLC of San Francisco, CA; Diadem Sports LLC of Pompano Beach, FL; Facolospickleball LLC of Denver, CO; Paddletek, LLC of Niles, MI; ProXR, LLC of Rolla, MO; All Racquet Sports, LLC of Wilmington, DE; All For Padel S.L. of Spain; and Volair C Corp., Inc. of Austin, TX. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, members of the public, and interested government agencies are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the

close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due, notwithstanding § 201.14(a) of the Commission's Rules of Practice and Procedure. No other submissions will be accepted, unless requested by the Commission. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number ("Docket No. 3898") in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, Electronic Filing Procedures¹). 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. Persons with questions regarding filing should contact the Secretary at EDIS3Help@usitc.gov. Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,² solely for cybersecurity

¹ Handbook for Electronic Filing Procedures: https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.

² All contract personnel will sign appropriate nondisclosure agreements.

purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.³ This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: April 7, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026-06945 Filed 4-9-26; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

[OMB Number 1124-0006]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Previously Approved Collection; Exhibit A to Registration Statement of Foreign Agents (Form NSD-3)

AGENCY: Foreign Agents Registration Act Unit (FARA Unit), Counterintelligence and Export Control Section (CES), National Security Division (NSD), U.S. Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Foreign Agents Registration Act (FARA) Unit, Counterintelligence and Export Control Section (CES), National Security Division (NSD), U.S. Department of Justice, is submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: The Department of Justice encourages public comment and will accept input until June 9, 2026 on this request for a 60-day Notice for OMB three-year re-approval of the Exhibit A to Registration Statement, Form NSD-3. This is a request for a revision with changes of a previously approved information collection for Form NSD-3. Please note that this notice does not concern the previously published notice of proposed rulemaking ("NPRM") related to regulations under FARA.

FOR FURTHER INFORMATION CONTACT: If you have additional comments including on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or

additional information, please contact Evan Turgeon, Chief, Foreign Agents Registration Act Unit, Counterintelligence and Export Control Section, National Security Division, 175 N Street NE, Constitution Square Building Three, Suite 1.100, Washington, DC 20002, email: fara.public@usdoj.gov, telephone: (202) 233-0776.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information, Form NSD-3, is necessary for the proper performance of the functions of the National Security Division, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so, how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Abstract: Information collection webform for entities and individuals registering pursuant to the Foreign Agents Registration Act of 1938, as amended.

Overview of This Information Collection

1. *Type of Information Collection:* Revision of a previously approved collection.

2. *The Title of the Form/Collection:* Exhibit A to Registration Statement (Foreign Agents).

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is NSD-3. The applicable component within the Department of Justice is the Foreign Agents Registration Act Unit (FARA Unit), Counterintelligence and Export Control Section, National Security Division.

4. *Affected public who will be asked or required to respond, as well as a brief*

abstract: Primary: Private sector entities, including businesses, other for-profit entities, not-for-profit institutions, and individuals required to register under the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611 *et seq.* (FARA).

5. *Obligation to Respond:* The filing of this completed webform is required pursuant to FARA for the purposes of registration under the Act and public disclosure. Registrants are required by statute and regulation to provide the information requested on this form, and failure to provide the information is subject to the penalty and enforcement provisions established in Section 8 of FARA.

6. *Total Estimated Number of Respondents:* Based on the projected number of registrations from 2026 to 2029, an estimated 113 respondents annually will complete Form NSD-3.

7. *Estimated Time per Respondent:* Based on sample user testing, each respondent will take .22 hours to complete the form, which takes into consideration the improved e-File webform features. The following factors were considered when creating the burden estimate: the estimated total number of respondents, the intuitive online FARA e-File registration process, and the prior collection of the data necessary to complete the filing.

8. *Frequency:* Variable. Based on the projected number of registrations from 2026 to 2029, an estimated 113 respondents annually will complete Form NSD-3.

9. *Total Estimated Annual Time Burden:* $113 \times .22 = 24.86$ hours.

10. *Total Estimated Annual Other Costs Burden: Total Estimated Annual Other Costs Burden:* 305.00 per new Foreign Principal. See 28 CFR 5.5 (setting filing fees). Every registrant (or person filing on behalf of a registrant) is required to pay a filing fee of \$305.00 per new foreign principal. [This is captured in #7 of the 60-day notice as well as item 13 of the Supporting Statement A].

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Enterprise Portfolio Management, Two Constitution Square, 145 N Street NE, 4W-218, Washington, DC.

Dated: April 8, 2026.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2026-07022 Filed 4-9-26; 8:45 am]

BILLING CODE 4410-PF-P

³ Electronic Document Information System (EDIS): <https://edis.usitc.gov>.

DEPARTMENT OF JUSTICE**[OMB Number 1124-0004]****Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Previously Approved Collection; Exhibit B to Registration Statement of Foreign Agents (Form NSD-4)**

AGENCY: Foreign Agents Registration Act Unit (FARA Unit), Counterintelligence and Export Control Section (CES), National Security Division (NSD), U.S. Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Foreign Agents Registration Act (FARA) Unit, Counterintelligence and Export Control Section (CES), National Security Division (NSD), U.S. Department of Justice, is submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: The Department of Justice encourages public comment and will accept input until June 9, 2026 on this request for a 60-day Notice for OMB three-year re-approval of the Exhibit B to Registration Statement, Form NSD-4. This is a request for a revision with changes of a previously approved information collection for Form NSD-4. Please note that this notice does not concern the previously published notice of proposed rulemaking (“NPRM”) related to regulations under FARA.

FOR FURTHER INFORMATION CONTACT: If you have additional comments including on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Evan Turgeon, Chief, Foreign Agents Registration Act Unit, Counterintelligence and Export Control Section, National Security Division, 175 N Street NE, Constitution Square Building Three, Suite 1.100, Washington, DC 20002, email: fara.public@usdoj.gov, telephone: (202) 233-0776.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information, Form NSD-4, is necessary for the proper

performance of the functions of the National Security Division, including whether the information will have practical utility;

- Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so, how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Abstract: Information collection webform for entities and individuals registering pursuant to the Foreign Agents Registration Act of 1938, as amended.

Overview of This Information Collection

1. *Type of Information Collection:* Revision of a previously approved collection.

2. *The Title of the Form/Collection:* Exhibit B to Registration Statement (Foreign Agents).

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is NSD-4. The applicable component within the Department of Justice is the Foreign Agents Registration Act Unit (FARA Unit), Counterintelligence and Export Control Section, National Security Division.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Private sector entities, including businesses, other for-profit entities, not-for-profit institutions, and individuals required to register under the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611 *et seq.* (FARA).

5. *Obligation to Respond:* The filing of this completed webform is required pursuant to FARA for the purposes of registration under the Act and public disclosure. Registrants are required by statute and regulation to provide the information requested on this form, and failure to provide the information is subject to the penalty and enforcement provisions established in Section 8 of FARA.

6. *Total Estimated Number of Respondents:* Based on the projected

number of registrations from 2026 to 2029, an estimated 320 respondents annually will complete Form NSD-4.

7. *Estimated Time per Respondent:* Based on sample user testing, each respondent will take .32 hours to complete the form, which takes into consideration the improved e-File webform features. The following factors were considered when creating the burden estimate: the estimated total number of respondents, the intuitive online FARA e-File registration process, and the prior collection of the data necessary to complete the filing.

8. *Frequency:* Variable. Based on the projected number of registrations from 2026 to 2029, an estimated 320 respondents annually will complete Form NSD-4.

9. *Total Estimated Annual Time Burden:* $320 \times .32 = 102.40$ hours.

10. *Total Estimated Annual Other Costs Burden:* \$0.00. No registrant (or person filing on behalf of a registrant) must pay a fee when filing this form. [This is captured in #7 of the 60 day notice as well as item 13 of the Supporting Statement A].

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Enterprise Portfolio Management, Two Constitution Square, 145 N Street NE, 4W-218, Washington, DC.

Dated: April 8, 2026.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2026-07018 Filed 4-9-26; 8:45 am]

BILLING CODE 4410-PF-P

DEPARTMENT OF JUSTICE**[OMB Number 1124-0001]****Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Previously Approved Collection; Title: Registration Statement of Foreign Agents (Form NSD-1)**

AGENCY: Foreign Agents Registration Act Unit (FARA Unit), Counterintelligence and Export Control Section (CES), National Security Division (NSD), U.S. Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Foreign Agents Registration Act (FARA) Unit, Counterintelligence and Export Control Section (CES), National Security Division (NSD), U.S. Department of Justice, is submitting the following

information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: The Department of Justice encourages public comment and will accept input until June 9, 2026 on this request for a 60-day Notice for OMB three-year re-approval of the Registration Statement, Form NSD–1. This is a request for a revision with changes of a previously approved information collection for Form NSD–1. Please note that this notice does not concern the previously published notice of proposed rulemaking (“NPRM”) related to regulations under FARA.

FOR FURTHER INFORMATION CONTACT: If you have additional comments including on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Evan Turgeon, Chief, Foreign Agents Registration Act Unit, Counterintelligence and Export Control Section, National Security Division, 175 N Street, NE, Constitution Square Building Three, Suite 1.100, Washington, DC 20002, email: fara.public@usdoj.gov, telephone: (202) 233–0776.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information, Form NSD–1, is necessary for the proper performance of the functions of the National Security Division, including whether the information will have practical utility;
- Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so, how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Abstract: Information collection webform for entities and individuals registering pursuant to the Foreign Agents Registration Act of 1938, as amended.

Overview of This Information Collection

1. *Type of Information Collection:* Revision of a previously approved collection.
2. *The Title of the Form/Collection:* Registration Statement (Foreign Agents).
3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is NSD–1. The applicable component within the Department of Justice is the Foreign Agents Registration Act Unit (FARA Unit), Counterintelligence and Export Control Section, National Security Division.
4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Private sector entities, including businesses, other for-profit entities, not-for-profit institutions, and individuals required to register under the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611 *et seq.* (FARA).
5. *Obligation to Respond:* The filing of this completed webform is required pursuant to FARA for the purposes of registration under the Act and public disclosure. Registrants are required by statute and regulation to provide the information requested on this form, and failure to provide the information is subject to the penalty and enforcement provisions established in Section 8 of FARA.
6. *Total Estimated Number of Respondents:* Based on the projected number of registrations from 2026 to 2029, an estimated 113 respondents annually will complete Form NSD–1.
7. *Estimated Time per Respondent:* Based on sample user testing, each respondent will take .75 hours to complete the form, which takes into consideration the improved e-File webform features. The following factors were considered when creating the burden estimate: the estimated total number of respondents, the intuitive online FARA e-File registration process, and the prior collection of the data necessary to complete the filing.
8. *Frequency:* Once, for the duration of the specifically assigned registration number’s active status.
9. *Total Estimated Annual Time Burden:* $113 \times .75 = 84.75$ hours.
10. *Total Estimated Annual Other Costs Burden:* \$0.00. No registrant (or person filing on behalf of a registrant) must pay a fee when filing this form.

[This is captured in #7 of the 60 day notice as well as item 13 of the Supporting Statement A].

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Enterprise Portfolio Management, Two Constitution Square, 145 N Street NE, 4W–218, Washington, DC.

Dated: April 8, 2026.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2026–07019 Filed 4–9–26; 8:45 am]

BILLING CODE 4410–PF–P

DEPARTMENT OF JUSTICE

[OMB Number 1124–0002]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Previously Approved Collection; Title: Supplemental Statement to Registration Statement of Foreign Agents (Form NSD–2)

AGENCY: Foreign Agents Registration Act Unit (FARA Unit), Counterintelligence and Export Control Section (CES), National Security Division (NSD), U.S. Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Foreign Agents Registration Act (FARA) Unit, Counterintelligence and Export Control Section (CES), National Security Division (NSD), U.S. Department of Justice, is submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: The Department of Justice encourages public comment and will accept input for 60 days until June 9, 2026 on this request for a 60-day Notice for OMB three-year re-approval of the Supplemental Statement to Registration Statement, Form NSD–2. This is a request for a revision with changes of a previously approved information collection for Form NSD–2. Please note that this notice does not concern the previously published notice of proposed rulemaking (“NPRM”) related to regulations under FARA.

FOR FURTHER INFORMATION CONTACT: If you have additional comments including on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection

instrument with instructions or additional information, please contact Evan Turgeon, Chief, Foreign Agents Registration Act Unit, Counterintelligence and Export Control Section, National Security Division, 175 N Street NE, Constitution Square Building Three, Suite 1.100, Washington, DC 20002, email: fara.public@usdoj.gov, telephone: (202) 233-0776.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information, Form NSD-2, is necessary for the proper performance of the functions of the National Security Division, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Abstract: Information collection webform for entities and individuals registering pursuant to the Foreign Agents Registration Act, as amended.

Overview of This Information Collection

1. *Type of Information Collection:* Revision of a previously approved collection.

2. *The Title of the Form/Collection:* Supplemental Statement to Registration Statement (Foreign Agents).

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is NSD-2. The applicable component within the Department of Justice is the Foreign Agents Registration Act Unit (FARA Unit), Counterintelligence and Export Control Section, National Security Division.

4. *Affected public who will be asked or required to respond, as well as a brief*

abstract: Private sector entities, including businesses, other for-profit entities, not-for-profit institutions, and individuals required to register under the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611 *et seq.* (FARA).

5. *Obligation to Respond:* The filing of this completed webform is required pursuant to FARA for the purposes of registration under the Act and public disclosure. Registrants are required by statute and regulation to provide the information requested on this form, and failure to provide the information is subject to the penalty and enforcement provisions established in Section 8 of FARA.

6. *Total Estimated Number of Respondents:* Based on the projected number of registrations from 2026 to 2029, an estimated 366.5 registrants will each complete Form NSD-2 (OMB Control No. 1124-0002) twice annually, for a total of 733 submissions.

7. *Estimated Time per Respondent:* Based on sample testing, each respondent will take 1.17 hours to complete the form, which takes into consideration the improved e-File webform features. The following factors were considered when creating the burden estimate: the estimated total number of respondents, the intuitive online FARA e-File registration process, and the prior collection of the data necessary to complete the filing.

8. *Frequency:* Twice annually, for as long as the registration is in active status.

9. *Total Estimated Annual Time Burden:* The estimated public burden associated with this collection is 857.61 annual burden hours. It is estimated that each respondent will take 1.17 hours to complete the form, 366.50 respondents (two responses annually) or 733×1.17 hours = 857.61 burden hours. Depending on specific activities by each registrant (respondent), the time to complete this information collection request will vary due to activities required to be disclosed.

10. *Total Estimated Annual Other Costs Burden:* \$305.00 per Foreign Principal. See 28 CFR 5.5 (setting filing fees). Every registrant (or person filing on behalf of a registrant) is required to pay filing fees of \$305.00 per active foreign principal for each six-month Supplemental Statement reporting period. [This is captured in #7 of the 60-day notice as well as item 13 of the Supporting Statement A].

If additional information is required, contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Enterprise

Portfolio Management, Two Constitution Square, 145 N Street NE, 4W-218, Washington, DC

Dated: April 8, 2026.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2026-07021 Filed 4-9-26; 8:45 am]

BILLING CODE 4410-PF-P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On April 3, 2026, the Department of Justice lodged a proposed consent decree with the United States Bankruptcy Court District of New Jersey in *In re: Whittaker, Clark & Daniels, Inc., et al.*, Case No. 23-13575 (MBK), which is a Chapter 11 bankruptcy case filed on April 26, 2023 by Debtors Whittaker, Clark and Daniels, Inc. and three affiliates: Brilliant National Services, Inc., L.A. Terminals, Inc., and Soco West, Inc.

The proposed consent decree will resolve pending objections filed by the United States and other environmental creditors to a proposed bankruptcy settlement between Debtors and certain alleged successors to Debtors' liability, including DB US Holding Corporation, Brenntag North America, and the National Indemnity Company ("NICO"), which is a subsidiary of Berkshire Hathaway, Inc. The United States, in coordination with other environmental creditors, objected to the proposed bankruptcy settlement on several grounds, including that it underestimated environmental liabilities under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") at the Lockwood Solvent Superfund Site in Yellowstone County, Montana, the Omega Chemical Superfund Site in Whittier, California, and the Cooper Drum Superfund Site in South Gate, California. The proposed consent decree resolves these objections and related CERCLA cost recovery claims as well as certain claims from other environmental creditors, stipulates to an allowed general unsecured bankruptcy claim, and provides for a cash payment by NICO for environmental cleanup costs and establishment of an environmental response trust.

The publication of this notice opens a period for public comment on the proposed consent decree. Comments

should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *In re: Whittaker, Clark & Daniels, Inc., et al.*, Case No.: 23–13575 (MBK), D.J. Ref. No. 90–11–3–12869. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By email	<i>pubcomment-ees.enrd@usdoj.gov.</i>
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Any comments submitted in writing may be filed by the United States in whole or in part on the public court docket without notice to the commenter.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department website <https://www.justice.gov/enrd/consent-decrees>. If you require assistance accessing the consent decree, you may request assistance by email or by mail to the addresses provided above for submitting comments.

Jason A. Dunn,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2026–06975 Filed 4–9–26; 8:45 am]

BILLING CODE 4410–CW–P

DEPARTMENT OF JUSTICE

[OMB Number 1124–0005]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Previously Approved Collection; Title: Short Form to Registration Statement of Foreign Agents (Form NSD–6)

AGENCY: Foreign Agents Registration Act Unit (FARA Unit), Counterintelligence and Export Control Section (CES), National Security Division (NSD), U.S. Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Foreign Agents Registration Act (FARA) Unit, Counterintelligence and Export Control Section (CES), National Security Division (NSD), U.S. Department of Justice, is submitting the following information collection request to the Office of Management and Budget

(OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: The Department of Justice encourages public comment and will accept input until June 9, 2026 on this request for a 60-day Notice for OMB three-year re-approval of the Short Form to Registration Statement, Form NSD–6. This is a request for a revision with changes of a previously approved information collection for Form NSD–6. Please note that this notice does not concern the previously published notice of proposed rulemaking (“NPRM”) related to regulations under FARA.

FOR FURTHER INFORMATION CONTACT: If you have additional comments including on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Evan Turgeon, Chief, Foreign Agents Registration Act Unit, Counterintelligence and Export Control Section, National Security Division, 175 N Street NE, Constitution Square Building Three, Suite 1.100, Washington, DC 20002, email: fara.public@usdoj.gov, telephone: (202) 233–0776.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information, Form NSD–6, is necessary for the proper performance of the functions of the National Security Division, including whether the information will have practical utility;
- Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so, how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Abstract: Information collection webform for entities and individuals

registering pursuant to the Foreign Agents Registration Act of 1938, as amended.

Overview of This Information Collection

1. *Type of Information Collection:* Revision of a previously approved collection.

2. *The Title of the Form/Collection:* Short Form to Registration Statement (Foreign Agents).

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is NSD–6. The applicable component within the Department of Justice is the Foreign Agents Registration Act Unit (FARA Unit), Counterintelligence and Export Control Section, National Security Division.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Private sector entities, including businesses, other for-profit entities, not-for-profit institutions, and individuals required to register under the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611 *et seq.* (FARA). The form provides employees of registrants an optional, simpler alternative to filing a full Registration Statement.

5. *Obligation to Respond:* The filing of this completed webform is required pursuant to FARA for the purposes of registration under the Act and public disclosure. Registrants are required by statute and regulation to provide the information requested on this form, and failure to provide the information is subject to the penalty and enforcement provisions established in Section 8 of FARA.

6. *Total Estimated Number of Respondents:* Based on the projected number of registrations from 2026 to 2029, an estimated 1,066 respondents annually will complete Form NSD–6.

7. *Estimated Time per Respondent:* Based on sample user testing, each respondent will take .23 hours to complete the form, which takes into consideration the improved e-File webform features. The following factors were considered when creating the burden estimate: the estimated total number of respondents, the intuitive online FARA e-File registration process, and the prior collection of the data necessary to complete the filing.

8. *Frequency:* Variable. Based on the projected number of registrations from 2026 to 2029, an estimated 1,066 respondents annually will complete Form NSD–6.

9. *Total Estimated Annual Time Burden:* $1,066 \times .23 = 245.18$ hours.

10. *Total Estimated Annual Other Costs Burden*: \$0.00. No registrant (or person filing on behalf of a registrant) must pay a fee when filing this form. [This is captured in #7 of the 60-day notice as well as item 13 of the Supporting Statement A].

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Enterprise Portfolio Management, Two Constitution Square, 145 N Street NE, 4W-218, Washington, DC.

Dated: April 8, 2026.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2026-07020 Filed 4-9-26; 8:45 am]

BILLING CODE 4410-PF-P

DEPARTMENT OF JUSTICE

[OMB Number 1124-0003]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Previously Approved Collection; Title: Amendment to Registration Statement of Foreign Agents (Form NSD-5)

AGENCY: Foreign Agents Registration Act Unit (FARA Unit), Counterintelligence and Export Control Section (CES), National Security Division (NSD), U.S. Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Foreign Agents Registration Act (FARA) Unit, Counterintelligence and Export Control Section (CES), National Security Division (NSD), U.S. Department of Justice, is submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: The Department of Justice encourages public comment and will accept input until June 9, 2026 on this request for a 60-day Notice for OMB three-year re-approval of the Amendment to Registration Statement, Form NSD-5. This is a request for a revision with changes of a previously approved information collection for Form NSD-5. Please note that this notice does not concern the previously published notice of proposed rulemaking (“NPRM”) related to regulations under FARA.

FOR FURTHER INFORMATION CONTACT: If you have additional comments including on the estimated public

burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Evan Turgeon, Chief, Foreign Agents Registration Act Unit, Counterintelligence and Export Control Section, National Security Division, 175 N Street NE, Constitution Square Building Three, Suite 1.100, Washington, DC 20002, email: fara.public@usdoj.gov, telephone: (202) 233-0776.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information, Form NSD-5, is necessary for the proper performance of the functions of the National Security Division, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so, how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Abstract: Information collection webform for entities and individuals registering pursuant to the Foreign Agents Registration Act of 1938, as amended.

Overview of This Information Collection

1. *Type of Information Collection:* Revision of a previously approved collection.
2. *The Title of the Form/Collection:* Amendment to Registration Statement (Foreign Agents).
3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is NSD-5. The applicable component within the Department of Justice is the Foreign Agents Registration Act Unit (FARA Unit), Counterintelligence and Export

Control Section, National Security Division.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Private sector entities, including businesses, other for-profit entities, not-for-profit institutions, and individuals required to register under the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611 *et seq.* (FARA).

5. *Obligation to Respond:* The filing of this completed webform is required pursuant to FARA for the purposes of registration under the Act and public disclosure. Registrants are required by statute and regulation to provide the information requested on this form, and failure to provide the information is subject to the penalty and enforcement provisions established in Section 8 of FARA.

6. *Total Estimated Number of Respondents:* Based on the projected number of registrations from 2026 to 2029, an estimated 700 respondents annually will complete Form NSD-5.

7. *Estimated Time per Respondent:* Based on sample user testing, each respondent will take .75 hours to complete the form, which takes into consideration the improved e-File webform features. The following factors were considered when creating the burden estimate: the estimated total number of respondents, the intuitive online FARA e-File registration process, and the prior collection of the data necessary to complete the filing.

8. *Frequency:* Variable. Based on the projected number of registrations from 2026 to 2029, an estimated 700 respondents annually will complete Form NSD-5.

9. *Total Estimated Annual Time Burden:* $700 \times .75 = 525$ hours.

10. *Total Estimated Annual Other Costs Burden:* \$0.00. No registrant (or person filing on behalf of a registrant) must pay a fee when filing this form. [This is captured in #7 of the 60-day notice as well as item 13 of the Supporting Statement A].

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Enterprise Portfolio Management, Two Constitution Square, 145 N Street NE, 4W-218, Washington, DC.

Dated: April 8, 2026.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2026-07023 Filed 4-9-26; 8:45 am]

BILLING CODE 4410-PF-P

DEPARTMENT OF LABOR**Agency Information Collection Activities; Submission for OMB Review; Comment Request; Uniformed Services Employment and Reemployment Rights Act and Veterans' Preference Eligibility**

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Veterans' Employment and Training Service (VETS)-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 May 11, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: Nicole Bouchet by telephone at 202–693–0213, or by email at DOL_PRA_PUBLIC@dol.gov.

SUPPLEMENTARY INFORMATION: Title 38 U.S.C. 4322 of USERRA authorizes the Secretary of Labor (through the Veterans' Employment and Training Service) to investigate claims by individuals who believe their USERRA rights have been violated. The information is used to determine eligibility of veterans complaints to reemployment rights they are seeking as well as to state alleged violations by employers of the pertinent statutes and request assistance in obtaining appropriate reemployment benefits. The Veterans Employment Opportunities Act (VEOA) of 1998, Public Law 105–339, 112 Stat. 3182, contained in Title 5 U.S.C. 3330a–3330(b), provides assistance to preference eligible individuals who believe their rights under the veterans' preference laws and the Veterans Benefit Improvement Act of 2008 (Public Law No: 110–389) have been violated. Section 3 of the VEOA provides the Secretary of Labor similar authority to investigate complaints brought by preference eligibles. The collection instrument completed by claimants contains the information

required and needed for the Department to determine initial eligibility of the claimant. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on January 26, 2026 (91 FR 3230).

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. See 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–VETS.

Title of Collection: Uniformed Services Employment and Reemployment Rights Act and Veterans' Preference Eligibility.

OMB Control Number: 1293–0002.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 2,250.

Total Estimated Number of Responses: 2,250.

Total Estimated Annual Time Burden: 1,688 hours.

Total Estimated Annual Other Costs Burden: \$99.00.

(Authority: 44 U.S.C. 3507(a)(1)(D).)

Nicole Bouchet,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2026–06990 Filed 4–9–26; 8:45 am]

BILLING CODE 4510–79–P

DEPARTMENT OF LABOR**Office of Workers' Compensation Programs**

[OMB Control No. 1240–0011].

Proposed Extension Without Change of a Currently Approved Information Collection; Application for Approval of Representative's Fee in a Black Lung Claim Proceeding Conducted by The U.S. Department of Labor

AGENCY: Office of Workers' Compensation Programs, Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor (DOL) is soliciting comments concerning a proposed extension for the authority to conduct the information collection request (ICR) titled, "Application for Approval of a Representative's fee in Black Lung Claim Proceedings Conducted by U.S. Department of Labor." This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: All comments must be received on or before June 9, 2026.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered.

Electronic Submissions: Submit electronic comments in the following way:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments for WCPO–2026–0166. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket, with no changes. Because your comment will be made public, you are responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as your or anyone else's Social Security number or confidential business information.

- If your comment includes confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission.

Written/Paper Submissions: Submit written/paper submissions in the following way:

- *Mail/Hand Delivery:* Mail or visit DOL–OWCP, Division of Coal Mine Workers' Compensation, 200 Constitution Avenue NW, Suite C3520–DCMWC, Washington, DC 20210.

• OWCP will post your comment as well as any attachments, except for information submitted and marked as confidential, in the docket at <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Anjanette Suggs, Office of Workers' Compensation Programs, at suggs.anjanette@dol.gov (email).

SUPPLEMENTARY INFORMATION:

I. Background

The DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the OMB for final approval. This program helps to ensure 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 can be properly assessed.

The CM-972 is sent to and completed by the authorized representative of a black lung claimant whose claim has been approved for benefits. The completed form is then returned to and evaluated by the district director, administrative law judge, or appropriate appellate tribunal before whom the claimed services were performed, and a fee amount is determined. The regulations (20 CFR 725.366) set forth specific requirements for the items of information that must be included on fee applications. The CM-972 was designed to collect this information. 20 CFR 725.366 authorizes this information collection.

This information collection is subject to 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 under the PRA 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 Control Number. See 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Written comments will receive consideration, be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate

consideration, comments should mention 1240-0011.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. The DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

II. Desired Focus of Comments

OWCP is soliciting comments concerning the proposed information collection related to the Application for Approval of a Representative's Fee in a Black Lung Claim Proceeding Conducted by the U.S. Department of Labor. OWCP is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of OWCP's estimate of the burden related to the information collection, including the validity of the methodology and assumptions used in the estimate;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the information collection 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.

Documents related to this information collection request are available at <https://www.regulations.gov> and at DOL-OWCP located at 200 Constitution Avenue NW, Room C-3520, Washington, DC 20210. Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION** section of this notice.

III. Current Actions

This information collection request concerns Application for Approval of Representatives' Fee in a Black Lung Claim Proceeding Conducted by the U.S. Department of Labor. OWCP has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request from the previous information collection request.

Type of Review: Extension without change of a currently approved collection.

Agency: Office of Workers' Compensation Programs.

OMB Number: 1240-0011.

Affected Public: Business or other for-profit.

Number of Respondents: 820.

Number of Responses: 820.

Annual Burden Hours: 574 hours.

Annual Respondent or Recordkeeper Cost: \$340.00.

OWCP Forms: CM-972, Application for Approval of a Representative's Fee in a Black Lung Claim Proceeding Conducted by The U.S. Department of Labor.

Comments submitted in response to this notice will be summarized in the request for Office of Management and Budget approval of the proposed information collection request; they will become a matter of public record and will be available at <https://www.reginfo.gov>.

Anjanette Suggs,

Agency Clearance Officer.

[FR Doc. 2026-06919 Filed 4-9-26; 8:45 am]

BILLING CODE 4510-CR-P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

[OMB Control No. 1240-0027]

Proposed Extension of Information Collection; Survivor's Form for Benefits Under the Black Lung Benefits Act

AGENCY: Office of Workers' Compensation Programs

ACTION: Request for public comments.

SUMMARY: The Department of Labor (DOL) is soliciting comments concerning a proposed extension for the authority to conduct the information collection request (ICR) titled, "Survivor's Form for Benefits Under the Black Lung Benefits Act." This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: All comments must be received on or before June 9, 2026.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered.

Electronic Submissions: Submit electronic comments in the following way:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments

for WCPO–2026–0199. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket, with no changes. Because your comment will be made public, you are responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as your or anyone else's Social Security number or confidential business information.

- If your comment includes confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission.

Written/Paper Submissions: Submit written/paper submissions in the following way:

- Mail/Hand Delivery: Mail or visit DOL–OWCP, Division of Coal Mine Workers' Compensation, 200 Constitution Avenue NW, Suite C3520–DCMWC, Washington, DC 20210.
- OWCP will post your comment as well as any attachments, except for information submitted and marked as confidential, in the docket at <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Anjanette Suggs, Office of Workers' Compensation Programs, at suggs.anjanette@dol.gov (email).

SUPPLEMENTARY INFORMATION:

I. Background

The DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the OMB for final approval. This program helps to ensure 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 can be properly assessed.

This collection of information is required to administer the benefit payment provisions of the Black Lung Benefits Act for survivors of deceased miners. Completion of this form constitutes the application for benefits by survivors and assists in determining the survivor's entitlement to benefits. Form CM–912 is authorized for use by the Black Lung Benefits Act 30 U.S.C. 901, *et seq.*, 20 CFR 410.221 and CFR 725.304 and is used to gather information from a survivor of a miner to determine if the survivor is entitled

to benefits. This information collection is currently approved for use through October 31st, 2026. The Black Lung Benefits Act 30 U.S.C. 901, *et seq.*, 20 CFR 410.221 and CFR 725.304 authorizes this information collection.

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 under the PRA 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 Control Number. See 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Written comments will receive consideration, and be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention 1240–0027.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. The DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

II. Desired Focus of Comments

OWCP is soliciting comments concerning the proposed information collection related to the Survivor's Form for Benefits Under the Black Lung Benefits Act. OWCP is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of OWCP's estimate of the burden related to the information collection, including the validity of the methodology and assumptions used in the estimate;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the information collection 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.

Documents related to this information collection request are available at <https://regulations.gov> and at DOL–OWCP located at 200 Constitution Avenue NW, Room C–3520, Washington, DC 20210. Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION** section of this notice.

III. Current Actions

This information collection request concerns Survivor's Form for Benefits Under the Black Lung Benefits Act. OWCP has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request from the previous information collection request.

Type of Review: Extension without change of a currently approved collection.

Agency: Office of Workers' Compensation Programs.

OMB Number: 1240–0027.

Affected Public: Individuals or households.

Number of Respondents: 1,080.

Number of Responses: 1,080.

Annual Burden Hours: 144 hours.

Annual Respondent or Recordkeeper Cost: \$807.00.

OWCP Forms: CM–912, Survivor's Form for Benefits Under the Black Lung Benefits Act.

Comments submitted in response to this notice will be summarized in the request for Office of Management and Budget approval of the proposed information collection request; they will become a matter of public record and will be available at <https://www.reginfo.gov>.

Anjanette Suggs,

Agency Clearance Officer.

[FR Doc. 2026–06920 Filed 4–9–26; 8:45 am]

BILLING CODE 4510–CR–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2021–43; MC2026–193 and K2026–193; M2026–194 and K2026–194]

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:* April 15, 2026.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <https://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202-789-6820.

SUPPLEMENTARY INFORMATION:

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- I. Introduction
- 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.

II. Public Proceeding(s)

1. *Docket No(s):* CP2021–43; *Filing Title:* USPS Request Concerning Amendment Four to Parcel Select Contract 44, with Material Filed Under Seal; *Filing Acceptance Date:* April 7, 2026; *Filing Authority:* 39 CFR 3035.105 and 39 CFR 3041.505; *Public Representative:* Christopher Mohr; *Comments Due:* April 15, 2026.

2. *Docket No(s):* MC2026–193 and K2026–193; *Filing Title:* USPS Request to Add International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 18 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* April 7, 2026; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Maxine Bradley; *Comments Due:* April 15, 2026.

3. *Docket No(s):* MC2026–194 and K2026–194; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 1499 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* April 7, 2026; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Kenneth Moeller; *Comments Due:* April 15, 2026.

III. Summary Proceeding(s)

None. See Section II for public proceedings.

This Notice will be published in the **Federal Register**.

Danielle LeFlore,

Legal Assistant.

[FR Doc. 2026–07014 Filed 4–9–26; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105157; File No. SR–OCC–2026–001]

Self-Regulatory Organizations; the Options Clearing Corporation; Order Approving Proposed Rule Change by the Options Clearing Corporation Concerning a Change in Types of Acceptable Collateral and an Update To Mitigate Wrong-Way Risk

April 7, 2026.

I. Introduction

On February 12, 2026, the Options Clearing Corporation (“OCC”), filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act”) ¹ and Rule 19b–4 thereunder,² a proposed rule change regarding collateral eligibility and margin requirements (hereinafter “Proposed Rule Change”). The Proposed Rule Change was published for comment in the **Federal Register** on February 27, 2026.³ The Commission has not received any comments on the Proposed Rule Change. For the reasons discussed below, the Commission is approving the Proposed Rule Change.

II. Background

OCC is a central counterparty (“CCP”), which means that, as part of its function as a clearing agency, it interposes itself as the buyer to every seller and seller to every buyer for certain financial transactions. As the CCP for the listed options markets in the United States,⁴ as well as for certain futures and stock loans, OCC is exposed to various risks arising from providing

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ See Exchange Act Release No. 104882 (Feb. 24, 2026), 91 FR 9897 (Feb. 27, 2026) (File No. SR–OCC–2026–001) (“Notice”).

⁴ OCC describes itself as “the sole clearing agency for standardized equity options listed on a national securities exchange registered with the Commission (‘listed options’).” See Exchange Act Release No. 96533 (Dec. 19, 2022), 87 FR 79015 (Dec. 23, 2022) (File No. SR–OCC–2022–012).

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).

clearance and settlement services to its Clearing Members.⁵ Because OCC is obligated to perform on the contracts it clears, one such risk that OCC is exposed to is credit risk, including the risk that OCC would not maintain sufficient financial resources to cover exposures if one of its Clearing Members defaults.

One of the ways OCC manages credit risk is through the collection of margin collateral from its Clearing Members. To address the risk that the value of such collateral may be insufficient as the result of price changes, OCC limits the set of assets it accepts as margin collateral and applies controls, such as haircuts and concentration limits, on the collateral it accepts. OCC also addresses credit risk by applying a margin add-on charge to collateralize risks presented by cleared positions involving equities and ETNs issued by a Clearing Member and its affiliates.⁶ As described below, OCC proposes to stop accepting certain types of collateral and to address specific wrong-way risk presented by certain Clearing Member positions.⁷ OCC also proposes a series of organizational and technical changes to its rules related to collateral.

A. Discontinuance of Certain Collateral Types

Currently, OCC's rules provide for various types of assets as margin collateral,⁸ including letters of credit,⁹ or guarantees of payment from a bank, and government-sponsored entity (GSE) debt securities.¹⁰ However, on December 19, 2024, OCC announced its determination to disallow letters of credit and GSE debt securities as

acceptable collateral.¹¹ OCC states that no Clearing Member has pledged GSE debt securities as margin collateral since July 11, 2023, and that no letters of credit remain on deposit.¹²

To maintain the ability to accept letters of credit and GSE debt securities, consistent with OCC's current rules, would require OCC and its Clearing Members to test the functionality to support these collateral types in the new clearance and settlement system, Ovation.¹³ Further, OCC asserts it would incur additional costs associated with ongoing risk monitoring and reviews of its procedures to support the acceptance of letters of credit and GSE debt securities.¹⁴ As a result, OCC proposes to change its rules to no longer allow Clearing Members to post letters of credit and GSE debt securities as margin collateral.¹⁵

B. Specific Wrong-Way Risk

As noted above, OCC proposes changes designed to address specific wrong-way risk presented by certain Clearing Member positions. Currently, OCC manages wrong-way risk in collateral, in part, by disapproving common stock as margin collateral for a Clearing Member where such stock is issued by the Clearing Member or its affiliate except where the common stock serves as a hedge to the Clearing Member's positions.¹⁶ OCC also applies a margin add-on charge designed to account for specific wrong-way risk (the "SWWR Add-on") in a Clearing Member's positions in cleared contracts.¹⁷ OCC proposes to extend the SWWR Add-on to cover Clearing Member positions in exchange traded products (ETPs) that hold spot cryptocurrency for which the Clearing Member or its affiliate serves as the custodian of the fund's cryptocurrency holdings.¹⁸ OCC believes that extending the SWWR Add-on to spot cryptocurrency ETPs when the Clearing Member is affiliated with the custodian of such ETP is appropriate given the unique custody risks associated with

cryptocurrencies.¹⁹ As of the time of filing, OCC represented that only one Clearing Member has an affiliate that is a custodian for a spot cryptocurrency ETP.²⁰ Further, OCC currently limits Clearing Members' ability to pledge such ETPs as margin collateral to the amount that is risk reducing for activity in cleared positions.²¹

C. Reorganization and Technical Changes

Separate from the substantive changes described above, OCC proposes to reorganize its current Rule 604 and to making conforming edits as needed to its Rules to facilitate such reorganization. Specifically, OCC Rule 604 would be replaced by three separate rules addressing: (i) the form of collateral OCC accepts (proposed Rule 604A); (ii) how OCC holds and invests collateral (proposed Rule 604B); and (iii) how OCC values the collateral, respectively (proposed Rule 604C). OCC proposes to further reorganize its rules by incorporating the current interpretations and policies attached to OCC Rule 604 directly into the text of the rule. For example, I&P .07 to OCC Rule 604, which requires assets deposited as collateral with OCC to be free of liens and other encumbrances, would become proposed Rule 604B(b)(1)(B), but otherwise remain virtually intact. Further, OCC proposes other ministerial changes to its Rule 604 and related rules, including breaking up long paragraphs and adding headings,²² renumbering cross-references,²³ and removing unnecessary or inaccurate language.²⁴

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Exchange Act requires the Commission to approve

⁵ Capitalized terms used but not defined herein have the meanings specified in OCC's Rules and By-Laws, available at <https://www.theocc.com/company-information/documents-and-archives/by-laws-and-rules>.

⁶ See Exchange Act Release No. 87718 (Dec. 11, 2019), 84 FR 68992, 68993 (Dec. 17, 2019) (File No. SR-OCC-2019-010).

⁷ Specific wrong-way risk arises at a CCP when an exposure to a participant is highly likely to increase when the creditworthiness of that participant is deteriorating. Exchange Act Release No. 78961 (Sept. 28, 2016), 81 FR 70786, 70816 n.317 (Oct. 13, 2016) (S7-03-14).

⁸ See OCC Rule 604.

⁹ See OCC Rule 604(c) (allowing Clearing Members to deposit letters of credit denominated in U.S. dollars issued by banks or trust companies approved by OCC). OCC also accepts margin collateral in the form of cash, government securities, money market fund shares, and common stock. See OCC Rule 604.

¹⁰ See OCC Rule 604(b)(2). OCC's By-Laws define "GSE debt securities" to mean such debt securities issued by Congressionally chartered corporations as the Risk Committee may from time to time approve for deposit as margin. OCC By-Laws, Article I, Section 1, G.

¹¹ See Notice, 91 FR at 9898. See also, OCC Information Memo #55740 (Dec. 19, 2024), available at <https://infomemo.theocc.com/infomemos?number=55740>.

¹² See Notice, 91 FR at 9898.

¹³ See *id.*

¹⁴ See *id.*

¹⁵ Such changes will affect OCC's By-Laws, Rules, Collateral Risk Management Policy, Default Management Policy, Liquidity Risk Management Framework, and Recovery and Wind-Down Plan.

¹⁶ See Interpretation and Policy .16 to OCC Rule 604.

¹⁷ See Notice, 91 FR at 9899 n.17.

¹⁸ OCC proposes to amend its Margin Policy to effectuate the proposed extension of the SWWR Add-on.

¹⁹ See Notice, 91 FR at 9899. OCC gave the example of cybersecurity-related theft of the cryptocurrency leading to a decline in the value of the ETP at the same time that the Clearing Member may default on obligations to OCC. *Id.*

²⁰ *Id.*

²¹ See Notice, 91 FR at 9899 n.21. OCC did not propose a change in collateral eligibility related to spot cryptocurrency ETPs.

²² For example, OCC proposes to divide certain provisions of current OCC Rule 604(b)(i) (pertaining to equity issues) into subsections of proposed Rule 604A(b)(2). See Notice, 91 FR at 9900.

²³ For example, the reference in OCC Rule 705 to OCC Rule 604(b)(3) would be replaced with a reference to proposed OCC Rule 604A(b)(2). See Notice, 91 FR at 9902.

²⁴ For example, OCC proposes to remove references to OCC Rule 610T throughout OCC's rules as unnecessary because Rule 610T was removed from OCC's rules following a transitional period to the current escrow deposit program. See Notice, 91 FR at 9902; see also Exchange Act Release No. 78675 (Aug. 25, 2016), 81 FR 60099, 60105 (Aug. 31, 2016) (File No. SR-OCC-2016-009).

a proposed rule change of a self-regulatory organization if it finds that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to the organization.²⁵ Under the Commission's Rules of Practice, the "burden to demonstrate that a proposed rule change is consistent with the Exchange Act and the rules and regulations issued thereunder . . . is on the self-regulatory organization ['SRO'] that proposed the rule change."²⁶

The description of a proposed rule change, its purpose and operation, its effect, and a legal analysis of its consistency with applicable requirements, must all be sufficiently detailed and specific to support an affirmative Commission finding,²⁷ and any failure of an SRO to provide this information may result in the Commission not having a sufficient basis to make an affirmative finding that a proposed rule change is consistent with the Exchange Act and the applicable rules and regulations.²⁸ Moreover, "unquestioning reliance" on an SRO's representations in a proposed rule change is not sufficient to justify Commission approval of a proposed rule change.²⁹

After carefully considering the Proposed Rule Change, the Commission finds that the Proposed Rule Change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to OCC. More specifically, for the reasons given below, the Commission finds that the Proposed Rule Change is consistent with Section 17A(b)(3)(F) of the Exchange Act,³⁰ and Rules 17ad-22(e)(5), 17ad-22(e)(6), and 17ad-22(e)(21) thereunder, as described in detail below.³¹

A. Consistency With Section 17A(b)(3)(F) of the Exchange Act

Section 17A(b)(3)(F) of the Exchange Act³² 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 and to assure

the safeguarding of securities and funds which are in the custody or control of the clearing or agency or for which it is responsible.

Disallowing certain types of margin collateral, namely GSE debt securities and letters of credit, would reduce the cost and complexity related to both OCC's new clearance and settlement systems and to OCC's monitoring of risks related to such collateral types. As noted above, Clearing Members have not pledged GSE debt securities since 2023 and are not currently pledging letters of credit as margin collateral. As a result, the proposed change in collateral eligibility will reduce operational costs and complexity without affecting current collateral contributions. Reducing operational costs and complexity in this way improves efficiency at OCC, which is consistent with the promotion of prompt and accurate clearance and settlement.

Separately, OCC's proposal to extend the SWWR Add-on will increase the margin collateral collected from a Clearing Member with positions in spot cryptocurrency ETPs for which the Clearing Member or its affiliates serves as the custodian. Collecting margin to recognize the potential loss in value of the ETP concurrent with a Clearing Member default would increase the likelihood that OCC would hold sufficient margin collateral to address the default without resorting to loss mutualization through the use of non-defaulting Clearing Members' contributions to the Clearing Fund. Because it reduces the likelihood of loss mutualization, the Proposed Rule Change is consistent with the safeguarding of securities and funds which are in OCC's custody or control.

Accordingly, the Commission believes that the Proposed Rule Change is consistent with the requirements of Section 17A(b)(3)(F) of the Exchange Act.³³

B. Consistency With Rule 17ad-22(e)(5) Under the Exchange Act

Rule 17ad-22(e)(5) under the Exchange Act requires, in part, that a covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to limit the assets it accepts as collateral to those with low credit, liquidity, and market risks.³⁴ As described above, OCC proposes to amend its rules to disallow the posting of GSE debt securities and letters of credit as margin collateral. The removal of these two types of collateral does not

affect the credit, liquidity, or market risk associated with the collateral that OCC will continue to accept as margin (e.g., cash, government securities, money market fund shares, and common stock). Accordingly, the Commission believes that disallowing GSE debt securities and letters of credit as margin collateral is consistent with the requirements of Rule 17ad-22(e)(5).³⁵

C. Consistency With Rule 17ad-22(e)(6) Under the Exchange Act

Rule 17ad-22(e)(6)(i) under the Exchange Act requires that a covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to cover, if the covered clearing agency provides central counterparty services, its credit exposure to 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.³⁶

As described above, OCC proposes to extend the application of its SWWR Add-on. Specifically, OCC proposes to cover Clearing Member positions in spot cryptocurrency ETPs for which the Clearing Member or its affiliate serves as the custodian of the fund's cryptocurrency holdings. OCC's prior adoption of the SWWR Add-on was consistent with Rule 17Ad-22(e)(6)(i) under the Exchange Act.³⁷ The SWWR Add-on is designed to produce margin levels commensurate with the particular attributes of certain products in terms of the likely recovery available in the event of a default by the issuing Clearing Member.³⁸ Similarly, the default of a Clearing Member may affect the value of a spot cryptocurrency ETP positions where that member is also the fund's custodian. The proposed change will extend the protection provided to OCC by the SWWR Add-on to address a potential loss in value of a Clearing Member's spot cryptocurrency ETP positions, at the time of default, related to the member's (or its affiliate's) role as when that member as the fund's custodian; which would be consistent with OCC's existing limitations on Clearing Members posting such assets as margin collateral.

Accordingly, and for the reasons stated above, the Commission believes the extension of the SWWR Add-on designed to cover specific wrong-way

²⁵ 15 U.S.C. 78s(b)(2)(C).

²⁶ Rule 700(b)(3), Commission Rules of Practice, 17 CFR 201.700(b)(3).

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Susquehanna Int'l Group, LLP v. Securities and Exchange Commission*, 866 F.3d 442, 447 (D.C. Cir. 2017).

³⁰ 15 U.S.C. 78q-1(b)(3)(F).

³¹ 17 CFR 240.17ad-22(e)(5), (e)(6), and (e)(21).

³² 15 U.S.C. 78q-1(b)(3)(F).

³³ 15 U.S.C. 78q-1(b)(3)(F).

³⁴ 17 CFR 240.17ad-22(e)(5).

³⁵ 17 CFR 240.17ad-22(e)(5).

³⁶ 17 CFR 240.17ad-22(e)(6)(i).

³⁷ See Exchange Act Release No. 87718 (Dec. 11, 2019), 84 FR 68992, 68995 (Dec. 17, 2019) (File No. SR-OCC-2019-010).

³⁸ *Id.*

risk arising out of a Clearing Member's relationship to a particular underlying product is consistent with Rule 17ad-22(e)(6)(i) under the Exchange Act.³⁹

D. Consistency With Rule 17ad-22(e)(21) Under the Exchange Act

Rule 17ad-22(e)(21) under the Exchange Act requires that a covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to be efficient and effective in meeting the requirements of its participants and the markets it serves.⁴⁰ As described above, OCC proposes to disallow GSE debt securities and letters of credit as margin collateral because continuing to accept such collateral carries with it certain costs and complexity. Disallowing such collateral types would reduce the testing required of OCC and its Clearing Members for Ovation. Further, the proposed change will not negatively affect the current set of margin collateral that OCC holds based on OCC's representations that no Clearing Member has pledged GSE debt securities since July 11, 2023, and that no letters of credit remain on deposit. As a result, the proposed change would reduce inefficiency without reducing the effectiveness of Clearing Member collateral currently posted to OCC.

Further, as described above, OCC proposes a number of non-substantive changes to reorganize its margin rules such as consolidating the provisions of Rule 604 and related interpretations and policies and dividing lengthy provisions into subsections with headers. Such changes the non-substantive reorganization and consolidation helps to improve the readability, and, thus, the efficiency and effectiveness of OCC's rules. Relatedly, OCC proposes a number of non-substantive corrections, such as updating cross-references and removing inaccurate or unnecessary language, which will also improve the readability of OCC's margin rules.

Accordingly, and for the reasons stated above, the Commission believes the removal of GSE debt and letters of credit as acceptable margin collateral is consistent with Rule 17ad-22(e)(21) under the Exchange Act.⁴¹

IV. Conclusion

On the basis of the foregoing, the Commission finds that the Proposed Rule Change is consistent with the requirements of the Exchange Act, and in particular, with the requirements of with Section 17A(b)(3)(F) of the

Exchange Act,⁴² and Rules 17ad-22(e)(5), 17ad-22(e)(6), and 17ad-22(e)(21) thereunder.⁴³

It is therefore ordered pursuant to Section 19(b)(2) of the Exchange Act⁴⁴ that the proposed rule change (SR-OCC-2026-001) be, and hereby is, approved.⁴⁵

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁶

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-06930 Filed 4-9-26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105163; File No. SR-FINRA-2026-007]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change To Amend FINRA Rules 5130 (Restrictions on the Purchase and Sale of Initial Equity Public Offerings) and 5131 (New Issue Allocations and Distributions)

April 7, 2026.

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 March 30, 2026, the Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend FINRA Rule 5130 (Restrictions on the Purchase and Sale of Initial Equity Public Offerings) and paragraph (b) (Spinning) of FINRA Rule 5131 (New Issue Allocations and Distributions) to exempt specified collective trust funds ("CTFs").

⁴² 15 U.S.C. 78q-1(b)(3)(F).

⁴³ 17 CFR 240.17ad-22(e)(5), (e)(6), and (e)(21).

⁴⁴ 15 U.S.C. 78s(b)(2).

⁴⁵ In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁴⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

The text of the proposed rule change is available on FINRA's website at <http://www.finra.org> and at the principal office of FINRA.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

Rule 5130 protects the integrity of the public offering process by ensuring that: (1) members make bona fide public offerings of securities at the offering price; (2) members do not withhold securities in a public offering for their own benefit or use such securities to reward persons who are in a position to direct future business to members; and (3) industry insiders, including members and their associated persons, do not take advantage of their insider position to purchase new issues for their own benefit at the expense of public customers.³

Paragraph (a) of Rule 5130 provides that, except as otherwise permitted under the rule, a member (or an associated person) may not sell, or cause to be sold, a new issue to any account in which a restricted person⁴ has a beneficial interest;⁵ a member or an

³ See *Notice to Members* 03-79 (Dec. 2003). The term "new issue" is defined as "any initial public offering of an equity security as defined in Section 3(a)(11) of the Exchange Act, made pursuant to a registration statement or offering circular," subject to a number of exceptions. See Rule 5130(i)(9). The term has the same meaning for purposes of Rule 5131.

⁴ The term "restricted person" includes "members or other broker-dealers," "broker-dealer personnel," "finders and fiduciaries," "portfolio managers," and "persons owning a broker-dealer," as those terms are defined in Rule 5130(i)(10)(A)-(E).

⁵ See Rule 5130(i)(1) ("'Beneficial interest' means any economic interest, such as the right to share in gains or losses. The receipt of a management or performance based fee for operating a collective investment account, or other fees for acting in a fiduciary capacity, shall not be considered a

³⁹ 17 CFR 240.17ad-22(e)(6)(i).

⁴⁰ 17 CFR 240.17ad-22(e)(21).

⁴¹ 17 CFR 240.17ad-22(e)(21).

associated person may not purchase a new issue in any account in which such member or associated person has a beneficial interest; and a member may not continue to hold new issues acquired as an underwriter, selling group member, or otherwise. Paragraph (b) sets forth preconditions for sale. Before selling a new issue to any account, a member must in good faith have obtained, within the 12 months before the sale, a representation from the account holder(s), or a person authorized to represent the beneficial owners of the account, that the account is eligible to purchase new issues in compliance with Rule 5130. The member also must obtain such a representation from a bank, foreign bank, broker-dealer, or investment adviser or other conduit that all purchases of new issues are in compliance with the Rule.

Rule 5131 addresses conflicts and abuses in the allocation and distribution of new issues. Paragraph (b) of Rule 5131 prohibits the practice of “spinning,” which is the allocation of shares of new issues by a member firm to an account in which a covered person that is the member firm’s current, former, or prospective investment banking client has a beneficial interest. The term “covered person” refers to an executive officer or director of a public company or a covered non-public company, or a person materially supported by such executive officer or director.⁶

Rule 5130(c), and, by reference, Rule 5131(b)(2), provide general exemptions which reflect the proposition that sales to and purchases by entities that have numerous beneficial owners are generally not the type of transactions that the Rule should prohibit.⁷ Of particular relevance to the proposed rule change, there is a general exemption for an investment company registered under the Investment Company Act of 1940 (“Investment Company Act”)⁸ and a general

beneficial interest in the account.”). The term has the same meaning for purposes of Rule 5131.

⁶ See Rule 5131(b)(1).

⁷ See Notice to Members 03–79, *supra* note 3.

⁸ See Rule 5130(c)(1). There is also an exemption for an investment company organized under the laws of a foreign jurisdiction. See Rule 5130(c)(6). To qualify for this exemption, the investment company must be listed on a foreign exchange for sale to the public or authorized for sale to the public by a foreign regulatory authority; no person owning more than 5 percent of the shares of the investment company is a restricted person, the investment company has 100 or more direct investors, or the investment company has 1,000 or more indirect investors; and the investment company was not formed or maintained for the specific purpose of permitting restricted persons to invest in new issues.

exemption for a common trust fund or similar fund as described in Section 3(a)(12)(A)(iii) of the Exchange Act,⁹ subject to specified conditions.¹⁰ Unless a general exemption applies to CTFs, the CTF (typically through its investment adviser) would be required to represent that the fund is eligible to purchase new issues. However, given their size and operational structure—which includes investments from various pooled assets across multiple beneficial owners—this may not always be feasible.¹¹

CTFs

Banks often maintain common or collective trust funds as vehicles for the collective investment of moneys contributed to the funds on behalf of accounts for which the bank or a third party acts as fiduciary. There are generally two types of bank collective investment funds, both of which are generally exempt from registration under the Securities Act of 1933 (“Securities Act”), the Exchange Act, and the Investment Company Act.

The first type is generally referred to as a “common trust fund,” which is maintained by a bank for the collective investment and reinvestment of moneys contributed thereto by the bank in its capacity as trustee, executor, administrator, or guardian. These funds are employed solely as an aid in the administration of trust, estate, and other fiduciary accounts, and may not be advertised or otherwise offered for sale to the general public. These types of funds are exempt from the new issue allocation restrictions of Rules 5130 and 5131(b), provided they have investments from 1,000 or more accounts and do not limit beneficial

⁹ 15 U.S.C. 78c(a)(12)(A)(iii) (“The term ‘exempted security’ or ‘exempted securities’ includes . . . any interest or participation in any common trust fund or similar fund maintained by a bank exclusively for the collective investment and reinvestment of assets contributed thereto by such bank in its capacity as trustee, executor, administrator, or guardian. . . .”).

¹⁰ See Rule 5130(c)(2). The common trust fund exemption must have investments from 1,000 or more accounts and must not limit beneficial interests in the fund principally to trust accounts of restricted persons.

¹¹ See Rule 5130(c)(4). A CTF may rely on the 10 percent de minimis exemption under Rule 5130(c)(4) or the 25 percent de minimis exemption under Rule 5131(b)(2) if they have collected restricted person and covered person information for their investors. However, due to their size and operational structure, FINRA believes that some CTFs may have difficulties determining whether restricted persons and covered persons meet the rules’ thresholds. Further, where a retirement plan sponsored solely by a member holds interests in a CTF, the beneficial interests of restricted persons are likely to exceed the de minimis threshold.

interests in the fund principally to trust accounts of restricted persons.¹²

The second type is generally referred to as a CTF or collective investment trust, which is a bank-maintained fund that generally consists of assets of one or more employer-sponsored benefits or retirement plans, government plans, or church plans. CTFs generally serve as investment options for plan participants available through employer-sponsored retirement plans, performing the same investment pooling function, among other similarities, as registered investment companies (“RICs”).

With nearly \$7 trillion in assets, CTFs are often the preferred pooled investment vehicle over RICs in employer-sponsored retirement plans. For example, CTFs are the leading vehicle for target-date funds, which often serve as the default investment option for retirement plan participants who do not make active investment elections.

The primary benefits of CTFs over comparable RICs are lower transaction and management costs, which can have a significant impact on investor returns. Furthermore, CTFs can be launched more quickly, and they offer greater customization options tailored to particular retirement plans. Though exempt from registration under the federal securities laws, FINRA has observed that some CTFs voluntarily adopt certain practices similar to RICs, including daily valuation of holdings and publication of fund literature such as fact sheets and annual reports.

Whereas RICs are exempt from the new issue allocation restrictions of Rules 5130 and 5131(b),¹³ CTFs are not categorically exempt from the new issue allocation restrictions of Rules 5130 and 5131(b). Unless a general exemption applies to CTFs, an investment adviser, bank, or trust company managing a CTF would be required to represent that it is eligible to purchase new issues.

Proposed Amendments to Rules 5130(c) and 5131(b)

Given that CTFs, common trust funds, and RICs serve similar pooled investment purposes, FINRA proposes to adopt a categorical exemption for CTFs under Rule 5130(c)(13) and, by reference, under Rule 5131(b). The proposed exemption would apply to a CTF, as described in Section 3(a)(12)(A)(iv) of the Exchange Act,¹⁴

¹² See Rule 5130(c)(2).

¹³ See Rule 5130(c)(1).

¹⁴ 15 U.S.C. 78c(a)(12)(A)(iv) (“The term ‘exempted security’ or ‘exempted securities’ includes . . . any interest or participation in a single trust fund, or a collective trust fund maintained by a bank, or any security arising out

provided that two conditions are satisfied. These proposed conditions, described below, would help to ensure that exempt CTFs are treated similarly to other exempt investment funds for purposes of Rules 5130 and 5131(b).

The first condition is that “the fund has investments from 1,000 or more plan participants and beneficiaries of one or more employee retirement benefits plans.”¹⁵ This condition is analogous to one of the conditions for the common trust fund exemption, which requires that the fund has investments from 1,000 or more accounts.¹⁶ FINRA believes this language achieves the same goal of requiring that the fund be widely held, while accounting for the differences between common trust funds and CTFs (that is, common trust funds pool assets from individual trust accounts whereas CTFs generally pool assets from employer-sponsored retirement plans).

The second condition is that “the fund was not formed or maintained for the specific purpose of permitting restricted persons to invest in new issues.” This requirement is a safeguard to protect against circumvention of Rule 5130’s prohibitions. The same language is also used in the exemptions for foreign investment companies and

business development companies under Rule 5130.¹⁷

FINRA believes the proposed exemption reflects the proposition that sales to and purchases by entities that have numerous beneficial owners generally are not the type of transactions that Rules 5130 and 5131 are designed to prohibit.¹⁸ The proposed exemption would allow CTFs to more easily obtain access to new issues, and it would expand the pool of investors who can participate in IPOs through their retirement investments in a CTF.

If the Commission approves the proposed rule change, FINRA will announce the effective date of the proposed rule change in a *Regulatory Notice*.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,¹⁹ which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

FINRA believes that the proposed exemption for CTFs would expand access to investment options and maintain the integrity of the public offering process without diminishing investor protection. The proposed rule change would allow CTFs to more easily invest in new issues. This will benefit investors by expanding the underlying investment options in their employer-sponsored retirement plans and promoting capital formation by giving more investors access to IPOs. By expanding access to IPOs through a widely held pooled investment vehicle, the proposed rule change maintains the integrity of the public offering process while facilitating vibrant capital markets.²⁰

Further, FINRA believes that the conditions of the proposed exemption are consistent with the provisions of Section 15A(b)(6). The condition that would require a CTF relying on the proposed exemption to have investments from 1,000 or more plan participants and beneficiaries of one or more employee retirement benefit plans

helps to ensure that the CTF is widely held. Having numerous beneficial owners substantially reduces the risk that a CTF would be used by restricted or covered persons to circumvent the prohibitions of Rules 5130 and 5131(b). Moreover, the condition that, for purposes of this proposed exemption, the CTF cannot be formed or maintained for the specific purpose of circumventing the prohibition in Rule 5130, would further mitigate the unlikely risk that a restricted person would invest in a CTF for the purpose of investing in new issues.

B. Self-Regulatory Organization’s Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act.

Economic Impact Assessment

FINRA has undertaken an economic impact assessment, as set forth below, and identified the potentially material impacts of the proposed rule change on the affected parties. FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act.

1. Regulatory Need

As discussed, CTFs typically have numerous beneficial owners, such that receiving new issue allocations would present little risk to the integrity of the public offering process. Due to their size and operational structure, however, it can be difficult for CTFs to meet the requirements of Rules 5130 and 5131 without a general exemption. FINRA is proposing an exemption to these rules for CTFs under two conditions that are designed to permit CTFs to participate in public offerings subject to conditions that mitigate the risks that Rules 5130 and 5131 are designed to prevent.

2. Economic Baseline

The economic baseline for the proposed rule change is the current requirements and provisions to which CTFs are subject, the products to which they primarily compete, and the current market for initial public offerings (“IPOs”).

As described above, CTFs provide an alternative to RICs as a pooled investment vehicle offered to participants in employer-sponsored retirement plans. According to the Department of Labor, as of 2023, there were 101,987 private sector retirement

of a contract issued by an insurance company, which interest, participation, or security is issued in connection with a qualified plan. . . .”).

¹⁵ A CTF as described in Exchange Act Section 3(a)(12)(A)(iv) qualifies as an “exempted security” under Section 3(a)(12)(A) only if an interest or participation in the fund “is issued in connection with a qualified plan as defined in [section 3(a)(12)(C)].” Section 3(a)(12)(C) defines “qualified plan” as “(i) a stock bonus, pension, or profit-sharing plan which meets the requirements for qualification under section 401 of [the Internal Revenue Code of 1954], (ii) an annuity plan which meets the requirements for the deduction of the employer’s contribution under section 404(a)(2) of [such Code], (iii) a governmental plan as defined in section 414(d) of [such Code] which has been established by an employer for the exclusive benefit of its employees or their beneficiaries for the purpose of distributing to such employees or their beneficiaries the corpus and income of the funds accumulated under such plan, if under such plan it is impossible, prior to the satisfaction of all liabilities with respect to such employees and their beneficiaries, for any part of the corpus or income to be used for, or diverted to, purposes other than the exclusive benefit of such employees or their beneficiaries, or (iv) a church plan, company, or account that is excluded from the definition of an investment company under section 3(c)(14) of the Investment Company Act of 1940, other than any plan described in clause (i), (ii), or (iii) of this subparagraph which (I) covers employees some or all of whom are employees within the meaning of section 401(c) of [such Code], or (II) is a plan funded by an annuity contract described in section 403(b) of [such Code].” 15 U.S.C. 78c(a)(12)(C). For purposes of the requirement that the fund hold investments from one or more plan participants and beneficiaries of one or more employee retirement benefits plans, the plan must be a “qualified plan” as defined in Exchange Act Section 3(a)(12)(C).

¹⁶ See Rule 5130(c)(2)(A).

¹⁷ See Rule 5130(c)(6)(C), (c)(12).

¹⁸ See *Notice to Members* 03–79, *supra* note 3.

¹⁹ 15 U.S.C. 78o–3(b)(6).

²⁰ See *Regulatory Notice* 23–09 (May 2023) (“FINRA promotes the capital raising process through appropriately tailored rules for its members that are designed to promote transparency and to establish important standards of conduct for the benefit of all market participants, including investors and issuers.”).

plans with 100 or more participants.²¹ Of these, 29,664 plans had assets invested in one or more of the 4,992 available CTFs, which in aggregate held over \$4.7 trillion in assets.²² Approximately half of CTFs' total assets (\$2.5 trillion) were invested in common stocks.

The market for IPOs is economically important. Between 2014 and 2023, annual IPO proceeds ranged from \$7 billion to \$119 billion, and the average first-day return on IPO shares ranged between 12 percent and 49 percent.²³

3. Economic Impacts

Anticipated Benefits

The proposed rule change would enable CTFs that invest or desire to invest in IPOs to incur less regulatory burden in demonstrating their eligibility to receive new issues. Specifically, both CTFs with restricted or covered persons as beneficial owners as well as those without such persons could invest in IPOs without needing to determine whether and how many of their participants are restricted or covered persons. CTFs would also benefit from the ability to more easily diversify their portfolios into IPOs.²⁴

Allowing CTFs to more easily invest in new issues expands the pool of investors in IPO markets and promotes capital formation. Likewise, lowering the regulatory costs enhances market efficiency.

Anticipated Costs

As discussed above, the proposed exemption has two conditions. These conditions could potentially impose

costs on CTFs that, in order to avail themselves of the exemption, would need to make sure they have investments from 1,000 or more plan participants and beneficiaries of one or more employee retirement benefits plans. A CTF could determine if the estimated value of the exemption exceeded any associated costs and only undertake such costs if it determined the exemption would be worthwhile.

There is some risk under the proposed rule change that an otherwise restricted or covered person may form or invest in a CTF for the purpose of investing in new issues. FINRA believes that these risks are mitigated by the requirements for the minimum number of plan participants and that the CTF has not been formed or maintained for the specific purpose of permitting restricted persons to invest in new issues.

Anticipated Competitive Effects

The proposed rule change may increase competition for investors (at the plan participant level), and between and among CTFs and other already-exempt investment vehicles like RICs. In particular, access to new issues may increase returns and the attractiveness of CTFs relative to other investment vehicles, which may increase competition between banks and mutual fund companies vying for retirement-plan assets. Some large mutual fund companies have already established affiliated banks or trust companies to manage and offer CTFs.²⁵ The proposed rule change may further encourage this trend. Increased demand for CTFs may also lower their per-unit operating costs by spreading fixed expenses across a larger asset base. This would potentially benefit both CTF sponsors and participants in plans that invest in CTFs. As noted, the proposed rule change may also promote capital formation by giving more investors access to IPOs.

4. Alternatives Considered

With respect to the condition that the CTF must have investments from 1,000 or more plan participants and beneficiaries of one or more employee retirement benefits plans, other

thresholds were considered. While a lower threshold would allow more investors to access IPO shares, a higher threshold would reduce the likelihood of conflicts of interest involving restricted or covered persons obtaining new issues through a CTF. FINRA believes that the proposed threshold strikes an appropriate balance between promoting capital formation and maintaining the integrity of the public offering process. The 1,000 threshold is also in line with the existing exemption for common trust funds.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove such proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Exchange 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-FINRA-2026-007 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-FINRA-2026-007. 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

²¹ See U.S. Department of Labor, Employee Benefits Security Administration, Private Pension Plan Bulletin Historical Tables and Graphs 1975–2023, at 4, available at <https://www.dol.gov/sites/dolgov/files/ebsa/researchers/statistics/retirement-bulletins/private-pension-plan-bulletin-historical-tables-and-graphs.pdf>.

²² See U.S. Department of Labor, Employee Benefits Security Administration, Form 5500 Direct Filing Entity Bulletin: Abstract of 2023 Form 5500 Annual Reports, at 5 tbl. 1, available at <https://www.dol.gov/sites/dolgov/files/ebsa/researchers/statistics/retirement-bulletins/form-5500-direct-filing-entity-bulletin-abstract-of-form-5500-2023-preliminary-annual-report.pdf>.

²³ See Jay R. Ritter, University of Florida Warrington College of Business, IPO Data, available at <https://site.warrington.ufl.edu/ritter/files/IPO-Statistics.pdf>. FINRA reports the ten-year IPO statistics ending in 2023 to conform with the most recent common/collective trust statistics from the Department of Labor.

²⁴ There is also the potential for higher returns due to access to new issues. However, academic research has documented that IPO underpricing is a short-term phenomenon. To benefit from potential underpricing of new issues, investors may need to sell their allocated shares shortly after trading begins. See Jay R. Ritter, The Long-Run Performance of Initial Public Offerings, XLVI J. Fin. 3, 3–27 (Mar. 1991).

²⁵ See, e.g., Natalya Shnitser, Overtaking Mutual Funds: The Hidden Rise and Risk of Collective Investment Trusts, 134 Yale L.J. 1620, 1651 (Mar. 1, 2025), available at <https://www.yalelawjournal.org/essay/overtaking-mutual-funds-the-hidden-rise-and-risk-of-collective-investment-trusts> (“While BlackRock relies on a national banking association . . . Vanguard [collective investment trusts] are maintained by the Vanguard Fiduciary Trust Company, a Pennsylvania nondepository trust company that is a wholly owned subsidiary of The Vanguard Group, Inc.”).

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 FINRA. 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-FINRA-2026-007 and should be submitted on or before May 1, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁶

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-06929 Filed 4-9-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105164; File No. SR-DTC-2026-004]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Make Corrections, Clarifications and Certain Other Changes to the DTC Rules and Procedures

April 7, 2026.

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 March 31, 2026, The Depository Trust Company ("DTC") 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 clearing agency. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(4) thereunder.⁴ 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

DTC proposes to make certain corrections, clarifications, and harmonization changes to its Rules and Procedures due, in part, from a review of DTC's Rules and Procedures⁵ with those of its two clearing agency

affiliates, National Securities Clearing Corporation ("NSCC") and Fixed Income Clearing Corporation ("FICC") to improve transparency and consistency across the three clearing agencies.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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 clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

DTC proposes to make certain corrections, clarifications, and harmonization changes to its Rule and Procedures due, in part, from a review of DTC's Rules and Procedures with those of its two clearing agency affiliates, National Securities Clearing Corporation ("NSCC") and Fixed Income Clearing Corporation ("FICC") to improve transparency and consistency across the three clearing agencies. Accordingly, DTC proposes the below changes.

DTC rules, DTC procedures, OA, fee guide ("Rules")	Revision
Rule 1 Definitions; Governing Law	Add "Officer of the Corporation" as a defined term to mean, "the Chairman of the Board, President and Chief Executive Officer, Managing Director, Executive Director, Secretary, Assistant Secretary, Treasurer, or Assistant Treasurer of the Corporation." Add "and Chief Executive Officer" to the term "President" in two places to reflect the complete title. Update the definition of "Watch List" to reflect an expanded scale used for the Credit Risk Rating Matrix ("CRRM"). The CRRM is currently based on a scale of 1 through 7. The CRRM is also currently calculated internally using a more granular scale of 1 through 18 which corresponds to the current 1 through 7 scale (e.g., credit rating 6 on the current scale is equivalent to credit ratings 12 and 13 on the more granular scale). The changes would not change how Participants are analyzed with respect to the Watch List.
Rule 2 Participants and Pledges	Add a comma after the word "therein" in Section 4. Replace "the Participants Fund" and "the Clearing Fund" with "any fund" to clarify that DTC does not maintain a clearing fund and that references to funds are intended to apply to the Participants Fund and its components, as applicable.
Rule 15 Reports	Make grammatical correction adding "any" to the sentence. Revise to reflect that financial reports are delivered based on the fiscal year of DTC. Add additional specificity to be clear that the Corporation will provide annual audited U.S. GAAP financial statements within 60 days of fiscal year-end and quarterly unaudited statements within 30 days of the quarter-end.
Rule 21 Disciplinary Sanctions	Add "and Chief Executive Officer" to "President" to reflect the complete title of the President and Chief Executive Officer.

²⁶ 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)(4).

⁵ Capitalized terms not defined herein are defined in the Rules, By-Laws and Organization Certificate of DTC ("DTC Rules"), the DTC Operational Arrangements (Necessary for Securities to Become and Remain Eligible for DTC Services) ("OA"), the

DTC Underwriting Service Guide ("Underwriting Guide") and Settlement Service Guide ("Settlement Guide") (collectively, "DTC Procedures"), each available at www.dtcc.com/legal/rules-and-procedures.

DTC rules, DTC procedures, OA, fee guide ("Rules")	Revision
Rule 23 Bills Rendered	Revise the language in the Rule to clarify the language and better align to the current billing process.
Rule 27 Procedures	Use defined term "Officer of the Corporation" to name officers subject to the delegation in the Rule. Replace "or any other" with "and any" to clarify delegation authority.
Rule 28 Delegation	Add "and Chief Executive Officer" to "President" to reflect the complete title of the President and Chief Executive Officer.
Rule 29 Captions	Add "or Procedures" to reflect that provisions relating to captions also relate to Procedures.
Policy Statements On The Admission of Participants and Pledgee.	Remove references to specific legal opinions to conform the policy to other clearing agency rulebooks. DTC no longer requires an enforceability opinion for certain Participants where enforceability is addressed by an applicable industry opinion, and DTC may require additional legal opinions or assurances that are not enumerated in the policy.
Underwriting Guide	Remove references to "Letter of Representation" to align with a prior rule change. ^a Add quotations and parentheses to ("PTS") as a defined short form for Participant Terminal System. Add "Participant Terminal System" and a footnote to describe the PTS function to align with a prior rule change that added the footnote but was mistakenly removed in a subsequent filing that was implemented prior to PTS Decommission. ^b
OA	Correct section numbering. Add quotations and parentheses to ("PTS") as a defined short form for Participant Terminal System. Add "the Participant Terminal System" and a footnote to describe the PTS function to align with a prior rule change that added the footnote but was mistakenly removed in a subsequent filing that was implemented prior to PTS Decommission. ^c
Settlement Guide	Remove "control" from the memo segregation definition to align with a prior rule change and existing usage of the term. ^d
Guide to the DTC Fee Schedule ("Fee Guide") ^e .	Add "and/or modifications" to clarify the fee description for low-volume tender offers to reflect current operational practice and promote billing transparency. Remove "Other Services" and "Return to customer" because there is no associated Fee ID. These errant rows should have been removed as part of a prior rule filing. ^f

^a Securities Exchange Act Release No. 102841 (Apr. 11, 2025), 90 FR 16188 (Apr. 17, 2025) (SR-DTC-2025-005) ("Money Market Instruments Modernization").

^b Securities Exchange Act Release No. 104680 (Jan. 23, 2026), 91 FR 3755 (Jan. 28, 2026) (SR-DTC-2026-001) ("PTS Decommission").

^c *Id.*

^d Securities Exchange Act Release No. 104039 (Sept. 24, 2025), 90 FR 46679 (Sept. 29, 2025) (SR-DTC-2025-014) ("Initial Public Offering Tracking System").

^e www.dtcc.com/-/media/Files/Downloads/legal/fee-guides/DTC-Fee-Schedule.pdf.

^f Securities Exchange Act Release No. 100532 (July 15, 2024), 89 FR 58829 (July 19, 2024) (SR-DTC-2024-005) ("DTC Fee Schedule").

2. Statutory Basis

Section 17A(b)(3)(F) of the Act requires, in part, that the Rules be designed to promote the prompt and accurate clearance and settlement of securities transactions.⁶

DTC believes that the proposed changes to make certain corrections, clarifications, and harmonization changes to the Rules are consistent with Section 17(A)(b)(3)(F) of the Act⁷ because such changes would enhance the clarity and transparency of the Rules and provide consistency, where applicable, with equivalent rules of NSCC and FICC. By enhancing the clarity and transparency of the Rules, the proposed changes would allow Participants to more efficiently and effectively conduct their business in accordance with the Rules, which DTC believes would promote the prompt and accurate clearance and settlement of securities transactions. As such, DTC believes that the proposed changes would be consistent with Section 17A(b)(3)(F) of the Act.⁸

(B) Clearing Agency's Statement on Burden on Competition

DTC does not believe the proposed rule changes would impact competition. The proposed rule changes described above would merely enhance the clarity and transparency of the Rules and would not significantly affect DTC's operations or the rights and obligations of Participants. As such, DTC believes the proposed rule changes would not have any impact on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

DTC has not received or solicited any written comments relating to this proposal. If any written comments are received, they would be publicly filed as an Exhibit 2 to this filing, as required by Form 19b-4 and the General Instructions thereto.

Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b-4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make

available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the Commission's instructions on how to submit comments, *available at* www.sec.gov/rules-regulations/how-submit-comment. General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission's Division of Trading and Markets at tradingandmarkets@sec.gov or 202-551-5777.

DTC reserves the right to not respond to any comments 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)⁹ of the Act and paragraph (f) of Rule 19b-4 thereunder.¹⁰ 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,

⁶ 15 U.S.C. 78q-1(b)(3)(F).

⁷ *Id.*

⁸ *Id.*

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f).

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.

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-DTC-2026-004 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR-DTC-2026-004. 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 DTC and on DTCC's website (<https://dtcc.com/legal/sec-rule-filings.aspx>). 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-DTC-2026-004 and should be submitted on or before May 1, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-06922 Filed 4-9-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105165; File No. SR-NYSE-2026-10]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 2, To Adopt New Rule 5.2(j)(9) To Permit the Generic Listing and Trading of Class Exchange-Traded Fund Shares

April 7, 2026.

On February 12, 2026, New York Stock Exchange LLC ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to adopt new NYSE Rule 5.2(j)(9) to permit the generic listing and trading of Class Exchange-Traded Fund Shares. On February 23, 2026, the Exchange filed Amendment No. 1, which amended and replaced the proposed rule change in its entirety. The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on March 2, 2026.³

On March 4, 2026, the Exchange filed Amendment No. 2, which amended and replaced the proposed rule change, as modified by Amendment No. 1, in its entirety.⁴ The Commission has received no comments regarding the proposed rule change.

The Commission is publishing this notice and order to solicit comments on the proposed rule change, as modified by Amendment No. 2, from interested persons and to grant approval of the proposed rule change, as modified by Amendment No. 2, on an accelerated basis.

¹¹ 17 CFR 200.30-3(a)(12).

¹⁵ U.S.C. 78s(b)(1).

²⁷ 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 104889 (Feb. 25, 2026), 91 FR 10164.

⁴ Amendment No. 2 to the proposed rule change is available on the Commission's website at: <https://www.sec.gov/comments/sr-nyse-2026-10/srnyse202610-719127-2251554.pdf>.

I. The Exchange's Description of the Proposal, as Modified by Amendment No. 2

The Exchange proposes to (1) adopt a new Rule 5.2(j)(9) to permit the generic listing and trading of Class Exchange-Traded Fund ("ETF") Shares, and (2) make certain conforming changes to the Exchange's rules to accommodate the proposed listing of Class ETF Shares. This Amendment No. 2 to SR-NYSE-2026-10 replaces SR-NYSE-2026-10 and Amendment No. 1 thereto as originally filed and supersedes such filings in their entirety.

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to (1) adopt a new Rule 5.2(j)(9) to permit the generic listing and trading, or trading pursuant to unlisted trading privileges, of Class ETF Shares, and (2) make certain conforming changes to the Exchange's rules to accommodate the proposed listing of Class ETF Shares.

Consistent with other products (specifically, Investment Company Units listed pursuant to Rule 5.2(j)(3), Managed Fund Shares listed pursuant to Rule 8.600, and ETF Shares listed pursuant to Rule 5.2(j)(8)), Class ETF Shares would be permitted to be listed and traded on the Exchange without prior Commission approval order or notice of effectiveness pursuant to Section 19(b) of the Act.⁵

⁵ Rule 19b-4(e)(1) provides that the listing and trading of a new derivative securities product by a self-regulatory organization ("SRO") is not deemed a proposed rule change, pursuant to paragraph (c)(1) of Rule 19b-4, if the Commission has approved, pursuant to Section 19(b) of the Act, the

As further discussed below, proposed Rule 5.2(j)(9) is based on Rule 5.2–E(j)(9) of the Exchange’s affiliated exchange, NYSE Arca, Inc. (“NYSE Arca”), with only certain non-substantive conforming changes to replace internal references to NYSE Arca rules with references to the corresponding NYSE rules.

Proposed Rule Change

Proposed Rule 5.2(j)(9)(a) would provide that the Exchange will consider for trading, whether by listing or pursuant to unlisted trading privileges, Class ETF Shares that meet the criteria of the proposed rule.⁶ Proposed Rule 5.2(j)(9)(a) is based on NYSE Arca Rule 5.2–E(a)(j)(9)(a) without any changes.

Proposed Rule 5.2(j)(9)(b), titled “Applicability,” would provide that the proposed rule would be applicable only to Class ETF Shares. Except to the extent inconsistent with proposed Rule 5.2(j)(9), or unless the context otherwise requires, the rules and procedures of the Board of Directors shall be applicable to the trading on the Exchange of such securities. Class ETF Shares are included within the definition of “security” or “securities” as such terms are used in the Rules of the Exchange.

SRO’s trading rules, procedures and listing standards for the product class that would include the new derivative securities product and the SRO has a surveillance program for the product class. As contemplated by proposed Rule 5.2(j)(9), the Exchange proposes to establish generic listing standards for Class ETF Shares of the ETF Class (as defined herein) that would be required to operate as an ETF pursuant to the Multi-Class Fund Exemptive Relief (as defined herein) and be in compliance with the conditions and requirements of Rule 6c–11 under the Investment Company Act of 1940 (the “Investment Company Act”), except as noted in the Multi-Class Fund Exemptive Relief. Class ETF Shares listed under proposed Rule 5.2(j)(9) would therefore not need a separate proposed rule change pursuant to Rule 19b–4 before it can be listed and traded on the Exchange.

⁶ To the extent that Class ETF Shares do not satisfy one or more of the criteria in proposed Rule 5.2(j)(9), the Exchange may file a separate proposal under Section 19(b) of the Act in order to list such securities on the Exchange. Any of the statements or representations in that proposal regarding the index composition, the description of the portfolio or reference assets, limitations on portfolio holdings or reference assets, dissemination and availability of index, reference asset, and intraday indicative values (as applicable), or the applicability of Exchange listing rules specified in any filing to list such Class ETF Shares shall constitute continued listing requirements for the Class ETF Shares. Further, in the event that Class ETF Shares become listed under proposed Rule 5.2(j)(9) and subsequently can no longer satisfy the requirements of proposed Rule 5.2(j)(9), such Class ETF Shares may be listed as Investment Company Units pursuant to Rule 5.2(j)(3) or Managed Fund Shares under Rule 8.600, as applicable, as long as the Class ETF Shares meet all listing requirements applicable under the alternate listing rule. If the Class ETF Shares do change listing standards, the Exchange would have to comply with all requirements of Rule 19b–4(e) with respect to such Class ETF Shares.

Proposed Rule 5.2(j)(9)(b) is based on NYSE Arca Rule 5.2–E(j)(9)(b) without any changes.

Proposed Rule 5.2(j)(9)(c), titled “Definitions,” would set forth the meanings of terms as used in the Rule unless the context otherwise requires. Proposed Rule 5.2(j)(9)(c) is based on NYSE Arca Rule 5.2–E(j)(9)(c) with only non-substantive changes as noted below.

Proposed Rule 5.2(j)(9)(c)(1) would provide that the term “Class ETF Shares” means shares of the ETF Class issued by a Multi-Class Fund. Proposed Rule 5.2(j)(9)(c)(1) is based on NYSE Arca Rule 5.2–E(j)(9)(c)(1) without any changes.

Proposed Rule 5.2(j)(9)(c)(2) would provide that the term “ETF Class” means the class of exchange-traded shares of a Multi-Class Fund that (i) operates as an exchange-traded fund pursuant to exemptive relief granted by order under the Investment Company Act (“Multi-Class Fund Exemptive Relief”), and (ii) is in compliance with the requirements of Rules 5.2(j)(9)(e)(1)(ii) and 5.2(j)(9)(e)(2)(A)(ii) discussed below on an initial and continued listing basis. Proposed Rule 5.2(j)(9)(c)(2) is based on NYSE Arca Rule 5.2–E(j)(9)(c)(2) with only non-substantive changes to update internal references to refer to NYSE rules rather than NYSE Arca rules.

Proposed Rule 5.2(j)(9)(c)(3) would provide that the term “Multi-Class Fund” means a registered open-end management company that (i) pursuant to Multi-Class Fund Exemptive Relief, issues Class ETF Shares and one or more classes of shares that are not exchange traded, and (ii) is in compliance with the conditions and requirements of the Multi-Class Fund Exemptive Relief. Proposed Rule 5.2(j)(9)(c)(3) is based on NYSE Arca Rule 5.2–E(j)(9)(c)(3) without any changes.

Proposed Rule 5.2(j)(9)(c)(4) would provide that the term “Reporting Authority” in respect of a particular Multi-Class Fund means the Exchange, an institution, or a reporting service designated by the Exchange or by the exchange that lists Class ETF Shares (if the Exchange is trading such securities pursuant to unlisted trading privileges) as the official source for calculating and reporting information relating to such Multi-Class Fund, including, but not limited to, the amount of any dividend equivalent payment or cash distribution to holders of Class ETF Shares, net asset value, index or portfolio value, the current value of the portfolio of securities required to be deposited in connection with the issuance of Class

ETF Shares, or other information relating to the issuance, redemption or trading of Class ETF Shares. A Multi-Class Fund may have more than one Reporting Authority, each having different functions. Proposed Rule 5.2(j)(9)(c)(4) is based on NYSE Arca Rule 5.2–E(j)(9)(c)(4) without any changes.

Proposed Rule 5.2(j)(9)(d), titled “Limitation of Exchange Liability,” would provide that neither the Exchange, the Reporting Authority, nor any agent of the Exchange shall have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any current index or portfolio value; the current value of the portfolio of securities required to be deposited to the Multi-Class Fund in connection with the issuance of Class ETF Shares; the amount of any dividend equivalent payment or cash distribution to holders of Class ETF Shares; net asset value; or other information relating to the purchase, redemption, or trading of Class ETF Shares, resulting from any negligent act or omission by the Exchange, the Reporting Authority, or any agent of the Exchange, or any act, condition, or cause beyond the reasonable control of the Exchange, its agent, or the Reporting Authority, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission, or delay in the reports of transactions in one or more underlying securities. Proposed Rule 5.2(j)(9)(d) is based on NYSE Arca Rule 5.2–E(j)(9)(d) without any changes.

Proposed Rule 5.2(j)(9)(e) would provide that the Exchange may approve Class ETF Shares of a Multi-Class Fund for listing and/or trading (including pursuant to unlisted trading privileges) pursuant to Rule 19b–4(e) of the Act. For each listed Class ETF Shares, the ETF Class and the Multi-Class Fund issuing the Class ETF Shares, as applicable, must satisfy the requirements of Rule 5.2(j)(9) upon initial listing and, except for subparagraph (1)(A) of Rule 5.2(j)(9)(e), on a continuing basis. An issuer of such securities must notify the Exchange of any failure to comply with such requirements. Proposed Rule 5.2(j)(9)(e) is based on NYSE Arca Rule 5.2–E(j)(9)(e) with only a non-substantive change to update an internal reference to refer to the NYSE rule rather than the NYSE Arca rule.

Proposed Rule 5.2(j)(9)(e)(1), titled “Initial and Continued Listing,” would

provide that Class ETF Shares will be listed and traded on the Exchange provided that: (i) the Multi-Class Fund is eligible to operate an ETF Class as an exchange-traded fund pursuant to, and is otherwise in compliance with the terms and conditions of, the Multi-Class Fund Exemptive Relief; (ii) the ETF Class is in compliance with the conditions and requirements of Rule 6c-11 under the Investment Company Act, except as noted in such Multi-Class Fund Exemptive Relief; and (iii) the ETF Class and the Multi-Class Fund each satisfies the requirements of this Rule, as applicable, on an initial and continued listing basis. Proposed Rule 5.2(j)(9)(e)(1)(A), titled “Initial Shares Outstanding,” would provide that the Exchange will establish a minimum number of Class ETF Shares required to be outstanding at the time of commencement of trading on the Exchange. Proposed Rules 5.2(j)(9)(e)(1) and 5.2(j)(9)(e)(1)(A) are based on NYSE Arca Rules 5.2–E(j)(9)(e)(1) and 5.2–E(j)(9)(e)(1)(A) without any changes.

Proposed Rule 5.2(j)(9)(e)(2), titled “Suspension of trading or removal,” would provide that the Exchange will consider the suspension of trading in, and will commence delisting proceedings under Rule 5.5(m) of, Class ETF Shares under any of the following circumstances:

- if the Exchange becomes aware that with respect to the Class ETF Shares: (i) the Multi-Class Fund is no longer eligible to operate an ETF Class as an exchange-traded fund pursuant to, or is otherwise no longer in compliance with the terms and conditions of, the Multi-Class Fund Exemptive Relief; or (ii) the ETF Class is no longer in compliance with the conditions and requirements of Rule 6c–11 under the Investment Company Act, except as noted in such Multi-Class Fund Exemptive Relief (proposed Rule 5.2(j)(9)(e)(2)(A));

- if any of the other listing requirements set forth in proposed Rule 5.2(j)(9) are not continuously maintained (proposed Rule 5.2(j)(9)(e)(2)(B));

- if, following the initial twelve-month period after commencement of trading on the Exchange of Class ETF Shares, there are fewer than 50 beneficial holders of Class ETF Shares (proposed Rule 5.2(j)(9)(e)(2)(C)); or

- if such other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable (proposed Rule 5.2(j)(9)(e)(2)(D)).

Proposed Rule 5.2(j)(9)(e)(2) and the subparagraphs thereunder are based on NYSE Arca Rule 5.2–E(j)(9)(e)(2) and its subparagraphs with only non-

substantive changes to update internal references to refer to NYSE rules rather than NYSE Arca rules.

Proposed Rule 5.2(j)(9)(f) would provide that transactions in Class ETF Shares will occur during the trading hours specified in Rule 7.34(a). Proposed Rule 5.2(j)(9)(f) is based on NYSE Arca Rule 5.2–E(j)(9)(f) with only a non-substantive change to update an internal reference to refer to the NYSE rule rather than the NYSE Arca rule.

Proposed Rule 5.2(j)(9)(g), titled “Surveillance Procedures,” would provide that the Exchange will implement and maintain written surveillance procedures for Class ETF Shares. Proposed Rule 5.2(j)(9)(g) is based on NYSE Arca Rule 5.2–E(j)(9)(g) without any changes.

Proposed Rule 5.2(j)(9)(h), titled “Termination,” would provide that with respect to the Class ETF Shares, upon termination of the Multi-Class Fund or the ETF Class, as the case may be, the Exchange requires that the Class ETF Shares be removed from Exchange listing. Proposed Rule 5.2(j)(9)(h) is based on NYSE Arca Rule 5.2–E(j)(9)(h) without any changes.

The Exchange proposes to add Commentary .01 to proposed Rule 5.2(j)(9). Proposed Commentary .01 to Rule 5.2(j)(9) would provide that the following requirements shall be met by Class ETF Shares on an initial and continued listing basis. Proposed Commentary .01 and the subparagraphs thereunder are based on Commentary .01 to NYSE Arca Rule 5.2–E(j)(9) and its subparagraphs without any changes.

Subsection (a)(1) of proposed Commentary .01 would provide that with respect to Class ETF Shares based on an index, if the underlying index is maintained by a broker-dealer or fund adviser, the broker-dealer or fund adviser will erect and maintain a “fire wall” around the personnel who have access to information concerning changes and adjustments to the index and the index will be calculated by a third party who is not a broker-dealer or fund adviser.

Subsection (a)(2) of proposed Commentary .01 would provide that any advisory committee, supervisory board, or similar entity that advises a Reporting Authority (as defined in the proposed rule) or that makes decisions on the index composition, methodology and related matters, must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the applicable index.

Subsection (b) of proposed Commentary .01 would provide that

with respect to a Multi-Class Fund that is actively managed, if the investment adviser to the Multi-Class Fund issuing Class ETF Shares is affiliated with a broker-dealer, such investment adviser will erect and maintain a “fire wall” between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such Multi-Class Fund’s portfolio. Further, personnel who make decisions on the portfolio composition must be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the applicable portfolio. The Reporting Authority that provides information relating to the Multi-Class Fund’s portfolio must also implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the actual components of such portfolio.

Proposed Conforming Changes

The Exchange proposes to add Class ETF Shares to the definition of “Exchange Traded Product and UTP Exchange Traded Product” in Rule 1.1(1). This proposed change would align the treatment of Class ETF Shares with how other exchange-traded products are treated under the Exchange’s rules. The proposed changes to Rule 1.1(l) would also align with the inclusion of Class ETF Shares in the definition of “Derivative Securities Product and UTP Derivative Securities Product” in NYSE Arca Rule 1.1.

The Exchange also proposes conforming changes to Section 302.00 of the NYSE Listed Company Manual, which sets forth requirements related to annual meetings.⁷ The Exchange proposes to amend Section 302.00 to include Class ETF Shares listed pursuant to Rule 5.2(j)(9) in the list of securities for which the requirements concerning annual meetings do not apply.

Discussion

The Exchange will monitor for compliance to ensure that (i) the Multi-Class Fund is, and continues to be, eligible to operate an ETF Class as an exchange-traded fund pursuant to, and is in otherwise in compliance with, the terms and conditions of, the Multi-Class Fund Exemptive Relief, (ii) the ETF Class continues to be compliant with the conditions and requirements of Rule 6c–11 under the Investment Company Act, except as noted in such Multi-Class

⁷ The Exchange also proposes two non-substantive formatting changes in Section 302.00.

Fund Exemptive Relief, and (iii) the ETF Class and the Multi-Class Fund each satisfies the requirements of Rule 5.2(j)(9), as applicable, on an initial and continuing basis. Specifically, the Exchange will review the website of Class ETF Shares listed on the Exchange in order to ensure that the requirements of Rule 6c–11 are being met. The Exchange will also employ numerous intraday alerts that will notify Exchange personnel of trading activity throughout the day that is potentially indicative of certain disclosures not being made timely or the presence of other unusual conditions or circumstances that could be detrimental to the maintenance of a fair and orderly market. As a backstop to the surveillances described above, the Exchange also notes that Rule 5.2(j)(9) would require an issuer of Class ETF Shares to notify the Exchange of any failure to comply with the requirements of the proposed Rule, the Multi-Class Fund Exemptive Relief, or Rule 6c–11 under the Investment Company Act.

The Exchange may suspend trading in and commence delisting proceedings for Class ETF Shares where such securities are not in compliance with the applicable listing standards or where the Exchange believes that further dealings on the Exchange are inadvisable.⁸ The Exchange also notes that proposed Rule 5.2(j)(9)(e) requires any issuer to provide the Exchange with prompt notification after it becomes aware that: (i) the Multi-Class Fund is no longer eligible to operate an ETF Class as an exchange-traded fund pursuant to, or otherwise no longer

complies with, the terms and conditions of, the Multi-Class Fund Exemptive Relief; (ii) the ETF Class is no longer compliant with the conditions and requirements of Rule 6c–11 under the Investment Company Act, except as noted in such Multi-Class Fund Exemptive Relief; or (iii) the ETF Class or the Multi-Class Fund no longer satisfies the requirements of proposed Rule 5.2(j)(9), as applicable, on an initial and continuing basis.⁹

Further, the Exchange also represents that its surveillance procedures are adequate to properly monitor the trading of the Class ETF Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. Specifically, the Exchange intends to utilize its existing surveillance procedures applicable to derivative products, which are currently applicable to Investment Company Units, Managed Fund Shares, and ETF Shares, among other product types, to monitor trading in Class ETF Shares on the Exchange. The Exchange or the Financial Industry Regulatory Authority, Inc. (“FINRA”), on behalf of the Exchange, will communicate as needed regarding trading in Class ETF Shares and certain of their applicable underlying components with other markets that are members of the Intermarket Surveillance Group (“ISG”) or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, the Exchange may obtain information regarding trading in Class ETF Shares and certain of their applicable underlying components from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. Additionally, FINRA, on behalf of the Exchange, is able to access trade information for certain fixed income securities that may be held by a Multi-Class Fund for the Class ETF Shares reported to FINRA’s Trade Reporting and Compliance Engine. FINRA also can access data obtained from the Municipal Securities Rulemaking Board’s Electronic Municipal Market Access system relating to municipal bond trading activity for surveillance purposes in connection with trading in Class ETF Shares, to the extent that the Multi-Class Fund for the Class ETF Shares holds

municipal securities. Finally, the issuer of Class ETF Shares will be required to comply with Rule 10A–3 under the Act for the initial and continued listing of Class ETF Shares, as provided under Rule 5.3.¹⁰

The Exchange notes that it may consider all relevant factors in exercising its discretion to halt or suspend trading in Class ETF Shares. Trading may be halted if the circuit breaker parameters in Rule 7.12 have been reached, because of other market conditions, or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) the extent to which certain information about the Class ETF Shares that is required to be disclosed under Rule 6c–11 under the Investment Company Act is not being made available, including specifically where the Exchange becomes aware that the net asset value or the daily portfolio disclosure with respect to Class ETF Shares is not disseminated to all market participants at the same time, it will halt trading in such securities until such time as the net asset value or the daily portfolio disclosure is available to all market participants;¹¹ (2) if an interruption to the dissemination to the value of the index or reference asset on which Class ETF Shares is based persists past the trading day in which it occurred or is no longer calculated or available; (3) trading in the securities comprising the underlying index or portfolio has been halted in the primary market(s); or (4) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

The Exchange deems Class ETF Shares to be equity securities and therefore they would be subject to the full panoply of Exchange rules and procedures that currently govern the trading of equity securities on the Exchange.¹²

¹⁰ The Exchange notes that these proposed changes would subject Class ETF Shares to the same corporate governance requirements as other open-end management investment companies listed on the Exchange.

¹¹ The Exchange will obtain a representation from the issuer of Class ETF Shares that the net asset value per share will be calculated daily and made available to all market participants at the same time, and the requirements pertaining to the Multi-Class Fund Exemptive Relief and Rule 6c–11 under the Investment Company Act in proposed Rule 5.2(j)(9) will be satisfied.

¹² With respect to trading in Class ETF Shares, the Exchange represents that all ETP Holder obligations relating to product description and prospectus delivery requirements will continue to apply in accordance with the Exchange’s rules and federal securities laws, and the Exchange will continue to monitor ETP Holders for compliance with such requirements, which are not changing as a result of

⁸ Specifically, proposed Rule 5.2(j)(9)(e)(1) provides that Class ETF Shares will be listed and traded on the Exchange subject to application of proposed Rule 5.2(j)(9)(e)(2). Proposed Rule 5.2(j)(9)(e)(2) provides that the Exchange will consider the suspension of trading in, and will commence delisting proceedings under Rule 5.5(m) for, Class ETF Shares under any of the following circumstances: (i) if the Exchange becomes aware, with respect to the Class ETF Shares: (1) the Multi-Class Fund is no longer eligible to operate an ETF Class as an exchange-traded fund pursuant to, or is otherwise no longer in compliance with the terms and conditions of, the Multi-Class Fund Exemptive Relief; or (2) the ETF Class is no longer in compliance with the conditions and requirements of Rule 6c–11 under the Investment Company Act, except as noted in such Multi-Class Fund Exemptive Relief; (ii) if any of the other listing requirements set forth in this Rule are not continuously maintained; (iii) if, following the initial twelve-month period after commencement of trading on the Exchange of Class ETF Shares, there are fewer than 50 beneficial holders of such the Class ETF Shares; or (iv) if such other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable. Proposed Rule 5.2(j)(9)(h) provides that with respect to the Class ETF Shares, upon termination of the Multi-Class Fund or the ETF Class, as the case may be, the Exchange requires that Class ETF Shares be removed from Exchange listing.

⁹ The Exchange notes that failure by an issuer to notify the Exchange of non-compliance pursuant to proposed Rule 5.2(j)(9)(e) would itself be considered non-compliance with the requirements of Rule 5.2(j)(9) and would subject the Class ETF Shares to potential trading halts and the delisting process under Rule 5.5(m).

2. Statutory Basic

The proposed rule change is consistent with Section 6(b) of the Act,¹³ in general, and furthers the objectives of Section 6(b)(5),¹⁴ 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 proposed Rule 5.2(j)(9) would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and protect investors and the public interest by establishing generic standards for listing and trading of Class ETF Shares. Proposed Rule 5.2(j)(9) would allow Class ETF Shares that meet the requirements of the Rule to be listed and traded on the Exchange without prior Commission approval order or notice of effectiveness pursuant to Section 19(b) of the Act. Accordingly, the proposed rule change would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and protect investors and the public interest because it would facilitate efficient procedures for listing Class ETF Shares that meet the requirements of proposed Rule 5.2(j)(9), thereby reducing the time, resources, and costs associated with bringing new series of Class ETF Shares to market and promoting competition among issuers of such products, to the benefit of the market participants. In addition, the Exchange believes that the proposed rule change would further the intended objective of Rule 19b–4(e) under the Act by permitting Class ETF Shares that satisfy the proposed listing standards in proposed Rule 5.2(j)(9) to be listed and traded without separate Commission approval.

The Exchange further believes that the proposed changes would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and protect investors and the public interest because the proposed rules are based on the rules of the Exchange's affiliated market, NYSE Arca, which rules have been approved by the Commission. Accordingly, the proposed rule changes would facilitate the Exchange's ability

to list and trade Class ETF Shares under generic listing standards identical to NYSE Arca's. The Exchange also believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system by promoting consistency across the rules of affiliated exchanges.

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. Instead, the Exchange believes that the proposed rule change would facilitate the listing and trading of Class ETF Shares through an efficient process that would enhance competition among market participants, to the benefit of investors and the marketplace. The Exchange believes that the proposed generic listing standards in Rule 5.2(j)(9) would reduce the timeframe for bringing additional series of Class ETF Shares to market, thereby reducing the burdens on issuers and other market participants and promoting competition among issuers of such products.

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. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.¹⁵ In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with Section 6(b)(5) of the Act,¹⁶ which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest. The Commission also finds that the proposed rule change, as modified by Amendment No. 2, is consistent with

Section 11A(a)(1)(C)(iii) of the Act, which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities.¹⁷ In addition, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with Section 6(b)(1) of the Act,¹⁸ which requires, among other things, that the Exchange is so organized and has the capacity to be able to enforce compliance by its members and persons associated with its members with the rules of the Exchange.

The Exchange proposes to adopt new NYSE Rule 5.2(j)(9) to permit the generic listing and trading, or trading pursuant to unlisted trading privileges, of Class ETF Shares in connection with the Multi-Class Fund Exemptive Relief granted by order under the Investment Company Act.¹⁹ Under the proposal and pursuant to the Multi-Class Fund Exemptive Relief, a Multi-Class Fund is permitted to issue a class of shares that are exchange-traded (*i.e.*, ETF Class) and one or more classes of shares that are not exchange-traded. In accordance with the Multi-Class Fund Exemptive Relief, the ETF Class operates as an ETF in compliance with the conditions and requirements of Rule 6c–11 under the Investment Company Act, except as noted in the Multi-Class Fund Exemptive Relief. The Exchange also proposes to make conforming changes to the Exchange's definitions under NYSE Rule 1.1 and the corporate governance requirements under Section 3 of the NYSE Listed Company Manual to accommodate the proposed listing of Class ETF Shares.

A. Consistency with Section 6(b)(5) of the Act

(1) Proposed NYSE Rule 5.2(j)(9)

Proposed NYSE Rule 5.2(j)(9) is substantively identical to the Class ETF Shares listing standards of other exchanges, and in particular, to the Class ETF Shares listing standards in NYSE Arca Rule 5.2–E(j)(9).²⁰ In

¹⁷ See 15 U.S.C. 78k–1(a)(1)(C)(iii).

¹⁸ 15 U.S.C. 78f(b)(1).

¹⁹ See *supra* note 5.

²⁰ See Securities Exchange Act Release No. 104251 (Nov. 24, 2025), 90 FR 54815 (Nov. 28, 2025) (SR–NYSEARCA–2025–39) (order approving Class ETF Shares generic listing standards for NYSE Arca). See also Securities Exchange Act Release No. 104252 (Nov. 24, 2025), 90 FR 54781 (Nov. 28, 2025) (SR–NASDAQ–2025–037) (order approving

the Multi-Class Fund Exemptive Relief order issued under the Investment Company Act.

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(5).

¹⁵ In approving this proposed rule change, as modified by Amendment No. 2, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁶ 15 U.S.C. 78f(b)(5).

approving the Class ETF Shares generic listing standards for the other exchanges, the Commission determined that the rules to permit the generic listing and trading of Class ETF Shares were reasonably designed to help prevent fraudulent and manipulative acts and practices.²¹ Because proposed NYSE Rule 5.2(j)(9) is based on, and is substantively identical to, the same listing standards for Class ETF Shares of other exchanges, the Commission similarly concludes that proposed NYSE Rule 5.2(j)(9) is reasonably designed to help prevent fraudulent and manipulative acts and practices.

Proposed NYSE Rule 5.2(j)(9)(g) requires that the Exchange implement and maintain written surveillance procedures for Class ETF Shares. The Exchange represents that it will utilize its existing surveillance procedures applicable to derivative products, which are currently applicable to ETF Shares, among other product types, to monitor trading in Class ETF Shares, and further represents that its surveillance procedures are adequate to (a) properly monitor the trading of the Class ETF Shares during all trading sessions and (b) deter and detect violations of Exchange rules and the applicable federal securities laws. The Exchange also represents that the Exchange, or FINRA on behalf of the Exchange, will communicate or obtain information, as needed, regarding trading in Class ETF Shares and certain of their applicable underlying components with other markets that are members of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. Additionally, FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities that may be held by the Multi-Class Fund for the Class ETF Shares reported to TRACE. FINRA also can access data obtained from the EMMA system relating to municipal bond trading activity for surveillance purposes in connection with trading in Class ETF Shares, to the extent that the Multi-Class Fund for the Class ETF Shares holds municipal securities. The Exchange states that NYSE Rule 5.2(j)(9)(e) requires any issuer to provide the Exchange with prompt notification after it becomes aware that (i) the Multi-Class Fund is no longer eligible to operate an ETF Class as an exchange-traded fund pursuant to, or otherwise no

longer complies with, the terms and conditions of, the Multi-Class Fund Exemptive Relief, (ii) the ETF Class is no longer compliant with the conditions and requirements of Rule 6c–11 under the Investment Company Act, except as noted in such Multi-Class Fund Exemptive Relief, or (iii) the ETF Class or the Multi-Class Fund no longer satisfies the requirements of NYSE Rule 5.2(j)(9), as applicable, on an initial and continuing basis.²² The Exchange further represents that it will obtain a representation from the issuer of Class ETF Shares stating that the requirements of Rule 6c–11 and the applicable exemptive relief under the Investment Company Act will be continuously satisfied and that the issuer will notify the Exchange of any failure to do so.

Consistent with the requirements of Section 6(b)(5) of the Act²³ that the Exchange's rules be designed to remove impediments to, and perfect the mechanism of, a free and open market, the Exchange's rules regarding trading halts will help to ensure the maintenance of fair and orderly markets for Class ETF Shares. Specifically, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in Class ETF Shares. The Exchange states that trading in Class ETF Shares may be halted if the circuit breaker parameters in NYSE Rule 7.12 have been reached, because of other market conditions, or for reasons that, in the view of the Exchange, make trading in the Class ETF Shares inadvisable. According to the Exchange, the reasons to halt trading may include: (1) the extent to which certain information about the Class ETF Shares that is required to be disclosed pursuant to Rule 6c–11 under the Investment Company Act is not being made available;²⁴ (2) if an interruption to the dissemination to the value of the index or reference asset on which the Class ETF Shares is based persists past the trading day in which it occurred or is no longer calculated or available; (3) trading in the securities comprising the underlying index or portfolio has been halted in the primary market(s); or (4) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. As the Exchange

further represents in the proposal, if the Exchange becomes aware that the net asset value or the daily portfolio disclosure with respect to the Class ETF Shares is not disseminated to all market participants at the same time, it will halt trading in the Class ETF Shares until such time as the net asset value or the daily portfolio disclosure is available to all market participants.²⁵ The Exchange represents that it may suspend trading in and commence delisting proceedings for Class ETF Shares where such securities are not in compliance with the applicable listing standards or where the Exchange believes that further dealings on the Exchange are inadvisable.²⁶

The Commission also finds that, consistent with Section 11A(a)(1)(C)(iii) of the Act,²⁷ the proposed rule change, as modified by Amendment No. 2, is reasonably designed to promote fair disclosure of information that may be necessary to price the Class ETF Shares appropriately, to prevent trading when a reasonable degree of transparency cannot be assured, to safeguard material non-public information relating to the Class ETF Shares, and to ensure fair and orderly markets for Class ETF Shares.

(2) Other Related Proposed Rule Changes

The Exchange also proposes changes to accommodate Class ETF Shares in other Exchange rules. First, the Exchange proposes to add Class ETF Shares to the definition of "Exchange Traded Product and UTP Exchange Traded Product" in NYSE Rule 1.1. In addition, the Exchange proposes to amend Section 302.00 of the NYSE Listed Company Manual to include Class ETF Shares listed pursuant to NYSE Rule 5.2(j)(9) in the list of securities for which the requirements concerning annual meetings do not apply.²⁸ These proposed changes incorporate proposed NYSE Rule 5.2(j)(9) into the existing framework of the Exchange's rules, and therefore the Commission finds that such changes are consistent with Section 6(b)(5) of the Act.

B. Consistency with Section 6(b)(1) of the Act

The Commission also finds that the proposed rule change, as modified by

Class ETF Shares generic listing standards for The Nasdaq Stock Market LLC); and Securities Exchange Act Release No. 104247 (Nov. 24, 2025), 90 FR 54796 (Nov. 28, 2025) (SR-CboeBZX-2025-076) (order approving Class ETF Shares generic listing standards for Cboe BZX Exchange, Inc.).

²¹ See *id.*

²² See *supra* note 9 and accompanying text.

²³ 15 U.S.C. 78f(b)(5).

²⁴ See *supra* note 11 and accompanying text (the Exchange represents that it will obtain a representation from the issuer of Class ETF Shares that the net asset value per share will be calculated daily and made available to all market participants at the same time, and the requirements pertaining to the Multi-Class Fund Exemptive Relief and Rule 6c–11 under the Investment Company Act in proposed NYSE Rule 5.2(j)(9) will be satisfied).

²⁵ See *id.*

²⁶ See *supra* note 8 and accompanying text.

²⁷ See *supra* note 17 and accompanying text.

²⁸ See *supra* note 10 and accompanying text (the Exchange states that these proposed changes would subject Class ETF Shares to the same corporate governance requirements as other open-end management investment companies listed on the Exchange).

Amendment No. 2, is consistent with Section 6(b)(1) of the Act,²⁹ which requires, among other things, that the Exchange is so organized and has the capacity to be able to enforce compliance by its members and persons associated with its members with the rules of the Exchange. The Exchange represents that, consistent with Section 6(b)(1) of the Act,³⁰ it will monitor for compliance to ensure that: (1) the Multi-Class Fund is, and continues to be, eligible to operate an ETF Class as an ETF pursuant to, and is otherwise in compliance with the terms and conditions of, the Multi-Class Fund Exemptive Relief; (2) the ETF Class continues to be compliant with the conditions and requirements of Rule 6c-11 under the Investment Company Act, except as noted in such Multi-Class Fund Exemptive Relief; and (3) the ETF Class and the Multi-Class Fund each satisfies the requirements of proposed NYSE Rule 5.2(j)(9), as applicable, on an initial and continued listing basis. In addition, the Exchange represents that it will review the website of the Class ETF Shares listed on the Exchange to ensure that the requirements of Rule 6c-11 under the Investment Company Act are being met and will obtain a representation from the issuer of the Class ETF Shares that the requirements of Rule 6c-11 and the applicable exemptive relief under the Investment Company Act will be continuously satisfied, and that the issuer will notify the Exchange of any failure to do so. The Exchange also represents that it will comply with all the requirements of Rule 19b-4(e) to specifically note that such Class ETF Shares are being listed on the Exchange pursuant to NYSE Rule 5.2(j)(9).³¹

The Exchange states that it will employ numerous intraday alerts to notify Exchange personnel of trading activity throughout the day that is potentially indicative of certain disclosures not being made accurately

or the presence of other unusual conditions or circumstances that could be detrimental to the maintenance of a fair and orderly market. The Exchange also states that proposed NYSE Rule 5.2(j)(9)(e) requires any issuer to provide the Exchange with prompt notification after it becomes aware of any non-compliance with proposed NYSE Rule 5.2(j)(9), which would include any failure of the issuer to comply with Rule 6c-11 under the Investment Company Act or with the terms and conditions of the Multi-Class Fund Exemptive Relief.³² Further, proposed NYSE Rule 5.2(j)(9)(e)(2)(C) requires that the Exchange consider the suspension of trading in, and commence delisting proceedings for, Class ETF Shares if, following the initial 12-month period after commencement of trading on the Exchange, there are fewer than 50 beneficial holders of the Class ETF Shares.³³ Finally, the Exchange deems Class ETF Shares to be equity securities and represents, therefore, that such Class ETF Shares would be subject to the full panoply of Exchange rules and procedures that currently govern the trading of equity securities on the Exchange.³⁴ The Exchange states that Class ETF Shares will be subject to rules governing Exchange member disclosure obligations in connection with equities trading, and that Rule 6c-11 under the Investment Company Act does not change the applicability of these Exchange rules with respect to these securities.³⁵

This approval order is based on all of the Exchange's representations and descriptions in the proposed rule change, including those set forth above and in Amendment No. 2, which the Commission has carefully evaluated as discussed above. For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with Sections 6(b)(1) and 6(b)(5) of the Act³⁶ and the rules and regulations thereunder applicable to a national securities exchange.

IV. Solicitation of Comments on Amendment No. 2 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning whether the proposed rule change, as modified by Amendment No. 2, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NYSE-2026-10 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-NYSE-2026-10. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet 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-2026-10 and should be submitted on or before May 1, 2026.

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 2

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 2, prior to the 30th day after the date of publication of Amendment No. 2 in the **Federal Register**. In Amendment No. 2, the Exchange provided additional information in support of the proposal, including representations regarding NYSE's ability to monitor for compliance of proposed NYSE Rule 5.2(j)(9) and the specific requirements set forth therein, the procedures for suspensions in trading of, and delisting procedures for, Class ETF Shares, the applicable trading rules for Class ETF Shares, and the Exchange's surveillance

²⁹ 15 U.S.C. 78f(b)(1).

³⁰ *Id.*

³¹ Rule 19b-4(e) under the Act requires an SRO seeking to rely on Rule 19b-4(e) to post on its publicly available internet website within five business days after commencement of trading a new derivative securities product the following information relating to the new derivative securities product, using the most recent versions of the XML schema and the associated PDF renderer as published on the Commission's website: (A) type of issuer; (B) class; (C) name of underlying instrument; (D) if the underlying instrument is an index, whether it is broad-based or narrow-based; (E) ticker symbol(s); (F) market(s) upon which securities composing the underlying instrument trade; (G) settlement methodology; and (H) position limits (if applicable). See 17 CFR 240.19b-4(e)(2)(ii). See also *supra* notes 5 and 6 and respective accompanying text.

³² See *supra* note 9 and accompanying text.

³³ See proposed NYSE Rule 5.2(j)(9)(e).

³⁴ See proposed NYSE Rule 5.2(j)(9)(e)(2)(C).

³⁵ As stated above, with respect to trading in Class ETF Shares, the Exchange represents that all ETP Holder obligations relating to product description and prospectus delivery requirements will continue to apply in accordance with the Exchange's rules and federal securities laws, and the Exchange will continue to monitor ETP Holders for compliance with such requirements, which are not changing as a result of the Multi-Class Fund Exemptive Relief order issued under the Investment Company Act. See *supra* note 12 and accompanying text.

³⁶ 15 U.S.C. 78f(b)(1) and 15 U.S.C. 78f(b)(5), respectively.

procedures. The additional information in Amendment No. 2 is substantially similar to the information provided by other exchanges that adopted the same generic listing standards for Class ETF Shares.³⁷ The proposal, as modified by Amendment No. 1, has been subject to public comment, and no comments have been received.

The Commission finds that Amendment No. 2 to the proposed rule change raises no novel regulatory issues that have not previously been subject to comment, and is reasonably designed, among other things, to prevent fraudulent and manipulative acts and practices, to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest. The Commission also finds that Amendment No. 2 to the proposed rule change is consistent with Section 11A(a)(1)(C)(iii) of the Act.³⁸ Accordingly, pursuant to Section 19(b)(2) of the Act,³⁹ the Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 2, on an accelerated basis.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁴⁰ that the proposed rule change (SR-NYSE-2026-10), as modified by Amendment No. 2, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴¹

Sherry R. Haywood,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105158; File No. SR-24X-2026-10]

Self-Regulatory Organizations; 24X National Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Limited Liability Agreement of 24X US Holdings LLC Related to a Transaction

April 7, 2026.

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 March 27, 2026, 24X National Exchange LLC (“24X” or the “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ 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

The Exchange proposes to amend the limited liability agreement for 24X US Holdings LLC (“24X US Holdco”), the parent company of the Exchange, in connection with the issuance of additional Voting Common Units of 24X US Holdco upon the conversion of a convertible promissory note. The proposed rule change is available on the Exchange’s website at <https://equities.24exchange.com/regulation> 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 filing with the Commission a proposed rule change to amend the Fourth Amended and Restated Limited Liability Company Agreement (the “24X US Holdco LLC Agreement”) of 24X US Holdings LLC (“24X US Holdco”) to include amendments related to the issuance of

Voting Common Units of 24X US Holdco to Shinhan Securities Co., Ltd. (“Shinhan”) upon the conversion of a convertible promissory note as part of a capital raise (the “Transaction”). The proposed amendments are discussed below.

(a) Shinhan Transaction

On November 24, 2025, 24X issued to Shinhan a convertible promissory note in exchange for certain consideration, which, pursuant to its terms, converted automatically on February 4, 2026 into 755,632 Voting Common Units of 24X US Holdco, subject to the effectiveness of this filing. The Exchange proposes to amend the 24X US Holdco LLC Agreement to facilitate the Transaction, including authorizing the issuance of additional Voting Common Units and to reflect the admission of Shinhan as a Member of 24X US Holdco.⁵

The Exchange proposes to amend the 24X US Holdco LLC Agreement to allow the issuance of Voting Common Units to Shinhan pursuant to the Transaction. The Voting Common Units are the same type of membership interest (*i.e.*, have the same privileges, preference, duties, liabilities, obligations and rights) as the existing interest held by current Members of 24X US Holdco: 24X Bermuda Holdings LLC (“24X Bermuda Holdco”) and Rakuten Securities Holdings, Inc. (“Rakuten”). With the completion of the Transaction, 24X Bermuda Holdco’s proportionate ownership of 24X US Holdco would be reduced by approximately 6.56% from 90.97% to approximately 84.41%. Accordingly, 24X Bermuda Holdco will continue to own its ownership interest in 24X US Holdco pursuant to the existing exceptions to the ownership and voting limitation provisions for 24X Bermuda Holdco in the 24X US Holdco LLC Agreement after giving effect to the Transaction and the proposed amendments to the 24X US Holdco LLC Agreement.⁶ 24X believes that the exceptions to the ownership and voting limitations provisions for 24X Bermuda Holdco remain appropriate because the governance and oversight of the Exchange would not change with the proposed amendments to the 24X US Holdco LLC Agreement.⁷ 24X Bermuda

⁵ A “Member” of 24X US Holdco is defined in Exhibit B of the 24X US Holdco LLC Agreement as “each Person signing this Agreement and any Person who subsequently is admitted as a member in the Company.”

⁶ See Section III(c)(ii)(A) of 24X US Holdco LLC Agreement.

⁷ With the completion of this Transaction, subject to any applicable regulatory requirements, 24X anticipates that Shinhan will participate as an observer on the Board of Managers of 24X Bermuda Holdco.

³⁷ See *supra* note 20 and accompanying text.

³⁸ See *supra* note 27 and accompanying text.

³⁹ 15 U.S.C. 78s(b)(2).

⁴⁰ *Id.*

⁴¹ 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)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

Holdco would remain the Manager of 24X US Holdco, and would continue to have control over decision making for 24X US Holdco.⁸ In addition, with the completion of the Transaction, Rakuten's proportionate ownership of 24X US Holdco would be reduced by approximately 0.53% from 9.03% to approximately 8.50%. Correspondingly, Shinhan would own approximately 7.09% of 24X US Holdco. Accordingly, Shinhan would not exceed any ownership or voting limitations applicable to the Members set forth in the 24X US Holdco LLC Agreement after giving effect to the Transaction and the proposed amendments to the 24X US Holdco LLC Agreement. The proceeds from the Transaction could be used by 24X US Holdco and its subsidiary, the Exchange, for regulation and operation of the Exchange.

(b) Issuance of Additional Voting Common Units

To facilitate the Transaction, the Exchange proposes to amend the 24X US Holdco LLC Agreement to allow 24X US Holdco to issue additional Voting Common Units. The first sentence of paragraph (a) of Section III of the 24X US Holdco LLC Agreement currently states that "[t]he Company⁹ is authorized to issue 11,000,000 Common Units as follows: (1) 9,900,000 Voting Common Units, and (2) 1,100,000 Non-Voting Common Units." The Exchange proposes to revise this sentence to increase the total number of Common Units that the Company is authorized to issue from 11,000,000 Common Units to 12,380,914 Common Units, by increasing the total number of Voting Common Units from 9,900,000 Voting Common Units to 11,280,914 Voting Common Units.¹⁰ Accordingly, the first sentence of paragraph (a) of Section III of the 24X US Holdco LLC Agreement would read as follows: "The Company is authorized to issue 12,380,914 Common Units as follows: (1) 11,280,914 Voting Common Units, and (2) 1,100,000 Non-Voting Common Units."

(c) Revised Exhibit A of the 24X US Holdco LLC Agreement

The Exchange also proposes to amend *Exhibit A* of the 24X US Holdco LLC

Agreement to include the updated ownership interests of 24X Bermuda Holdco, Rakuten and Shinhan. Specifically, the chart in *Exhibit A* would be revised to indicate that (1) 24X Bermuda Holdco would own 84.41% of the Voting Common Units and 9,000,000 Voting Common Units, (2) Rakuten would own 8.50% of the Voting Common Units and 906,335 Voting Common Units,¹¹ and (3) Shinhan would own 7.09% of the Voting Common Units and 755,632 Voting Common Units. In addition, *Exhibit A* would be revised to indicate that the total number of Voting Common Units is 10,661,967.¹²

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Exchange Act¹³ in general, and furthers the objectives of Section 6(b)(5) of the Exchange Act¹⁴ 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 facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with Section 6(b)(5) of the Exchange Act¹⁵ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes that the proposed rule change would further the objectives of Section 6(b)(1) of the Act,¹⁶ in that such amendments enable the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Act and to comply with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange.

The Exchange believes that the proposed amendments to the 24X US Holdco LLC Agreement related to the Transaction, including the issuance of additional Voting Common Units, are consistent with the Act. Such proposed changes to the 24X US Holdco LLC Agreement would facilitate additional investment and funding into 24X US Holdco resulting from the conversion of the convertible promissory note into Voting Common Units pursuant to the Transaction, and such proceeds could be used by 24X US Holdco and its subsidiary, the Exchange, for the regulation and the operation of the Exchange, which, in turn, would enable the Exchange to be so organized as to have the capacity to carry out the purposes of the Act and to comply with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange, and, in turn, would protect investors and the public interest.

The Exchange also believes that the proposal for the Voting Common Units to be the same type of membership interest as the existing interest held by 24X Bermuda Holdco and Rakuten is consistent with the Act because, as described above, the Voting Common Units would have the same privileges, preference, duties, liabilities, obligations and rights, and be subject to the same voting construct, as ownership interests under the current 24X US Holdco LLC Agreement. This would provide for a governance structure of 24X US Holdco that is consistent with the structure currently in place, which was previously approved by the Commission.¹⁷ As the Voting Common Units are the same type of membership interest as the existing ownership interest of 24X Bermuda Holdco and do not otherwise impact the governance of 24X US Holdco or the Exchange, the Exchange believes that the additional Voting Common Units and related amendments to the 24X US Holdco LLC Agreement associated with the additional Voting Common Units relate solely to the administration of 24X US Holdco and the Transaction, and that such amendments would not impact the governance or operations of the Exchange. Accordingly, the Exchange does not believe the issuance of the additional Voting Common Units or the Transaction would in any way restrict the Exchange's ability to be so organized as to have the capacity to carry out the purposes of the Act and to comply with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange, nor does the Exchange

⁸ See Section IV(a) of 24X US Holdco LLC Agreement.

⁹ "The Company," as used herein, means 24X US Holdco, unless otherwise noted.

¹⁰ 24X US Holdco would be authorized to issue 11,280,914 Voting Common Units. 10,661,967 Voting Common Units would be owned by 24X Bermuda Holdco, Rakuten and Shinhan, collectively. The additional 618,947 Voting Common Units would be reserved for use under the 24X US Holdco Equity Incentive Plan.

¹¹ The total number of Voting Common Units owned by Rakuten would increase from 893,087 Voting Common Units to 906,335 Voting Common Units. The increase is due to interest accrued as the result of the later conversion for the Rakuten transaction due to regulatory requirements related thereto. See Securities Exchange Act Rel. No. 104871 (Feb. 19, 2026), 91 FR 8937 (Feb. 24, 2026).

¹² In addition to the changes described above, the Exchange also proposes to amend the signature pages of the 24X US Holdco LLC Agreement to reflect the admission of Shinhan as a Member of 24X US Holdco and to allot a separate signature page to each Member.

¹³ 15 U.S.C. 78f.

¹⁴ 15 U.S.C. 78f(b)(5).

¹⁵ See *id.*

¹⁶ 15 U.S.C. 78f(b)(1).

¹⁷ See Securities Exchange Act Rel. No. 101777 (Nov. 27, 2024), 89 FR 97092 (Dec. 6, 2024).

believe that the additional Voting Common Units or the Transaction would be unfairly discriminatory. As noted above, the governance and oversight of the Exchange would not change with the proposed amendments to the 24X US Holdco LLC Agreement. 24X Bermuda Holdco would remain the Manager of 24X US Holdco, and would continue to have control over decision making for 24X US Holdco.¹⁸ Shinhan would not have decision making authority with regard to the governance and operation of the Exchange. For example, Shinhan would not have the right to choose members of the Exchange Board or its officers.¹⁹

As noted above, 24X Bermuda Holdco's proportionate ownership of 24X US Holdco will be reduced by approximately 6.56% as a result of the Transaction, from 90.97% to approximately 84.41%. Accordingly, 24X Bermuda Holdco will continue to own its ownership interest in 24X US Holdco pursuant to the existing exceptions to the ownership and limitation provisions in 24X US Holdco. Correspondingly, Shinhan would own about 7.09% of 24X US Holdco, and Rakuten would own about 8.50% of 24X US Holdco. Accordingly, neither Shinhan nor Rakuten would exceed any ownership or voting limitations applicable to the Members set forth in the 24X US Holdco LLC Agreement after giving effect to the Transaction and the proposed amendments to the 24X US Holdco LLC Agreement.

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 Exchange Act. The Exchange believes that the proposed rule change regarding the Transaction will enhance the diversity of ownership of the Exchange. Upon the issuance of the Voting Common Units pursuant to the Transaction, the ownership of 24X US Holdco will be distributed among more holders. In addition, the Exchange believes that, by providing the additional funding for the Exchange, the Transaction will allow for enhanced competition in the equities markets.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act²⁰ and Rule 19b-4(f)(6)²¹ thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)²² normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),²³ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that waiver of the operative delay would permit the Exchange to amend the Holdco LLC Agreement to allow for the Voting Common Units in order to facilitate the closing of the Transaction. The Exchange also states that waiver of the 30-day operative delay would allow the Transaction to move forward, thereby allowing additional funding to 24X US Holdco and its subsidiary, the Exchange. For these reasons, and because the proposal raises no new or novel legal or regulatory issues, the Commission finds that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change to be operative upon filing.²⁴

²⁰ 15 U.S.C. 78s(b)(3)(A).

²¹ 17 CFR 240.19b-4. In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, 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 has satisfied this requirement.

²² 17 CFR 240.19b-4(f)(6).

²³ 17 CFR 240.19b-4(f)(6)(iii).

²⁴ For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule 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-24X-2026-10 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-24X-2026-10. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet 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-24X-2026-10 and should be submitted on or before May 1, 2026.

efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁸ See Section IV(a) of 24X US Holdco LLC Agreement.

¹⁹ See, e.g., Sections 6.1 and 8.1 of the Exchange LLC Agreement.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁵

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-06931 Filed 4-9-26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105160; File No. SR-TXSE-2026-004]

Self-Regulatory Organizations; Texas Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To: Amend and Restate the Seventh Amended and Restated Stockholders' Agreement of TXSE Group Inc. as the Eighth Amended and Restated Stockholders' Agreement; Adopt the Texas Certificate of Formation of TXSE Group Inc. To Replace the Sixth Amended and Restated Certification of Incorporation of TXSE Group Inc.; Adopt the Bylaws of TXSE Group Inc. To Replace the Second Amended and Restated Bylaws of TXSE Group Inc.; Adopt the Texas Certificate of Formation of the Texas Stock Exchange LLC To Replace the Delaware Certificate of Formation of the Texas Stock Exchange LLC; and Adopt the Company Agreement of the Texas Stock Exchange LLC To Replace the Third Amended and Restated Limited Liability Company Agreement of the Texas Stock Exchange LLC

April 7, 2026.

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 March 23, 2026, Texas Stock Exchange LLC (the "Exchange" or "TXSE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange 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

The Exchange filed a proposal to: (i) amend and restate the Seventh Amended and Restated Stockholders' Agreement of TXSE Group Inc. (hereinafter "TXSE Group") as the Eighth Amended and Restated Stockholders' Agreement ("Stockholders' Agreement"), adopt the Texas Certificate of Formation of TXSE Group ("Group Certificate of Formation") to replace the Sixth Amended and Restated Certificate of Incorporation of TXSE Group filed in the State of Delaware, and adopt the Bylaws of TXSE Group as a corporation in the State of Texas ("Bylaws") to replace the Second Amended and Restated Bylaws of TXSE Group; and (ii) adopt the Texas Certificate of Formation of TXSE ("TXSE Certificate of Formation") to replace the Certificate of Formation of TXSE filed in the State of Delaware and adopt the Company Agreement of TXSE ("Company Agreement") as a limited liability company in Texas to replace the Third Amended and Restated Limited Liability Company Agreement of TXSE as a Delaware limited liability company. The text of the proposed rule change is available on the Commission's website (<https://www.sec.gov/rules/sro.shtml>) at the Exchange's website (<https://txse.com/rule-filings>), and at the principal office of the Exchange. The text of the proposed rule change is provided in Exhibit 5.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to convert the Exchange and TXSE Group, a limited liability company and corporation respectively, and each organized under the laws of

the State of Delaware, to a limited liability company and corporation, respectively, each organized under the laws of the State of Texas. Specifically, the Exchange proposes to: (i) amend and restate the Seventh Amended and Restated Stockholders' Agreement of TXSE Group as the Eighth Amended and Restated Stockholders' Agreement, adopt the Group Certificate of Formation to replace the Sixth Amended and Restated Certificate of Incorporation of TXSE Group filed in the State of Delaware, and adopt the Bylaws in the State of Texas to replace the Second Amended and Restated Bylaws of TXSE Group; and (ii) adopt the TXSE Certificate of Formation to replace the Certificate of Formation of TXSE filed in the State of Delaware and adopt the Company Agreement as a limited liability company in Texas to replace the Third Amended and Restated Limited Liability Company Agreement of TXSE as a Delaware limited liability company. The above changes reflect the following: (1) the proposed conversion of the Exchange and TXSE Group to be a Texas limited liability company and Texas corporation, respectively, (2) a change in the address and name of the registered office and registered agent of the Exchange and TXSE Group, (3) certain changes reflected in the Group Certificate of Formation, the Stockholders' Agreement, Bylaws, TXSE Certificate of Formation, and Company Agreement, all of which are attributed to the conversion of the Exchange and TXSE Group to be Texas entities, and the ensuing compliance with applicable Texas laws therein, and (4) certain non-substantive and non-material conforming changes.

The Exchange is proposing to reincorporate both the Exchange and TXSE Group to become a Texas limited liability company, and a Texas corporation, respectively. By virtue of this conversion, The Exchange will convert from a limited liability company organized under the laws of the State of Delaware to a limited liability company organized under the laws of the State of Texas, and TXSE Group will convert from a corporation organized under the laws of the State of Delaware to a corporation organized under the laws of the State of Texas. In both instances all rights, privileges, powers, property, and liabilities shall vest to the newly formed entities at the time of conversion.

All changes described herein would become operative upon the filing of the Certificates of Conversion with the Delaware Secretary of State and the Certificates of Formation, Certificates of

²⁵ 17 CFR 200.30-3(a)(12) and (59).

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).

Conversion, and Plans of Conversion with Texas Secretary of State.

The changes proposed by the Exchange do not affect the duties of the Exchange's role as a "national securities exchange" registered under Section 6 of the Act⁵ in that they do not materially alter TXSE Group's or the Exchange's governance framework; amend any of provisions related to the Exchange's obligations as a self-regulatory organization or that would impact the Exchange's ability to carry out its obligations as a self-regulatory organization; or to alter any provisions dealing with the availability or protection of information, books and records, undue influence, conflicts of interest, unfair control by an affiliate, or regulatory independence of the Exchange. The Exchange's proposed documents and changes described herein will not substantively impact the Exchange's existing rules or its current obligations and requirements under its governing documents or the Act, including, but not limited to Section 6(b)(3) of the Act with respect to fair representation of the members of the Exchange in the selection of directors, and administration, of the Exchange. The Exchange is not proposing any changes to its rulebook. In fact, the only changes being proposed are amendments designed to contemplate the conversion of the Exchange and TXSE Group to be Texas entities, and to comply with applicable Texas laws.

To effectuate the changes, the Exchange proposes the following amendments, which are further reflected in Exhibit 5.

Group Certificate of Formation

In order to convert from a Delaware corporation to a Texas corporation, a Certificate of Conversion will be filed with the Secretary of State of the State of Delaware in addition to a Certificate of Conversion and a Certificate of Formation which will be filed with the Secretary of State of the State of Texas. The conversion certificates are necessary to effectuate the conversion of TXSE Group from a Delaware corporation to a Texas Corporation pursuant to the Texas Business Organizations Code ("TBOC") and the Delaware Limited Liability Company Act. All rights, privileges, powers, property, and liabilities of TXSE Group shall transfer to the new Texas Corporation upon filing.

The TBOC requires that a Certificate of Formation be filed with the Secretary of State in order to successfully accomplish the formation of a new

corporation. Currently, many of the naming conventions and certain provisions of the Sixth Amended and Restated Certificate of Incorporation of TXSE Group are, rightfully, based on Delaware corporate requirements. Thus, in effectuating the change from a Delaware corporation to a Texas corporation, it is proposed that, as part of the conversion process, the Certificate of Formation correctly reflect and address the change of state of incorporation and ensure alignment and compliance with applicable Texas laws. The Group Certificate of Formation is substantively similar to the Sixth Amended and Restated Certificate of Incorporation. With respect to the Group Certificate of Formation that is the subject of this filing, the Exchange is proposing to make the following changes:

- All references to the "Sixth Amended and Restated Certificate of Incorporation of TXSE Group Inc." will be updated to be the "Certificate of Formation of TXSE Group Inc." Additionally, references to that title, or to the Certificate of Incorporation generally, throughout the document will be updated to reflect the above change and appropriate nomenclature.

- All references to Delaware, notwithstanding the reference to the Firm's history as a Delaware corporation in preamble Section 1, will be updated to reflect the new state of incorporation, Texas.

- All references to "stockholder(s)" will be updated to "shareholder(s)."
- Preamble number 1 will state TXSE Group's principal place of business as 4450 Travis Street, Suite 650, Dallas, Texas 75205.

- Preamble numbers 2, 3, 4, 5, 6, 7, 8, 9, and 10 that identify the historical updates made to amend and restate the Delaware Certificate of Incorporation will be removed.

- A new preamble number 2 will be added to identify the conversion of TXSE Group from a Delaware corporation to a Texas corporation, and include the date of conversion, pursuant to filing with the respective states.

- The First Article will identify that the name of the corporation is TXSE Group Inc., and that the corporation a for-profit corporation.

- The Second Article will be updated to identify the following:

- That the name of the registered agent will be updated from "Capitol Services, Inc." to "Capitol Corporate Services, Inc."

- That the address of the registered agent will be updated to become 1501 S MoPac Expy., Suite 220, Austin, TX 78746.

- That the initial mailing address of the corporation is 4450 Travis Street, Suite 650, Dallas, Texas 75205.

- The Third Article will remove the reference the Delaware General Corporation Law ("DGCL") and include the TBOC. Other references to the DGCL elsewhere in the document will also be updated to be the TBOC.

- The Fourth Article will be updated as follows:

- That a "certificate of designation" will be updated to be identified as a "statement of resolution."

- With respect to preferred stock, the following will be removed "and no vote of the holders of any series of Preferred Stock, voting as a separate class, shall be required therefor, unless a vote of any such holders is required pursuant to the terms of any Preferred Stock Designation." and replaced with "Except as otherwise required by this Certificate of Formation, and notwithstanding any provision of the TBOC to the contrary, (y) all classes or series of stock are entitled to vote as a single class or series, and separate voting by class or series is not required, for the purpose of approving any matter, including in connection with any "fundamental action" or "fundamental business transaction" as defined in the TBOC, and (z) the approval of a "fundamental action" or "fundamental business transaction" as defined in the TBOC requires the affirmative vote of the holders of at least a majority of the voting power of all of the outstanding shares of stock entitled to vote thereon, voting together as a single class." ⁶

- A new Fifth Article will be added to identify that the corporation affirmatively elects to be governed by Section 21.419 of the TBOC, with respect to a minimum of 3% of shares outstanding for a derivative proceeding to be instituted. Specifically, any time TXSE Group has any class or series of its Common Stock listed on a national securities exchange (as defined in Section 1.002(55-a) of the TBOC) or has 500 or more shareholders, no shareholder (as defined in Section 21.551(2) of the TBOC) of TXSE Group may institute or maintain a derivative proceeding unless the shareholder, as the time of the derivative proceeding is instituted, holds at least three (3)

⁶For clarity, the proposed new language in this provision is substantially similar to the language in the current Sixth Amended and Restated Certificate of Incorporation of TXSE Group, and the only meaningful difference is that the proposed change provides further clarity that all classes of stock are entitled to vote as a single class; See also TEX BUS ORG CODE Sections 21.456–458 (outlining voting requirements with respect to fundamental business transactions).

⁵ 15 U.S.C. 78f.

percent of the outstanding shares of TXSE Group.⁷

- The Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, Twelfth, Thirteenth, Fourteenth, Fifteenth, Sixteenth, Seventeenth, and Eighteenth Articles will be updated to be the Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, Twelfth, Thirteenth, Fourteenth, Fifteenth, Sixteenth, Seventeenth, Eighteenth, and Nineteenth Articles, respectively. Internal references to Articles within the document will be updated accordingly.

- The date in the new Sixth Article, subsection (a)(xi), will be updated to reflect the date when the Eighth Amended and Restated Stockholders' Agreement is executed. Additionally, references to the Seventh Amended and Restated Stockholders' Agreement will be updated to be the Eighth Amended and Restated Stockholders' Agreement.

- The new Eighth Article, subsection (c), will specifically identify the initial board of directors of the corporation.

- The new Tenth Article will be updated as follows:

- The first paragraph will have an italicized label of "Actions by Written Consent of Shareholders."

- A new subsection (b) will be added to identify specific individuals and entities who will be entitled to call a special meeting, in accordance with the TBOC.⁸

- The new Twelfth Article will include qualifying language in subsection (a) that the corporation will indemnify a covered person if that covered person was acting in good faith and in a manner that the covered person reasonably believed was not opposed to the best interests of the corporation. Additionally, subsection (b) will include qualifying language that the corporation will advance expenses reasonably incurred by a covered person in defending a proceeding only after the covered person delivers to the corporation written affirmation of their good faith belief they have met the standard of indemnification set forth in Chapter 8 of the TBOC, and that covered persons must repay advanced amounts if it is determined that the covered person did not meet the standard necessary for

indemnification under Chapter 8 of the TBOC.

- The new Seventeenth Article will be updated as follows:

- The removal of the Delaware Court of Chancery and the addition of the Business Court in the First Business Court Division, or if the Business Court determines it lacks jurisdiction, a federal district court in the Northern District of Texas, Dallas Division, as the exclusive forum for derivative actions, and breaches of fiduciary duty, among other claims.

- Specifically, with respect to claims brought regarding breaches of fiduciary duty, language will be added to contemplate claims brought for aiding and abetting a breach of fiduciary duty.

- The addition of qualifying language in subsection (b)(v) regarding the internal affairs doctrine that the claim must relate to or involve the corporation.

- The update of subsection (b)(vi) that changes "internal corporate claim" to "internal entity claim."

- The update of subsection (b)(vi), removing reference to Section 115 of the DGCL and adding reference to Section 2.115 of the TBOC.

- The addition of subsection (b)(vii) that to the extent a claim is within the jurisdiction of the jurisdiction of the Business Court, including any claims within the supplemental jurisdiction of the Business Court, that any person holding an interest in the Corporation is deemed to have notice of this section and has irrevocably and unconditionally agreed that the Business Court shall be the sole and exclusive forum for the resolution of the foregoing dispute to the fullest extent permitted by law.

- The inclusion of language identifying that unless the Corporation consents, federal district courts of the United States shall be the exclusive forum for any complaint arising out of the Securities Act of 1933.

- A new subsection (c) will be added, identifying shareholders' waiver of the right to a jury trial.⁹

Stockholders' Agreement

Following the conversion of both TXSE Group and the Exchange, from Delaware entities to Texas entities, it is proposed that TXSE Group amend its Stockholders' Agreement. Currently, many of the naming conventions and certain provisions of the Seventh

Amended and Restated Stockholders' Agreement are based on Delaware corporate requirements, and thus in effectuating the change from a Delaware corporation to a Texas corporation, it is proposed that the Stockholders' Agreement be updated to correctly reflect and address the change and ensure alignment and compliance with applicable Texas laws. The proposed Stockholders' Agreement is substantively similar to the previous iteration, with non-substantive and non-material updates being proposed. With respect to the specific updates in the Stockholders' Agreement, the Exchange is proposing to make the following changes:

- All references to the "Seventh Amended and Restated Stockholders' Agreement" will be updated to be the "Eighth Amended and Restated Stockholders' Agreement."

- The date will be updated to reflect the Stockholders' Agreement is being made as of [●], 2026.

- All references to TXSE Group Inc. being a "Delaware corporation" will be updated to be a "Texas corporation." Additionally, all references to Delaware will be updated to reflect the new state of incorporation, Texas.

- References to the previous iteration of the document being the "Sixth Amended and Restated Stockholders' Agreement" will be updated to be the "Seventh Amended and Restated Stockholders' Agreement."

- A sentence will be added to the preamble identifying that "This Agreement shall become effective at the Reincorporation Time (as defined below)."

- All references to the "Certificate of Incorporation" will be updated to be the "Certificate of Formation."

- The following definition will be added in the definitions section 1.tt: "Reincorporation Time" means the "Effective Time" as defined in that certain Plan of Conversion approved and adopted by the Board on [March 3, 2026], or such other date as the Board determines; *provided* that such Reincorporation Time shall be no later than June 30, 2026."

- The subsequent definitions previously in Section 1, subsections tt., uu., vv., ww., xx., yy., zz., aaa., bbb., will now be uu., vv., ww., xx., yy., zz., aaa., bbb., ccc., respectively.

- All references to "stockholder(s)" will be updated to "shareholder(s)." ¹⁰

- With respect to BlackRock Consent Rights (Section 2.e.(i)), Citadel Consent

⁷ See TEX BUS ORG CODE Section 21.552.

⁸ See TEX BUS ORG CODE Section 21.352 (identifying that a special meeting may be called by: (1) the president, board of directors, or any other person authorized to call special meetings by the certificate of formation or bylaws of a corporation, or (2) the holders of the percentage of shares specified in the certificate of formation, not to exceed 50 percent of the shares entitled to vote or, if no percentage is specified, at least 10 percent of all the shares of the corporation entitled to vote at the proposed special meeting).

⁹ Subsection (c) is intended to provide clarity in that the appropriate forum for claims will be the Business Court in the First Business Court Division, as specified in subsection (b) of Article 17. The changes reflect no substantive difference in that both the Delaware Court of Chancery and the Texas Business Courts do not provide for jury trials.

¹⁰ For clarity, this change refers to generic references to stockholders and shareholders, respectively, and does not alter any defined terms within the Stockholders' Agreement.

Rights (Section 2.h.(i)), Schwab Consent Rights (Section 2.j.(i)), JPM Consent Rights (Section 2.l.(i)), BofA Consent Rights (Section 2.n.(i)), and Goldman Consent Rights (Section 2.p.(i)), language will be removed with respect to undertaking a change in corporate form or jurisdiction, specifically, relating to a change from Delaware to Texas.

- Section 2.u will be added to contemplate the preservation of the authority of the board as prescribed by the TBOC Section 21.110.
- With respect to amendments subject to the approval of Controlling Stockholders¹¹ in Section 7, references Section 2.u, as discussed above, have been included with respect to the Warren Family, BlackRock, Citadel, Schwab, JPM, BofA, and Goldman.

Bylaws

Following the conversion of both TXSE Group and the Exchange, from Delaware entities to Texas entities, it is proposed that TXSE Group adopt its Bylaws. Currently, the Second Amended and Restated Bylaws of TXSE Group Inc. are, rightfully, based on Delaware corporate requirements, in addition to certain naming conventions of the document. Thus, in effectuating the change from a Delaware corporation to a Texas corporation, it is proposed that, as part of the conversion process, the Bylaws correctly reflect and address the change of state of incorporation and ensure alignment and compliance with applicable Texas laws. The Bylaws are substantively similar to the Second Amended and Restated Bylaws of TXSE Group Inc. With respect to the specific updates to the Bylaws, the Exchange is proposing to make the following changes:

- The title of the Bylaws document will be renamed from “Second Amended and Restated Bylaws of TXSE Group Inc.” to “Bylaws of TXSE Group Inc.” Additionally, references to the title, will be updated to reflect the above.
- All references to Delaware will be updated to reflect the new state of incorporation, Texas.
- All references to “stockholder(s)” will be updated to be “shareholder(s).”
- All references to the “Certificate of Incorporation” will be updated to be the “Certificate of Formation.”
- References to the DGCL will be removed and replaced with the

corresponding section(s) in the TBOC, as applicable.

- Section 1.1 will include the following updates:
 - the term “initial” as an identifier to the registered office of TXSE Group Inc.
 - The address of registered agent will be updated to be 1501 S MoPac Expy., Suite 220, Austin TX 78746.
 - That the name of the registered agent will be updated from “Capitol Services, Inc.” to “Capitol Corporate Services, Inc.”
 - The statement regarding changes of the registered office and/or registered agent upon action by the board of directors, will now contain the qualification that action will be taken upon making the appropriate filing with the Secretary of State.
- Section 1.3 will include a statement contemplating that records maintained by the corporation in the regular course of its business shall be maintained in written paper form or another form with the ability to be converted to written paper, and that conversion will occur upon the request of any person entitled to inspect the records pursuant to applicable law.¹²

- Section 2.3 will include the specific lettering of (A), (B), (C), and (D) in parenthetical (i), and will also include parenthetical (ii), which states “shareholders as provided in the Certificate of Formation” with respect to who may call a special meeting.

- Section 2.4 will include a contemplation of the TBOC that notice of a shareholder meeting with respect to a fundamental business transaction must be given to each shareholder at least twenty-one (21) days before the meeting.¹³

- Section 2.5 will be updated as follows:

- A complete list of shareholders entitled to vote is prepared eleven (11) days in advance of the meeting as opposed to ten (10) days.¹⁴

- The list described above will contain the type of shares held by each shareholder.

- The language will reflect that the number of shares is no longer registered in the name of the shareholder, but rather is held by each shareholder, including the number of votes each shareholder is entitled to vote, to the

¹² See TEX BUS ORG CODE Section 3.151 (requiring that corporate records be maintained in a paper form or a form that is convertible to paper).

¹³ See TEX BUS ORG CODE Section 21.456 (requiring 21 days’ notice for shareholder meeting at which a “fundamental business transaction” will be considered).

¹⁴ See TEX BUS ORG CODE Section 21.372 (requiring that shareholder lists be prepared at least 11 days before the meeting).

extent that number is different from the number of shares held.¹⁵

- The statement that the list will be open to examination at the meeting as required by applicable law will be removed.

- Section 2.8 with respect to Voting Common Stock and Non-Voting Common Stock, as prescribed by the DGCL will be removed.¹⁶

- Sections 2.9, 2.10, 2.11, 2.12, 2.13, and 2.14, will be updated to be 2.8, 2.9, 2.10, 2.11, 2.12, and 2.13, respectively.

- New Section 2.8 will provide that no proxy will be voted or acted upon after eleven (11) months from its date, unless the proxy provides for a longer period, as opposed to three (3) years.¹⁷

- New Section 2.9 will both: (i) remove the qualification on ballots required for any election, which previously stated that no ballots will be required unless requested by a stockholder present or represented at the meeting, and (ii) add “written” as a qualifier to ballot.¹⁸

- Section 3.4 will identify that the Board of Directors may not fill more than two vacancies created by an increase in the number of directors during a period between two successive annual meetings of shareholders.¹⁹

- Section 3.14 will be updated as follows:

- A reference to Section 110 of DGCL will be removed and a reference to 3.251(1) of the TBOC will be added, both of which refer to emergency bylaws.

- Subsection (e) with respect to officer or employee liability, absent

¹⁵ See TEX BUS ORG CODE Section 21.372 (providing more detailed requirements for shareholder list information, including specification of share types and vote counts).

¹⁶ As part of the proposed amendments herein, TXSE Group intends to remove Section 2.8 from the Bylaws to avoid potential inconsistency between the governing documents, endeavoring to ensure that the Group Certificate of Formation serves as the single authoritative source for shareholder voting rights. This approach also attempts to reduce the risk of any inadvertent conflict between the Bylaws and the Group Certificate of Formation; *Supra* note 6.

¹⁷ See TEX BUS ORG CODE Section 21.368 (providing that a proxy is not valid after 11 months after the date the proxy is executed unless otherwise provided by the proxy).

¹⁸ See generally TEX BUS ORG CODE (TBOC does not require written ballots). As part of the proposed amendments described herein, TXSE Group is electing to qualify that election ballots do not need to be written in conformation with the TBOC.

¹⁹ See TEX BUS ORG CODE Section 21.410 (providing that the board of directors may not fill more than two directorships during a period between two successive annual meetings). The Exchange notes, however, that it will continue to comply with existing obligations and composition requirements for the Exchange Board, as specified elsewhere in the Bylaws, its other governing documents, and its rules.

¹¹ The term “Controlling Stockholders” is a defined term within the Stockholders’ Agreement and is defined as “one or more Stockholders holding at least a majority of the Shares held in aggregate by the Stockholders.”

willful misconduct pursuant to Section 110 of the DGCL will be removed.

- A new subsection (e) identifying that action taken in good faith based on a reasonable belief may not impose liability on an employee, director, or officer, pursuant to Section 3.2535 of the TBOC.

- Section 5.11 will remove the treasurer as a position that cannot be left unfilled.²⁰

- Section 8.11 will include the addition that records kept in any electronic form are capable of being converted into written paper, as similarly provided in the update described in Section 1.3 above.

- Article 10, which contemplates that the Court of Chancery of the State of Delaware shall be the sole and exclusive forum for derivative actions, breaches of fiduciary duty, actions arising out of the DGCL, actions to interpret the Certificate of Incorporation or Bylaws, actions regarding internal affairs, or internal corporate claims, will be removed.²¹

- Article 11 and 12, and all corresponding numbering conventions, with respect to subsections, will be updated to be Article 10 and 11, and correct corresponding subsections.

TXSE Certificate of Formation

In order to convert from a Delaware limited liability company to a Texas limited liability company, a Certificate of Conversion will be filed with the Secretary of State of the State of Delaware, in addition to a Certificate of Formation and a Certificate of Formation which will be filed with the Secretary of State of the State of Texas. The conversion certificates are necessary to effectuate the conversion of TXSE from a Delaware limited liability company to a Texas limited liability company pursuant to the TBOC and the Delaware Limited Liability Company Act. All rights, privileges, powers, property, and liabilities of TXSE Group shall transfer to the Exchange upon filing.

The TBOC requires that a Certificate of Formation be filed with the Secretary of State in order to successfully accomplish the formation of the new limited liability company.²² With respect to the TXSE Certificate of Formation, the Exchange is proposing to make the following updates. The

Exchange notes here, that the State of Delaware and the State of Texas have different forms²³ with respect to their limited liability company certificates of formation. The changes that will be identified below reflect the non-substantive changes, as opposed to differences in the templated form between the two states:

- The name of the registered agent will be updated from “Capitol Services, Inc.” to “Capitol Corporate Services, Inc.”

- The address of the registered agent will be updated to become 1501 S MoPac Expy., Suite 220, Austin, TX 78746.

Company Agreement

Following the conversion of both TXSE Group and the Exchange, from Delaware entities to Texas entities, it is proposed that TXSE adopt its Company Agreement. Currently, the Third Amended and Restated Limited Liability Company Agreement of Texas Stock Exchange is, rightfully, based on Delaware limited liability company requirements, in addition to certain naming conventions of the document. Thus, in effectuating the change from a Delaware limited liability company to a Texas limited liability company, it is proposed that as part of the conversion process, the Company Agreement correctly reflect and address the change of state of incorporation and ensure alignment and compliance with applicable Texas laws. The Company Agreement is substantively similar to the Third Amended and Restated Limited Liability Company Agreement of Texas Stock Exchange LLC. With respect to the specific updates to the Company Agreement, the Exchange is proposing to make the following updates:

- The title of the document will be updated from the “Third Amended and Restated Limited Liability Company Agreement of Texas Stock Exchange LLC” to “Company Agreement of Texas Stock Exchange.” Further, all references to the “Third and Amended Restated Limited Liability Company Agreement” will be updated to “Company Agreement.” Additionally, instances where “Limited Liability Company Agreement” is identified will be updated to either “Company Agreement” or “Agreement.”

- All references to Delaware will be updated to reflect the new state of incorporation, Texas.

- References to the “Act” as defined in the document, will all be updated to

the “TBOC” as defined in the document (see below).

- All references to “stockholder(s)” will be updated to be “shareholder(s).”

- All references to a “director(s)” will be updated and capitalized to be “Director(s).”

- Article qualifiers to section references will be added for clarity of reference (e.g., section 9(b) will become Article III, Section 9(b)).

- The previous statement about the Company Agreement amending and restating the entirety of the Second Amended and Restated Limited Liability Company Agreement will be removed.

- The Definitions Section will be updated as follows:

- subsections (a) that defines “Act” as the Delaware Limited Liability Company Act will be removed.

- subsections (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u), (v), (w), (x), (y), (z), (aa), (bb), (cc), (dd), (ee), (ff), and (gg), will be updated to be (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u), (v), (w), (x), (y), (z), (aa), (bb), (cc), (dd), (ee), and (ff), respectively.

- Subsection (gg) will be added to include the definition of “TBOC” as the Limited Liability Company Law, Title 3 of the Texas Business Organization Code, as the same may be amended from time to time.

- Section 2, Article 2, will remove the old date of formation, and will input the new date of formation, on the date of filing.

- The name of the registered agent will be updated from “Capitol Services, Inc.” to “Capitol Corporate Services, Inc.”

- The address of the registered office and agent will be updated to become 1501 S MoPac Expy., Suite 220, Austin, TX 78746.

- Section 2(a) of Article III adds “of this Agreement” to the end of paragraph.

- Section 2(b) of Article IV will include “Member” after the term “Industry” and “Non-Industry”

- Section 9 of Article X will update “limited liability company interest” to “membership interest.”

- Section 13 of Article X²⁴ will have the following updates:

- The section will be renamed “Termination” from “Dissolution.” Reference to dissolution within the

²⁰ As part of the proposed amendments described herein, TXSE Group is electing to remove the Treasurer as an office that cannot be left unfilled.

²¹ For clarity, forum selection provisions have been moved entirely to the Group Certificate of Formation.

²² See TEX BUS ORG CODE Section 101.051; See also TEX BUS ORG CODE Section 21.051.

²³ See generally Form 205 of the Secretary of State of the State of Texas.

²⁴ See TEX BUS ORG CODE Section 101.621. The TBOC uses different terminology and procedures with respect to winding up a limited liability company. Under Texas law, limited liability companies are terminated rather than dissolved.

section will be updated to reflect this change.

- The phrase “the entry of a decree of a judicial dissolution” will be updated to “a determination by the court.”

- Section 18.802 of the Act will be replaced with Section 1011.621 of the TBOC.

- In subsection (d), references to canceling a certificate of formation will be updated to contemplate the filing of a certificate of termination in accordance with the TBOC.

- Section 16 of Article X will add a statement that says “In this regard, the Company affirmatively elects to be governed by Section 101.256 of the TBOC.”

- Section 17 of Article X will remove the following: “Any agreement to pay any amount and any assumption of liability in this Agreement contained, express or implied, shall be only for the benefit of the LLC Member and its respective heirs, successors, and permitted assigns, and such agreements and assumptions shall not inure to the benefit of the obliges of any indebtedness of any other party, whomsoever, deemed to be a third party beneficiary of this Agreement” and replace with “Subject to Article X, Section 10 of this Agreement, nothing in this Agreement, express or implied, is intended to confer upon any party, other than the parties, hereto and their respective permitted assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement and no person who is not a party to this Agreement may rely on the terms hereof.”²⁵

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.²⁶ Specifically, the Exchange believes the proposed rule change is consistent with the objectives of Section 6(b)(1)²⁷ of the Act in particular, in that such amendments enable the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Act and to comply with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. The Exchange also believes that the proposed amendments are consistent

with Section 6(b)(5) of the Act,²⁸ which requires the rules of an exchange to be 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 changes being proposed, both in form and substance, reflect the conventions of moving both the Exchange and TXSE Group entities from Delaware to Texas. The differences enable the Exchange to be able to be so organized 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 exchange members and persons associated with its exchange members, with the provisions of the Act, the rules and regulations thereunder, the rules of the exchange, and the applicable laws of Texas. Furthermore, the proposed differences within the updated documents facilitate compliance with Texas law, update addresses, and naming conventions, and the Exchange believes the proposed amendments are consistent with, and will not interfere with, the self-regulatory obligations of the Exchange. In other words, these are changes that remove impediments to, and perfect the mechanism of, a free and open market by removing potential confusion that may result from corporate governance provisions that are either unclear or inconsistent with governing law.

Therefore, the Exchange believes these proposed changes are appropriate and consistent with Section 6(b)(1) of the Act, in that such amendments enable the Exchange to be so organized as to have the capacity to carry out the purposes of the Act and to comply with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. Further, such amendments will not impair the ability of the Exchange to carry out its functions and responsibilities as an “exchange” under the Act, and the rules and regulations promulgated thereunder, nor do such amendments impair the ability of the Commission to enforce the Act and the rules and regulations promulgated thereunder with respect to the Exchange.

The Exchange believes the proposed amendments described in this proposal are consistent with, and will not interfere with, the self-regulatory obligations of the Exchange. The Exchange importantly notes that it is not proposing to materially alter TXSE Group’s or the Exchange’s existing

governance framework, materially amend any of the provisions related to the Exchange’s obligations as a self-regulatory organization or that would impact the Exchange’s ability to carry out its obligations as a self-regulatory organization, or to alter any provisions dealing with the availability or protection of information, books and records, undue influence, conflicts of interest, unfair control by an affiliate, or regulatory independence of the Exchange.²⁹ Further, the Exchange’s proposed documents and changes described herein will not substantively impact the Exchange’s existing rules or its current obligations and requirements under its governing documents or the Act, including, but not limited to Section 6(b)(3) of the Act with respect to fair representation of the members of the Exchange in the selection of directors, and administration, of the Exchange.

For these reasons, the Exchange believes such amendments would enable the Exchange to be so organized as to have the capacity to carry out the purposes of the Act and to comply with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market, and protect investors and the public interest.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposal will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal is not intended to address competitive issues but rather is concerned with the changes to the corporate documents of the Exchange and TXSE Group necessary to reincorporate both the Exchange and TXSE Group in the state of Texas, as described above.

C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

²⁵ The change above is not intended to affect or alter any rights but rather provides clarity that explicitly identifies the absence of any third-party beneficiary rights.

²⁶ 15 U.S.C. 78f(b).

²⁷ 15 U.S.C. 78f(b)(1).

²⁸ 15 U.S.C. 78f(b)(5).

²⁹ See, e.g., Securities Exchange Act Release No. 104146 (September 30, 2025), 90 FR 47880 (October 2, 2025) (In the Matter of the Application of Texas Stock Exchange LLC for Registration as a National Securities Exchange; Findings, Opinion, and Order of the Commission) at Section III, A (“Ownership and Governance of TXSE”) and Section III, B (“TXSE Group and Regulation of the Exchange”).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to Section 19(b)(3)(A) of the Act³⁰ and 19b-4(f)(6)³¹ thereunder, the Exchange has designated this proposal as one that effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and by its terms, does not become operative for 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.³²

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)³³ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the Exchange and TXSE Group's reincorporation may take effect promptly. The Exchange states that the proposed changes do not materially alter the Exchange or TXSE Group's existing governance framework, nor do they raise novel issues not previously considered by the Commission. Therefore, the Commission believes that it is consistent with the protection of investors and the public interest for the Exchange to implement this proposal prior to 30 days from the date of filing. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.³⁴

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 proposal is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-TXSE-2026-004 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File No. SR-TXSE-2026-004. 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-TXSE-2026-004 and should be submitted on or before May 1, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁵

Sherry R. Haywood,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105161; File No. SR-NYSE-2026-16]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change of Amendments to Rule 8000 and Rule 9000

April 7, 2026.

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 March 25 2026, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes amendments to the Rule 8000 and Rule 9000 Series to harmonize the Exchange's disciplinary rules with recent changes to the disciplinary rules of the Financial Industry Regulatory Authority ("FINRA") on which the Exchange disciplinary rules are modeled. 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.

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

³⁰ 15 U.S.C. 78s(b)(3)(A).

³¹ 17 CFR 240.19b-4(f)(6).

³² In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

³³ 17 CFR 240.19b-4(f)(6)(iii).

³⁴ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

³⁵ 17 CFR 200.30-3(a)(12), (59).

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes amendments to the Rule 8000 (Investigations and Sanctions) and Rule 9000 Series (Code of Procedure) to: (i) automatically stay effectiveness of specified expulsions of member organizations, membership cancellations, and denials of applications for continued membership of disqualified member organizations to allow for Securities and Exchange Commission ("Commission" or "SEC") review under Section 19 of the Act,⁴ and (ii) provide authority for Exchange staff and adjudicators to grant respondents and applicants the opportunity to seek a stay or take other appropriate action before certain sanctions or regulatory measures (other than the above-mentioned expulsions, membership cancellations, or denials of continued membership applications) take effect.

The proposed rule change would harmonize the Exchange's disciplinary rules with those of FINRA, and would apply to expedited proceedings under the Rule 9550 Series (Expedited Proceedings), disciplinary proceedings under the Rule 9200 (Disciplinary Proceedings) and Rule 9300 Series (Review of Disciplinary Proceeding by Exchange Board of Directors), eligibility proceedings under the Rule 9520 Series (Eligibility Proceedings), and cease and desist orders under the Rule 9800 series (Temporary and Permanent Cease and Desist Orders), as well as expulsions of member organizations under Rule 8320 (Payment of Fines, Other Monetary Sanctions, or Costs; Summary Action for

Failure to Pay). The proposed rule change would not apply to any other sanction or Exchange action against a member organization, associated person, or other person subject to the Exchange's jurisdiction.

Background and Proposed Rule Change

In 2013, the Exchange adopted rules relating to investigation, discipline, and sanctions, and other procedural rules based on FINRA's disciplinary rules.⁵ NYSE Rules 9550, 9200, 9300, 9520, 9800, and 8320 are based on, and substantively similar to, each respective FINRA rule.

Recently, FINRA amended its disciplinary rules to provide that specified expulsions of member firms, cancellations of membership, and denials of applications for continued membership of disqualified member firms would not become effective until the time for filing an application for review with the SEC has expired and no such application is filed or, if such an application is timely filed, until the SEC completes its review under Section 19 of the Act.⁶ FINRA's changes applied to decisions issued in expedited proceedings under the FINRA Rule 9550 Series, disciplinary proceedings under the FINRA Rule 9300 Series, and eligibility proceedings under the FINRA Rule 9520 Series and Funding Portal Rule 900(b), as well as expulsions of member firms under FINRA Rule 8320 (for failure to pay fines, monetary sanctions, and costs), cancellations of membership, and denials of applications for continued membership.⁷ In addition, FINRA also

amended provisions of the FINRA Rule 9000 Series (Code of Procedure) that require or allow for a sanction (e.g., a suspension or bar) or other regulatory measure (such as a denial of a statutory disqualification application, imposition of a cease and desist order, or imposition of conditions, requirements or restrictions) to take effect immediately. The amendments provided FINRA staff and adjudicators authority to grant respondents and applicants, where appropriate, the opportunity to seek a stay from the SEC or take other appropriate action before the sanction or other regulatory measure takes effect, and in certain instances, would expressly prescribe such amount of time by rule.⁸

The Exchange proposes to harmonize its disciplinary rules with these recent changes by FINRA. To effectuate these changes, the Exchange would make the following changes to Rules 8320, 9269, 9310, 9524, 9527, 9557, 9558, 9559, 9840, 9850, and 9870, as follows.

- Rule 8320(b) provides for a summary suspension until a fine or monetary sanction is paid to the Exchange consistent with subsection (a). A subsection (2) would be added to Rule 8320(b) that would provide that an expulsion under paragraph (b)(1) of the Rule would not become effective until the time for filing an application for review with the SEC has expired and no such application is filed or, if such an application is timely filed, until the SEC either completes its review under Exchange Act Section 19 or otherwise orders. The existing text of Rule 8320(b) would become Rule 8320(b)(1) and existing subsections (1) and (2) would become subsections 8320(b)(1)(A) and (B), respectively. The text of the current rule would remain unchanged. The proposed rule change is substantively the same as rule text added to FINRA Rule 8320(b)(2) with one difference. The Exchange proposes to add the phrase "or otherwise orders" to the proposed language to reflect the fact that the Commission retains authority over its own proceedings, including the authority to determine, either on its own motion or by motion of a party to the respective proceeding, when an expulsion should become effective.

- Rule 9269(d) provides that in the case of default decisions issued by a Hearing Officer, unless otherwise provided in the default decision, the

firm can reapply for FINRA membership by submitting a new Form BD and Form NMA as part of the new member application process. *See id.*, at n.8.

⁸ *See* Securities Exchange Act Release No. 103285 (June 17, 2025), 90 FR 26667 (June 23, 2025) (SR-FINRA-2025-006) ("Release 103285").

⁴ *See, e.g.*, 15 U.S.C. 78s(e) & (f). FINRA sought to align its disciplinary rules relating to the effectiveness of expulsions in expedited proceedings with the ruling of the United States Court of Appeals for the D.C. Circuit in *Alpine Securities Corp. v. FINRA*, 121 F.4th 1314 (D.C. Cir. 2024), *cert. denied* (June 2, 2025) (No. 24–904) (remanding to the district court with instructions to enter a limited preliminary injunction enjoining FINRA from expelling Alpine Securities until the Commission has reviewed any expulsion that FINRA may order in the pending expedited proceeding against Alpine Securities or the time for Alpine Securities to seek SEC review of an expulsion has passed). *See* Securities Exchange Act Release No. 103228 (June 11, 2025), 90 FR 25689 (June 17, 2025) (SR-FINRA-2025-004) ("Release 103228"). In its filing, FINRA noted that this litigation is ongoing and that FINRA does not waive any rights or arguments it may have in connection with this or any other pending or future matter. *See id.*, 90 FR at 25690, n.7. The Exchange similarly notes that by harmonizing its rules with FINRA, it similarly does not waive any rights or arguments it may make in connection with matters relating to these rules or to the issues presented in the *Alpine* litigation in any pending or future matter. *See also* note 7, *infra*.

⁵ *See* Securities Exchange Act Release No. 69045 (March 5, 2013), 78 FR 15394 (March 11, 2013) (SR-NYSE-2013-02).

⁶ *See* Release 103228, 90 FR at 25689 and 15 U.S.C. 78s(e) & (f). Pursuant to the Act, an application for review of a determination by FINRA or the Exchange, such as the imposition of a final disciplinary sanction or denial of membership, must be filed with the SEC within 30 days after notice is filed with the SEC and received by the aggrieved person applying for review. *See* 15 U.S.C. 78s(d). *See also* SEC Rule of Practice 420(b), 17 CFR 201.420(b) (providing that the SEC will not extend this 30-day period absent a showing of extraordinary circumstances).

⁷ FINRA proposed to stay the effectiveness of actions against member firms that could result in a sanction or action that shares the relevant characteristics of the sanction at issue in the *Alpine* matter, specifically expulsions imposed in full disciplinary proceedings and under FINRA Rule 8320 (for failure to pay fines, monetary sanctions, and costs), cancellations of membership, and denials of applications for continued membership. *See* Release 103228, 90 FR at 25690. Like expulsions in expedited proceedings, these latter FINRA actions are not currently stayed under FINRA rules by the filing of an application for SEC review, and once the FINRA action becomes final and effective, the firm is no longer a FINRA member. However, unlike an expulsion, if a member firm's membership has been cancelled, the

sanctions shall become effective on a date to be determined by the Exchange's regulatory staff, except that a bar or expulsion becomes effective immediately upon the default decision becoming the final disciplinary action of the Exchange. The Exchange would restructure Rule 9269(d) into three subparagraphs. New subparagraphs (d)(1) and (3) would contain existing rule text. New subparagraph (d)(2)(A) would be amended to provide that unless otherwise provided in the default decision, "a sanction (other than a bar or expulsion) specified in a decision constituting final disciplinary action of Exchange for purposes of SEA Rule 19d-1(c)(1) shall become effective on a date to be determined by Regulatory Staff" and new subparagraph (d)(2)(B) amended to provide that "a bar or expulsion specified in a decision shall become effective immediately upon the default decision becoming the final disciplinary action of the Exchange for purposes of SEA Rule 19d-1(c)(1)." As FINRA noted, this proposed amendment would achieve consistency with the structure of Rule 9268(f), which governs the effectiveness of sanctions in other disciplinary decisions.⁹

- The following new subsection (e) would be added to Rule 9310, which governs review of disciplinary proceedings by the Exchange's Board of Directors (the "Board"): "Unless the Exchange Board of Directors otherwise specifically directs, a sanction (other than a bar, an expulsion, or a permanent cease and desist order) specified in a decision constituting final disciplinary action of the Exchange for purposes of SEA Rule 19d-1(c)(1) shall become effective on a date to be determined by the Exchange. A bar or a permanent cease and desist order shall become effective upon service of the decision constituting final disciplinary action of the Exchange, unless otherwise specified therein. An expulsion shall not become effective until the time for filing an application for review with the SEC has expired and no such application is filed or, if such an application is timely filed, until the SEC either completes its review under Exchange Act Section 19 or otherwise orders." The proposed text is substantively the same as FINRA Rule 9360 (Effectiveness of Sanctions), including the text FINRA added, except for the phrase "or otherwise orders" that the Exchange proposes to include for the reasons discussed above.¹⁰

Rule 9524(a), governing requests for Board review, would be amended by adding the following clause in the first sentence of the Rule: "an application for relief from eligibility requirements pursuant to Rule 9522(e)(2) or." The proposed language has no analogue in the FINRA rule. The Exchange would add the proposed language to provide clarity and internal consistency to its rule since an application for relief pursuant to Rule 9522(e)(2) would also be eligible for Board review pursuant to Rule 9524.

In addition, the Exchange would add the following new sentence to the end of Rule 9524(b), which governs reviews of eligibility proceedings by the Board: "A decision to deny an application for a disqualified member organization's continued membership shall not become effective until the time for filing an application for review with the SEC has expired and no such application is filed or, if such an application is timely filed, until the SEC either completes its review under Exchange Act Section 19 or otherwise orders." The proposed language is substantively similar to the rule language FINRA added to its Rule 9524 with the exception of the phrase "or otherwise orders," which the Exchange proposes to include for the reasons described above.¹¹

- Rule 9527 governs applications to the SEC for review of eligibility proceedings and would be amended by adding the following third sentence to the Rule: "Pursuant to Rule 9524(b), a decision to deny an application for a disqualified member's continued membership shall not become effective until the time for filing an application for review with the SEC has expired and no such application is filed or, if such an application is timely filed, until the SEC either completes its review under

or penalty imposed by a Hearing Panel or Extended Hearing Panel under the Rule 9200 Series. Pursuant to Rule 9268(e), if a request for review is not timely filed pursuant to Rule 9310, a Hearing Panel decision shall constitute final disciplinary action of the Exchange for purposes of Exchange Act Rule 19d-1(c)(1), at which time all bars or expulsions shall become immediately effective pursuant to Rule 9268(f). Further, Rule 8310(b) provides that each party to a proceeding resulting in a sanction (sanctions are defined in Rule 8310(a)(4) and include expulsions) shall be deemed to have assented to the imposition of the sanction unless such party files a written application for review or relief pursuant to the Rule 9000 Series. Accordingly, consistent with amended FINRA Rule 9370, the proposed rule changes do not provide a stay where a member firm has defaulted or has failed to exhaust its administrative remedies through the Exchange's appellate process. See Release 103228, 90 FR at 25691 n.17.

¹¹ NYSE Rule 9524 is similar to FINRA Rule 9524 except for, among other things, the fact that the Exchange's Board reviews disciplinary appeals and the Exchange does not utilize FINRA's National Adjudicatory Council ("NAC") for this purpose.

Exchange Act Section 19 or otherwise orders." The proposed rule change is substantively the same as rule text FINRA added to its Rule 9527 with the exception of the phrase "or otherwise orders," which the Exchange proposes to include for the reasons described above.

- The Rule 9550 Series provides for the initiation and prosecution of expedited proceedings, including, among others, proceedings under Rule 9557 for member organizations experiencing operational or financial difficulties that may have led to noncompliance with provisions of Rules 4110, 4120 or 4130.

Pursuant to Rule 9557(a) and (c), the Exchange will issue a notice setting forth the specific grounds and factual basis for the action and the requirements or restrictions being imposed. Under current Rule 9557(d), such requirements or restrictions are immediately effective. Pursuant to Rule 9557(f), the failure to comply with these requirements or restrictions shall be deemed to "result in automatic and immediate suspension" without further notice, unless Exchange staff issues a letter of withdrawal of the requirements or restrictions. A member organization served with a Rule 9557 notice may file a written request for a hearing with the Office of Hearing Officers, and under Rule 9557(d), a timely request for a hearing stays the effectiveness of the notice, unless the Exchange's Chief Executive Officer ("CEO") (or such other senior officer as the CEO may designate) determines otherwise. Under current Rule 9559(n)(3), if a Hearing Panel approves the requirements or restrictions imposed in the Rule 9557 notice and finds that the respondent has not complied with them, the Hearing Panel must impose an immediate suspension. Under current Rule 9559(o)(4)(A), the Hearing Panel's written order is effective when issued.

Rule 9557(d) would be amended to provide that the requirements and restrictions imposed by a notice under Rule 9557(a) are immediately effective "[u]nless otherwise specified therein." Consistent with FINRA's filing, the proposed rule change would give Exchange staff authority to afford the member an opportunity to take action before a requirement or restriction takes effect.¹² Like FINRA, the Exchange also proposes a conforming change to Rule 9557(c)(3), which addresses the contents of a notice issued under Rule 9557, to reflect amended paragraph (d).

Rule 9557(f) would be amended to provide that Exchange staff will issue a

⁹ See Release 103285, 90 FR at 26669.

¹⁰ The Exchange notes that pursuant to Rule 9310(a), any party may require a review by the Exchange Board of Directors of any determination

¹² See Release 103285, 90 FR at 26670.

notice of suspension in the event the member fails to comply with the requirements or restrictions imposed under the Rule. Following FINRA, the Exchange proposes that such suspension would be effective five business days after service of the notice pursuant to paragraph (b).¹³ Rule 9557(f) also would be amended to include certain procedural requirements for issuance and service of a notice of suspension and would, like the FINRA rule, comprise five new subparagraphs, as follows:

- Rule 9557(f)(1) would be titled “Notice of Suspension” and the phrases “without further notice from FINRA staff” and “and immediately” would be removed and the phrase “effective five business days after service of a notice of suspension issued by FINRA staff” would be added.

- Rule 9557(f)(2) would be titled “Service of Notice of Suspension.” The proposed rule text provides that Exchange staff shall serve the member subject to a notice of suspension issued under new paragraph (f) in accordance with the service provisions in Rule 9557(b).

- Rule 9557(f)(3) would be titled “Contents of Notice of Suspension” and would provide that “[a] notice of suspension issued and served under this paragraph (f) shall identify the requirements and restrictions with which the member is alleged to have not complied and shall contain a statement of facts specifying the alleged failure. The notice of suspension shall state when Exchange action will take effect and explain what the respondent must do to avoid such action.” According to FINRA, the proposed provision is substantially similar to the requirements relating to the contents of notices relating to disciplinary proceedings and other expedited proceedings under existing rules.¹⁴

- Rule 9557(f)(4) would be titled “Effective Date” and would state that the effective date for a notice of suspension issued and served under new Rule 9557(f) shall become effective five business days after service of such notice.

- Rule 9557(f)(5) would be titled “Application to SEC for Review” and would provide that “[a] notice of

suspension issued and served under this paragraph (f) constitutes final action by the Exchange. The right to have any action under this paragraph reviewed by the SEC is governed by Section 19 of the Exchange Act.”

The Exchange would make conforming changes to Rule 9557(c)(5) relating to contents of a notice to reflect amended paragraph (f) to remove “without further notice from FINRA staff” and add “effective five business days after service of a notice of suspension.”

Finally, following FINRA, the Exchange proposes several additional conforming and clarifying changes to Rule 9557.¹⁵ First, the Exchange would add “of requirements or restrictions” to the title and introductory text and “paragraph a” to the introductory text of Rule 9557(c) in order to clarify that this paragraph addresses the initial notice issued under Rule 9557 prescribing the requirements or restrictions imposed under the Rule. Second, the Exchange would remove “immediate” from Rule 9557(c)(9) to reflect proposed amendments to Rule 9559(n) discussed below. Third, in Rule 9557(e), the Exchange would add “other than a notice of suspension under paragraph (f)” to clarify that paragraph (e) does not apply to notices of suspension. Fourth, Rule 9557(g)(2)(B) would be amended to remove “by a notice” and “immediately” and to add “in accordance with this Rule” to account for the two types of notices that can be issued under proposed Rule 9557(f) and the revisions throughout Rule 9557 that will provide a brief period of time for respondents to seek a stay before a suspension takes effect.

The proposed changes to Rule 9557 are substantively the same as rule text added to FINRA Rule 9557.

- Rule 9558 authorizes the Exchange’s CEO or such other senior officer as the CEO may designate to provide written authorization to Exchange staff to issue on a case-by-case basis written notices that “summarily” suspends a member organization or covered person who has been and is expelled or suspended from any self-regulatory organization or barred or suspended from being associated with a member organization of any self-regulatory organization; suspends a member organization that is in such financial or operating difficulty that Exchange staff determines and so notifies the Commission that the member organization cannot be permitted to continue to do business as a member organization with safety to

investors, creditors, other member organizations, or the Exchange; or limits or prohibits any person with respect to access to services offered by the Exchange if paragraphs (a)(1) or (2) of the Rule or the provisions of Section 6(d)(3) of the Act applies to such person or, in the case of a person who is not a member organization or covered person, if the Exchange’s CRO or such other senior officer as the CRO may designate determines that such person does not meet the qualification requirements or other prerequisites for such access and such person cannot be permitted to continue to have such access with safety to investors, creditors, member organizations, or the Exchange, and so notifies the SEC. Under current Rule 9558(d), a prohibition or suspension set forth in the notice is immediately effective. Under Rule 9558(e), a member or person served with a notice may file a written request for a hearing with the Office of Hearing Officers. A timely request for a hearing shall not stay the effectiveness of a Rule 9558 notice, unless the Chief Hearing Officer or the Hearing Officer assigned to the matter otherwise orders for good cause shown, and the member or person must separately request a stay. The Exchange proposes to amend Rule 9558(d) to add “unless otherwise specified therein” to provide the Exchange with the authority to afford respondents an opportunity to take appropriate action before the requirements or restrictions imposed in the notice take effect. The proposed change to Rule 9558(d) is substantively the same as rule text added to FINRA Rule 9558(d).

- The Exchange would make the following changes to Rules 9559(n)(3), (o)(4)(a), (p)(6) and 9559(r).

Rule 9559 sets forth uniform hearing procedures for expedited proceedings under the Rule 9550 Series. In conformity with the proposed amendments to Rule 9557, the Exchange would remove “immediate” from Rule 9559(n)(3) and add “unless otherwise specified therein” to Rule 9559(o)(4)(A) to provide adjudicators authority to grant respondents a brief amount of time to seek a stay from the SEC before a suspension becomes effective.

Subsection (p) governs the contents of the written decision under 9559(o)(4)(B) issued under the Rule, and subsection (p)(6) provides that it must include a “statement describing any sanction, requirement, restriction or limitation imposed, the reasons therefore, and the date upon which such sanction,

¹³ According to FINRA, five business days is a reasonable and sufficient amount of time for a firm to take action (such as comply with the original notice of requirements or restrictions, or file a notice of appeal and request a stay with the SEC) without undermining the purpose of Rule 9557, which is designed to ensure that FINRA can respond to emergency circumstances, such as when a firm is experiencing financial or operational difficulty. See Release 103285, 90 FR at 26670.

¹⁴ See *id.*

¹⁵ See Release 103285, 90 FR at 26669–70.

requirement, restriction or limitation¹⁶ shall become effective.” The Exchange would add the following clause after “effective”: “, except that an expulsion or cancellation of membership shall not become effective until the time for filing an application for review with the SEC has expired and no such application is filed or, if such an application is timely filed, until the SEC either completes its review under Exchange Act Section 19 or otherwise orders.”

Rule 9559(r) governs applications to the SEC for review and provides that the “right to have any action pursuant to this Rule reviewed by the SEC is governed by Section 19 of the Exchange Act. The filing of an application for review by the SEC shall not stay the effectiveness of final Exchange action, unless the SEC otherwise orders.” The Exchange would add the following sentence at the end of subsection (r): “Pursuant to paragraph (p)(6) of this Rule, an expulsion or cancellation of membership shall not become effective until the time for filing an application for review with the SEC has expired and no such application is filed or, if such an application is timely filed, until the SEC either completes its review under Exchange Act Section 19 or otherwise orders.”

The proposed changes to Rule 9559(p)(6) and (r) are substantively the same as rule text added to FINRA Rule 9559(p)(6) and (r) with the exception of the phrase “or otherwise orders,” which the Exchange proposes to include for the reasons described above.

- The NYSE Rule 9800 Series sets forth procedures for issuing temporary and permanent cease and desist orders. Pursuant to Rule 9870, temporary and permanent cease and desist orders issued pursuant to the Rule 9800 Series constitute final and immediately effective disciplinary sanctions imposed by the Exchange. Under current Rule 9840(d),¹⁷ temporary and permanent cease and desist orders are effective when service of the Hearing Panel’s written decision is complete. At any time after the Office of Hearing Officers serves the order, a party may apply under Rule 9850 to have the order modified, set aside, limited or suspended. Under Rule 9850, the filing of an application for review of a temporary or permanent cease and desist order with a Hearing Panel shall not stay the effectiveness of the order. Under Rule 9870, the filing of an

application for review of a temporary or permanent cease and desist order with the SEC shall not stay the effectiveness of the order unless the SEC otherwise orders.

The Exchange proposes to add “unless otherwise specified therein” to Rules 9840(d) and 9870 to provide adjudicators under the rules the authority to grant applicants an opportunity to seek a stay from the SEC or take other appropriate action before the temporary or permanent cease and desist order takes effect. In addition, the Exchange would add “unless the Chief Hearing Officer or the Deputy Hearing Officer assigned to the matter otherwise orders for good cause shown” to Rule 9850 to provide authority to stay the effectiveness of a temporary or permanent cease and desist order upon the filing of an application for review by the Hearing Panel, where appropriate. The proposed changes to Rule 9840(d), 9850 and 9870 are substantively the same as rule text added to FINRA Rule 9840(f),¹⁸ 9850 and 9870.

No other changes to the NYSE disciplinary rules are proposed.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,¹⁹ in general, and furthers the objectives of Section 6(b)(5) of the Act,²⁰ in 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 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 by strengthening the Exchange’s ability to oversee and police its marketplace. In addition, the Exchange believes that the proposed rule change is designed to provide a fair procedure for prohibiting or limiting any person with respect to access to services offered by the Exchange or a member thereof consistent with the objectives of Section 6(b)(7).²¹

The Exchange believes that the proposed rule change furthers the objectives of the Act by harmonizing Exchange rules modeled on FINRA rules with respect to the effectiveness of expulsions in expedited proceedings, and other Exchange actions against member organizations that may result in

a sanction or action that shares the relevant characteristics of such expulsions, to allow for Commission review under Section 19 of the Act.²² As previously noted, the proposed changes are substantively the same as those recently made to the FINRA disciplinary rules. As such, the proposed rule change would facilitate rule harmonization among self-regulatory organizations with respect to the effectiveness of expulsions in certain types of Exchange actions, thereby fostering cooperation and coordination with persons engaged in facilitating transactions in securities and will remove impediments to and perfect the mechanism of a free and open market and a national market system.

Like FINRA, the Exchange believes that any potential risk to investor protection posed by aligning the Exchange’s rules with FINRA could be mitigated by several factors. In cases where an expulsion, cancellation of membership, or denial of an application for continued membership has been appealed to the SEC, the Exchange will seek expeditious resolution and, where appropriate, may take additional steps to prevent customer harm during the pendency of an appeal of a disciplinary decision imposing an expulsion or cancellation of membership. The Exchange also notes that information about disciplinary proceedings and sanctions against member organizations is available on the Exchange’s website and through FINRA’s BrokerCheck, which would enable investors to obtain information regarding whether a member organization is subject to any adverse regulatory action that is the subject of a pending application for SEC review.²³

Further, the Exchange believes that the proposed rule change will provide member organizations and interested parties notice and clarity regarding the effectiveness of expulsions, membership cancellations, and denials of applications for continued membership under Exchange rules. The Exchange accordingly believes that the proposed rule change will enable the Exchange to continue to administer a fair procedure for disciplining member organizations consistent with the goals of investor protection.

Finally, the Exchange believes that the proposed rule changes to the Rule 9000 Series, *i.e.*, the proposed changes

¹⁶ As adopted, Rule 9559(p)(6) does not also contain a reference to “obligation” like the FINRA rule. The Exchange does not propose to add the term at this time.

¹⁷ The FINRA analogue to NYSE Rule 9840(d) is FINRA Rule 9840(f).

¹⁸ See note 17, *supra*.

¹⁹ 15 U.S.C. 78f(b).

²⁰ 15 U.S.C. 78f(b)(5).

²¹ 15 U.S.C. 78f(b)(7).

²² See, e.g., 15 U.S.C. 78s(e) & (f).

²³ Rule 8313(d) provides that the Exchange shall provide notice to the public if a disciplinary decision of the Exchange is appealed to the SEC and the notice shall state whether the effectiveness of the decision has been stayed pending the outcome of proceedings before the SEC.

to Rules 9269(d), 9557(c), (d) & (f), 9559(n)(3), (o)(4)(a), 9558, 9840(a) and 9870, would further the goal of providing a fair process for member organizations and associated persons because it would provide Exchange staff and adjudicators authority to grant respondents and applicants an opportunity to seek a stay from the Commission or take other appropriate action before a sanction (e.g., a suspension or a bar) or other regulatory measure (such as a statutory disqualification denial, imposition of a cease and desist order or imposition of conditions, requirements or restrictions) takes effect. In addition, the proposed changes to Rule 9557(f) and conforming changes to Rule 9559 provide a fair process for issuing a notice of suspension to members experiencing financial or operational difficulties in the event that they fail to comply with restrictions or requirements imposed by Exchange staff. Like FINRA, the Exchange believes the proposed amendments will not impede the prompt resolution of cases and the remediation of issues the rules are designed to address because the proposed rule change provides Exchange staff and adjudicators authority to briefly delay the effectiveness of sanctions and other regulatory measures and does not mandate a delay in every case. Hence, where appropriate, the Exchange, like FINRA, would have authority under the amended rules to allow the sanctions or other regulatory measures to take effect immediately in accordance with Exchange protocol and precedent. Further, the Exchange believes that the proposed changes to Rule 9557 and conforming changes to Rule 9559 provide a streamlined process for suspending members, if necessary, to address the potential risks posed by members experiencing financial or operational difficulties.²⁴

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not intended to address competitive issues but rather is intended solely to stay the effectiveness of specified Exchange actions to permit Commission review, thereby providing greater harmonization with FINRA rules. In so doing, the Exchange is not imposing new or additional costs or impacts on member organizations or

investors while allowing the Exchange to administer a fair procedure for disciplining member organizations consistent with the goals of investor protection.

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 Act²⁵ and Rule 19b-4(f)(6) thereunder.²⁶ Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)²⁷ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),²⁸ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

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)²⁹ 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-NYSE-2026-16 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-2026-16. 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-2026-16 and should be submitted on or before May 1, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁰

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-06924 Filed 4-9-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235-0737]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension: Rule 22e-4

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

²⁴ See Release 103285, 90 FR at 26672-73.

²⁵ 15 U.S.C. 78s(b)(3)(A)(iii).

²⁶ 17 CFR 240.19b-4(f)(6).

²⁷ 17 CFR 240.19b-4(f)(6).

²⁸ 17 CFR 240.19b-4(f)(6)(iii).

²⁹ 15 U.S.C. 78s(b)(2)(B).

³⁰ 17 CFR 200.30-3(a)(12).

(44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the “Commission”) has submitted to the Office of Management and Budget (“OMB”) a request for extension of the previously approved collection of information discussed below.

Section 22(e) of the Investment Company Act of 1940 (“Investment Company Act”) provides that no registered investment company shall suspend the right of redemption or postpone the date of payment of redemption proceeds for more than seven days after tender of the security absent specified unusual circumstances. The provision was designed to prevent funds and their investment advisers from interfering with the redemption rights of shareholders for improper purposes, such as the preservation of management fees. Although section 22(e) permits funds to postpone the date of payment or satisfaction upon redemption for up to seven days, it does not permit funds to suspend the right of redemption for any amount of time, absent certain specified circumstances or a Commission order.

Rule 22e-4 under the Act [17 CFR 270.22e-4] requires an open-end fund and an exchange-traded fund that redeems in kind (“In-Kind ETF”) to establish a written liquidity risk management program that is reasonably designed to assess and manage the fund’s or In-Kind ETF’s liquidity risk. This program includes policies and procedures that incorporate certain program elements, including: (i) for funds and In-Kind ETFs, the assessment, management, and periodic review of liquidity risk (with such review occurring no less frequently than annually); (ii) for funds, the classification of the liquidity of a fund’s portfolio investments, as well as at-least-monthly reviews of the fund’s liquidity classifications; (iii) for funds that do not primarily hold assets that are highly liquid investments, the determination of and periodic review of the fund’s highly liquid investment minimum and establishment of policies and procedures for responding to a shortfall of the fund’s highly liquid investment minimum, which includes reporting to the fund’s board of directors; (iv) for funds and In-Kind ETFs, the limitation of the fund’s or In-Kind ETF’s investment in illiquid investments that are assets to no more than 15% of the fund’s or In-Kind ETF’s net assets; and (v) for funds and In-Kind ETFs, the establishment of policies and procedures regarding redemptions in kind, to the extent that the fund engages in or reserves the right to engage in redemptions in kind. The rule

also requires board approval and oversight of a fund’s or In-Kind ETF’s liquidity risk management program and recordkeeping.

Rule 22e-4 also requires a limited liquidity review, under which an unit investment trust’s (“UIT”) principal underwriter or depositor determines, on or before the date of the initial deposit of portfolio securities into the UIT, that the portion of the illiquid investments that the UIT holds or will hold at the date of deposit that are assets is consistent with the redeemable nature of the securities it issues and retains a record of such determination for the life of the UIT and for five years thereafter.

The requirements under rule 22e-4 that a fund and In-Kind ETF, as applicable, adopt a written liquidity risk management program, report to the board, maintain a written record of how the highly liquid investment minimum was determined and written policies and procedures for responding to a shortfall of the fund’s highly liquid investment minimum, which includes reporting to the fund’s board of directors (for funds that do not primarily hold highly liquid investments), establish written policies and procedures regarding how the fund will engage in redemptions in kind, and retain certain other records are all collections of information. In addition, the requirement under rule 22e-4 that the principal underwriter or depositor of a UIT assess the liquidity of the UIT on or before the date of the initial deposit of portfolio securities into the UIT and retain a record of such determination for the life of the UIT, and for five years thereafter, is also a collection of information.

The Commission staff estimates that 12,183 funds, 705 newly-registered funds, and 3 UITs are subject to rule 22e-4. The internal annual burden estimate is 16 hours for a fund, 11 for a newly-registered fund, and 8 hours for an UIT. Based on these estimates, the total annual burden hours associated with the rule is estimated to be 202,699 hours. The estimated burden hours associated with rule 22e-4 have increased by 9,458 hours from the current allocation of 193,241 hours. This increase is due to an increase in the estimated number of affected entities, as well as revisions in the manner of calculation. The external cost associated with this collection of information is approximately \$3,200 per fund and \$2,200 per newly-registered fund, and the total annual external cost burden is \$40,536,60037. The estimated external cost has increased by \$2,907,884 from the current estimate of \$37,628,716. This increase is due to the

staff’s determination to revise the manner in which it calculates these estimates.

The estimate of average burden hours is made solely for purposes of the Paperwork Reduction Act and is not derived from a comprehensive or even a representative survey or study of the cost of Commission rules. The collection of information required by rule 22e-4 is necessary to obtain the benefits of the rule. Information regarding a fund’s monthly position-level liquidity classification and its highly liquid investment minimum reported on Form N-PORT will be kept confidential. Other information provided to the Commission in connection with staff examinations or investigations is kept confidential subject to the provisions of applicable law. If information collected pursuant to rule 22e-4 is reviewed by the Commission’s examination staff, it is accorded the same level of confidentiality accorded to other responses provided to the Commission in the context of its examination and oversight program.

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 collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency’s estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

The public may view and comment on this information collection request at: https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202601-3235-021 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 May 11, 2026.

Dated: April 7, 2026.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-06934 Filed 4-9-26; 8:45 am]

BILLING CODE 8011-01-P

DEPARTMENT OF STATE**[Public Notice: 12963]****Schedule Change—Notice of Shipping Coordinating Committee Public Meeting To Prepare for International Maritime Organization MEPC 84 Session**

The subject public meeting scheduled for 1:00 p.m. on Wednesday April 15, 2026, has been rescheduled to begin at 9:30 a.m. on the same day. See 91 FR 12038. Participants who have RSVP'ed will be notified directly of this change. The meeting will be held by teleconference.

Those who plan to attend should RSVP to LCDR Emily Sysko by email at Emily.T.Sysko@uscg.mil, by phone at (571) 608-5576, or in writing at ATTN: LCDR Emily Sysko, 2703 Martin Luther King Jr. Ave. SE Stop 7509, Washington DC 20593-7509 by April 10, 2026. Members of the public needing reasonable accommodation should advise LCDR Emily Sysko no later than April 10, 2026. Requests made after that date will be considered but might not be possible to fulfill.

Additional information regarding this and other IMO public meetings may be found at: <https://www.dco.uscg.mil/IMO>.

(Authority: 22 U.S.C. 2656 and 5 U.S.C. 1001 *et seq.*)

Emily C. Miletello,

Coast Guard Liaison Officer, Office of Ocean and Polar Affairs, U.S. Department of State.

[FR Doc. 2026-06964 Filed 4-9-26; 8:45 am]

BILLING CODE 4710-09-P

DEPARTMENT OF STATE**[Public Notice 12991]****30-Day Notice of Proposed Information Collection: Smart Traveler Enrollment Program (STEP)**

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments up to May 11, 2026.

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:

Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to OCSRegs@state.gov or CA/OCS/MSU, SA-17, 10th Floor, Washington, DC 20522-1710.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Smart Traveler Enrollment Program (STEP).
- *OMB Control Number:* OMB Control No. 1405-0152.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Bureau of Consular Affairs, Overseas Citizens Services (CA/OCS).
- *Form Number:* DS-4024e, DS-4024.
- *Respondents:* United States Citizens and U.S. non-citizen Nationals, Third Country Nationals.
- *Estimated Number of Respondents:* 1,750,000.
- *Estimated Number of Responses:* 1,750,000.
- *Average Time Per Response:* 5 minutes.
- *Total Estimated Burden Time:* 145,833 hours.
- *Frequency:* On Occasion.
- *Obligation to Respond:* Voluntary.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

The Smart Traveler Enrollment Program (STEP) makes it possible for U.S. nationals, U.S. non-citizen Nationals, and Third Country Nationals to enroll travel plans or simply subscribe to travel messaging. In the event of an emergency, natural disaster, or international crisis, U.S. embassies and consulates rely on this information to provide enrollees with critical information and assistance. The main legal authorities for use of this form are 22 U.S.C. 2715 and 22 U.S.C. 4802(b).

Methodology

All responses are received via electronic submission on the internet. The service is available on the Department's Bureau of Consular Affairs website <https://mytravel.state.gov/s/step>. The paper version of the form is not in use though we are seeking its reactivation to coincide with third-party enrollment capability in STEP's software.

Response to Public Comments

There was one public comment in response to the 60 day notice. The commenter expressed strong support for the Department of State's initiative to enable third-party enrollment capability for the Smart Traveler Enrollment Program (STEP), noting that this modernization effort represents an important advancement in protecting U.S. citizens traveling abroad and expanding the reach of consular emergency communications.

Elizabeth Gracon,

Managing Director, Overseas Citizens Services, Bureau of Consular Affairs, Department of State.

[FR Doc. 2026-07013 Filed 4-9-26; 8:45 am]

BILLING CODE 4710-06-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****[Docket No. FAA-2026-3853]****Agency Information Collection Activities: Requests for Comments; Clearance of Renewal Approval of Information Collection: Airman Knowledge Test Registration Collection**

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 of a renewed information collection. The collection involves the voluntary submission of information for registration of an Airman Knowledge Test as part of the FAA Airman Certification Process. The information collected is necessary to ensure compliance and proper registration of an individual for the necessary knowledge test for the certification or rating pursued by the individual.

DATES: Written comments should be submitted by June 9, 2026.

ADDRESSES: Please send written comments:

By Electronic Docket:
www.regulations.gov (Enter docket number into search field).

By mail: Ryan C. Smith, Airman Testing Standards (AFS-810) 6500 S MacArthur Blvd. Oklahoma City, OK 73169.

By fax: n/a.

FOR FURTHER INFORMATION CONTACT:

Ryan C. Smith by email at: Ryan.C.Smith@faa.gov; Phone: 405-651-5400.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120-0792.

Title: Airman Knowledge Test Registration Collection.

Form Numbers: There are no forms associated with this collection.

Type of Review: Renewed information collection.

Background: Individuals pursuing an FAA certificate or rating to operate in the National Airspace System (NAS) must meet the standards established in the FAA regulations specific to the certificate sought by the individual. FAA certification requires that an individual must successfully pass an Airman Knowledge Test as part of the requirements to obtain an FAA certificate or rating. The FAA develops and administers 90 different knowledge tests in many different areas that are required as part of the overall airman certification process.

Airman Knowledge Tests are administered at approved Knowledge

Testing Centers by an approved test proctor who is required to administer the appropriate Airman Knowledge Test to the individual pursuing FAA certification. Individuals taking an FAA Airman Knowledge Test must provide the following information to be collected in order to complete the registration process before the administration of the Airman Knowledge Test: Name, FAA Tracking Number (FTN), physical address, Date of Birth, email address, photo identification, photo, phone number, test authorization (credentials of the individual such as an instructor endorsement), and previous number of test attempts.

The information provided by the individual is collected and stored electronically in the application used for test registration and delivery. This information is used to determine the identify and eligibility of the individual for compliance of FAA certification requirements.

Respondents: 290,000 annually.

Frequency: n/a.

Estimated Average Burden per Response: 2 minutes.

Estimated Total Annual Burden: 9,666 hours annually.

290,000 respondents × 2 minutes each = 580,000 minutes.

580,000 minutes/60 minutes in an hour = 9,666 hours annually.

Issued in Oklahoma City, OK on April 7, 2026.

Ryan C. Smith,

Airman Knowledge Testing Program Manager, Testing Standards Section (AFS-810).

[FR Doc. 2026-06915 Filed 4-9-26; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA-2026-0463]

Agency Information Collection Activities: Request for Comments for a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA has forwarded the information collection request described in this notice to the Office of Management and Budget (OMB) to approve a new information collection. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by May 11, 2026.

ADDRESSES: You may submit comments identified by DOT Docket ID Number 0463 by any of the following methods:

Website: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to <http://www.regulations.gov>.

Follow the online instructions for submitting comments.

Fax: 1-202-493-2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001.

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Kenneth Petty, Kenneth.Petty@dot.gov, Director, Office of Planning, Environment and Realty, Federal Highway Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590. Office hours are from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: We published a **Federal Register** Notice with a 60-day public comment period on this information collection on February 2, 2026, at 91 FR 4782. There were no comments received.

Title: Prioritization Process Pilot Program.

Background: The Prioritization Process Pilot Program (PPPP) is a competitive grant program established in Section 11204 of the Infrastructure Investment and Jobs Act of 2021 (Pub. L. 117-58, November 15, 2021). The PPPP provides funding to develop and implement a publicly accessible, transparent prioritization process for the ranking and selection of projects for inclusion in short-range and long-range transportation plans, that upon completion can be evaluated for public benefit. In 2024, FHWA made an award announcement for approximately \$24.7 million for 16 grants.

Respondents: The Notice of Funding Opportunity (NOFO), announcing up to \$25 million of Fiscal Year (FY) 2024, 2025, and 2026 funding will be available for the roughly 182 Metropolitan Planning Organizations (MPOs) that serve a census designated urban area with a population over 200,000, the 50 States, the District of Columbia, and/or Puerto Rico to apply. FHWA anticipates that over 30 eligible

applicants will apply for PPPP funding with approximately 120 submissions between the application process, grant agreement, and project management.

Frequency: Once.

Estimated Average Burden per Response: The average burden per response varies depending on the stage of the process. The application process takes approximately 15 hours per submission. The grant agreement takes approximately 3 hours per submission. The project management stage takes about 4 hours per submission.

Estimated Total Annual Burden Hours: 780 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; and 49 CFR 1.48.

Issued on: April 8, 2026.

Jazmyne Lewis,

Information Collection Officer.

[FR Doc. 2026-06968 Filed 4-9-26; 8:45 am]

BILLING CODE 4910-22-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA-2026-0464]

Agency Information Collection Activities: Request for Comments for a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA has forwarded the information collection request described in this notice to the Office of Management and Budget (OMB) to approve a new information collection. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by May 11, 2026.

ADDRESSES: You may submit comments identified by DOT Docket ID Number 0464 by any of the following methods:

Website: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Fax: 1-202-493-2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001.

Hand Delivery or Courier: U.S. Department of Transportation, East Building Ground Floor, Room E63-314, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Carlos McCloud or Jim Garling, Office of Transportation Operations, Federal Highway Administration, Department of Transportation, 1200 New Jersey Ave. SE, Washington, DC, between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: We published a **Federal Register** Notice with a 60-day public comment period on this information collection on February 2, 2026, at 91 FR 4782. There were no comments received.

Title: Congestion Relief Program.

Background: This collection involves applicants to submit a proposal for discretionary grant funding, under the "Congestion Relief Program" established by the Infrastructure Investment and Jobs Act of 2021, November 15, 2021. The FHWA will receive the information to fulfill the grant application submittal requirements, grant agreement execution, and semi-annual reporting as prescribed in the Notice of Funding Opportunity (NOFO). The collection of information will include grant application forms and narratives, grant agreements, and project management semi-annual reporting. The purpose of the collection is to obtain information relevant to evaluating applications and reporting requirements agreed to by recipients of the grants. FHWA is requesting approval due to the urgency of making the associated funds available to applicants who meet the eligibility requirements under the law. The continued viability of these funds is critical in supporting the transportation infrastructure needs across the United States.

Respondents: State, Metropolitan Planning Organization (MPO), city, or

municipal agencies in an urbanized area with a population greater than 1,000,000 are the anticipated respondents. 20 respondents are the average number of applicants annually.

Frequency: The frequency will be a one-time application for Fiscal Year (FY) 2024-2026 Program Year (PY) funds, followed by project agreement execution, fund reimbursement, semi-annual reporting, and project closeout.

Estimated Average Burden per Response: The burden per response varies depending on the stage of the NOFO. The application stage will take approximately 24 hours per submission. The grant agreement and project management stage will take approximately 16 hours per submission.

Estimated Total Annual Burden Hours: The combined estimated total burden hours for the application, grant agreement, and project management stages for both applicants/respondents and the Federal government is 960 burden hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; and 49 CFR 1.48.

Issued on: April 8, 2026.

Jazmyne Lewis,

Information Collection Officer.

[FR Doc. 2026-06967 Filed 4-9-26; 8:45 am]

BILLING CODE 4910-22-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2025-0056]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Request for Comment; Driver Monitoring System (DMS) in SAE L2 Driver Support Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice and request for comments on a request for approval of a new information collection.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA), this notice announces that the Information Collection Request (ICR) summarized below will be submitted to the Office of Management and Budget (OMB) for review and approval. The ICR describes the nature of the information collection and its expected burden. This ICR is for a new collection of information for which NHTSA intends to seek OMB approval for a one-time voluntary experiment on drivers' interactions with SAE Level 2 (L2) systems equipped with Driver Monitoring Systems (DMS). A **Federal Register** notice with a 60-day comment period soliciting public comments on the following information collection was published on August 5, 2025 (Docket No. NHTSA–2025–0056), and NHTSA received one comment.

DATES: Comments must be submitted on or before May 11, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection, including suggestions for reducing burden, should be submitted to the Office of Management and Budget at www.reginfo.gov/public/do/PRAMain. To find this particular information collection, select “Currently under Review—Open for Public Comment” or use the search function.

FOR FURTHER INFORMATION CONTACT: For additional information or access to background documents, contact Jeff Dressel, Office of Vehicle Safety Research (NSR–310), 202–493–0492, National Highway Traffic Safety Administration, W46–439, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501 *et seq.*), a Federal agency must receive approval from the Office of Management and Budget (OMB) before it collects certain information from the public, and a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. In compliance with these requirements, this notice announces that the following information collection request will be submitted OMB.

Title: Driver Monitoring System (DMS) in SAE L2 Driver Support Systems.

OMB Control Number: New.
Form Number(s):

There are multiple forms for this new information collection, including:

- NHTSA Form 1830: Eligibility Questionnaire—Focus Groups
 - NHTSA Form 1831: Informed Consent—Focus Groups
 - NHTSA Form 1832: Outline—Focus Groups
 - NHTSA Form 1833: Eligibility Questionnaire—On-Road Study
 - NHTSA Form 1834: Informed Consent—On-Road Study
 - NHTSA Form 1835: Perception of Risk
 - NHTSA Form 1836: Grip Strength Measurement
 - NHTSA Form 1837: Trust in Automated Systems
 - NHTSA Form 1838: Onboard Monitoring System Acceptance Survey
 - NHTSA Form 1839: System Understanding Questionnaire
 - NHTSA Form 2189—Study Drive Form
 - NHTSA Form 2190—Debriefing Form
- Type of Request:* Approval of a new information collection request.

Type of Review Requested: Regular.
Requested Expiration Date of Approval: Three years from date of approval.

Summary of the Collection of Information: This is a new information collection request (ICR) seeking approval to conduct 14 new voluntary information collections as part of a one-time research study of drivers' interactions with SAE Level 2 (L2) systems (*i.e.*, provide longitudinal [adaptive cruise control] and lateral [lane centering] control of the vehicle) equipped with driver monitoring systems (DMSs). The National Highway Traffic Safety Administration (NHTSA) of the U.S. Department of Transportation is seeking to conduct the research study involving up to 264 licensed drivers, aged 18 and above, from Phoenix, Arizona and across the U.S. There are two portions of the study: one portion of the information collection will be from focus groups, and the other portion of the information collection will be from on-road driving with the L2 DMS. For the focus group portion of the study, the information collections involve reporting and include (1) an eligibility questionnaire to be administered to up to 500 potential research respondents; (2) an informed consent form to be administered to up to 192 research participants; and (3) a total of 12 virtual focus group sessions with 12 respondents per focus group. For the on-road portion, the information collections involve reporting and

include (1) an eligibility questionnaire to be administered to up to 500 potential research respondents; (2) an informed consent form to be administered to up to 160 research participants. The research participants will be asked to complete the following types of information collections: (3) a risky driving questionnaire; (4) a grip strength assessment; (5) eye tracker calibration and setup; (6) a vehicle familiarization and training briefing; (7) a planned drive; (8) a trust questionnaire; (9) a system acceptance questionnaire; (10) a system understanding questionnaire; and (11) a final debrief.

Respondents are not required to participate in this study; it is wholly voluntary. The collection is considered a reporting collection using focus groups, multiple questionnaires, a grip strength measurement, and one on-road in-study drive. The selected respondents will be trained on one vehicle followed by the in-study drive. The questionnaires will be administered upon enrollment in the study, during the focus groups, prior to the in-study drive, and upon completion of the study overall. Each of these collection components will only be collected once, and the full study will only be completed once. The focus group portion of the data collection will probe respondents' opinions via discussion and a questionnaire regarding DMS features, capabilities, strengths/weaknesses, uses/strategies that deviate from intended purposes, reactions to human-machine interface (HMI) strategies, and changes in their behavior associated with DMSs. For the on-road driving portion of the study, respondents' naturalistic driving data will be collected in the study-provided vehicles using GoPro cameras and a device to measure where drivers are looking (eye tracker). The questionnaires will assess respondents' risky driving behavior and system trust, acceptance, and understanding.

NHTSA will use the information to produce a technical report that will provide summary figures and tables, as well as the results of data analysis of the information. No identifying information or individual responses connected to identifiers will be reported. The technical report will be shared across the Department of Transportation, and members of the general public would have access to the aggregated information when the final report is published. The report may also be of interest to vehicle manufacturers and component suppliers (*e.g.*, developers of DMSs). This project involves approval from an institutional review board,

which the contractor has obtained. This collection will be used to identify how the DMS ensures active engagement when L2 automation is activated, strengths and weaknesses of different DMS approaches and mitigation strategies when driver behaviors deviate from the intended purpose of the system, how DMSs are implemented to minimize misuse and abuse, and how DMSs support compliant driver behaviors.

Description of the Need for the Information and Proposed Use of the Information: Vehicles equipped with Advanced Driver Assistance Systems have the potential to decrease crashes and save lives. However, a safety concern with some such vehicles is the changing role of the driver from being an active operator to being a passive supervisor. With SAE International's definition of Level 2 (L2) automated driving, acceleration, braking, and steering support features are available to the driver; however, drivers are supposed to remain alert, attentive, and engaged with the driving task and external conditions at all times, but they do not always do so. Disengagement from the active driving task can result in the potential loss of system state information, environmental awareness, and driving context that is available to an engaged driver (Campbell et al., 2018). Such a loss of active engagement could lead to drivers becoming distracted with secondary tasks, reducing their glances to relevant portions of the roadway, or even sleeping. Disengaged drivers pose a safety concern because they may be unprepared to resume vehicle control when needed, even though they are still responsible for taking over the L2 Dynamic Driving Task (DDT) if the partial driving automation functions cease (SAE J3016, 2021). This is not a theoretical problem, as crashes and fatalities have already occurred in which driver disengagement under L2 driving was a likely contributing factor.¹

In response to these concerns and incidents, automakers have included driver monitoring systems (DMSs) as part of their L2 offerings. DMSs are part of a broader approach to attention management and are designed to detect when the driver is disengaged from the driving task while using L2 driving automation (Mueller et al., 2021).

Current implementations of L2 DMSs are designed to infer driver state and include both vehicle (e.g., speed, road type) and trip-level data (time of date, time on road, weather), as well as incorporate strategies that provide more direct measures of driver state by detecting whether or not the driver's hands are on the wheel, or detecting (using cameras) whether or not the driver is attentive to the roadway.² Critically, assessing the efficacy of a particular approach to implementing a DMS must be considered holistically with respect to the larger L2 ecosystem, including considerations of the driving environment and conditions under which L2 driving can take place, design features of the L2 technology itself (including the HMI), mitigation strategies if disengagement is detected, and known methods that drivers use to circumvent the DMS.

This data collection will directly support NHTSA's research efforts regarding (1) DMS implementation strategies to ensure active engagement by drivers, (2) DMS approaches to address driver behaviors that deviate from the intended purpose of the system including misuse and abuse, and (3) the relationships between the underlying L2 technology, the supporting DMS technology, and the HMI that is intended to aid and encourage proper driving behavior and potentially discourage misuse or abuse. If the proposed study is not conducted, NHTSA will have unanswered questions regarding the interrelationships among the broader L2/DMS/HMI ecosystem, and how well DMSs in SAE L2 implement distraction detection strategies, detect unintended uses of the system, and are efficacious under known use cases involving drivers trying to circumvent the DMS.

60-Day Notice: NHTSA received one public comment from the Alliance for Automotive Innovation that included several statements in response to the 60-day notice. Each of these is addressed below.

Alliance for Automotive Innovation voiced concern that "the pace of innovation by manufacturers may limit the utility of the agency's findings, depending on how quickly the research can be completed."

NHTSA appreciates and understands the rationale behind this recommendation and will make efforts to ensure the research will reflect the DMS approaches taken by

manufacturers in the most recent model years available and will be conducted as quickly as feasible.

Alliance for Automotive Innovation voiced concern that the scope and duration of the naturalistic driving portion of the study may reduce the overall usefulness of the data. Alliance for Automotive Innovation also voiced concern that "the proposed 55-minute planned drive may not be sufficient to determine how drivers interact with L2 systems and results could be potentially misleading due to the potential for measured responses (e.g., *glance behaviors*) that differ from those that the same driver might exhibit if they had more time and exposure to the system."

NHTSA will ensure that limitations of this study will be documented during the conduct of the research project. NHTSA clarifies that participants in the on-road portion of the study will include individuals with L2 experience. Specifically, 50% *must not* have driving experience with the L2 ADS driver support features that their test vehicle is equipped with, nor previous driving experience with the test vehicle model, and 50% *must* have driving experience with the L2 ADS driver support features that their test vehicle is equipped with, or previous driving experience with the test vehicle model. This design element may not have been apparent in the 60-day notice. NHTSA believes this participant sampling strategy will provide insights to both novice and experienced drivers of vehicles equipped with SAE L2 capabilities, as well as DMS. In addition, while the 60-day notice described as a 55-minute drive for the on-road experiment, this detail is preliminary and NHTSA notes that the duration of the drive will be further considered during upcoming detailed study planning and consider both study objectives, procedural feasibility, and study budget. Moreover, NHTSA will further emphasize focus group probing questions to seek insights and data from drivers who are more experienced with SAE L2 system interactions and with DMS.

Alliance for Automotive Innovation voiced concern that "surveying consumers about their normal driving behavior (*i.e. when not supported by a L2 system*) may not provide an accurate baseline for comparing their driving behavior when the L2 system is active."

NHTSA appreciates this comment and concurs. NHTSA will ensure findings from the survey are appropriately qualified. In addition, NHTSA will further emphasize focus group probing questions to seek insights and data from drivers more experienced with L2 system interactions and with DMS.

¹ E.g., see: "inadequate safety culture created conditions . . . that contributed to the circumstances of the crash . . ." National Transportation Safety Board, Collision Between Vehicle Controlled by Developmental Automated Driving System and Pedestrian, viii. (Nov. 19, 2019), available at <https://www.ntsb.gov/investigations/accidentreports/reports/har1903.pdf>.

² These L2 DMSs are distinct from DMSs that do not support L2 operation, and measure driver state (e.g., fatigue, drowsiness, impairment) more generally.

Alliance for Automotive Innovation voiced concern that “it may not be possible to discern whether the observed results are attributable to DMS or whether they are influenced by other participant-specific attributes or vehicle and environmental factors.”

NHTSA appreciates this comment and will ensure that relevant DMS features, other participant-specific attributes, and other vehicle and environmental factors will be documented and—as appropriate—included in the analyses performed as part of this research.

Alliance for Automotive Innovation stated that “follow on research, with more extensive on-road evaluations, will likely be needed to develop a comprehensive understanding of long-term driver behaviors.”

NHTSA concurs and clarifies that the study is not intended to provide a comprehensive understanding of long-term driver behaviors with DMS. NHTSA believes the study will provide valuable insight to novice DMS and L2 system users’ initial experiences with such systems. Moreover, NHTSA will further emphasize focus group probing questions to seek insights and data from drivers more experienced with L2 system interactions and with DMS.

Alliance for Automotive Innovation voiced concern that “while DMS may share some attributes across vehicle manufacturers, systems may vary based on the design characteristics and operational capabilities of the L2 systems they are designed to support. [. . .] In other words, it may not be possible to directly compare DMS systems in all cases.”

NHTSA appreciates this comment and concurs. Direct comparison of DMS without regard to the L2 systems they may support will not be expressed as a result of this study. NHTSA will take steps to ensure reported findings are couched in the context of differing L2 system designs and capabilities.

Alliance for Automotive Innovation voiced concern that the posted research plan offers “no indication about the extent to which the agency plans to control for differences in the environmental conditions that drivers experience under real-world conditions, including nighttime evaluations.” The Alliance requested that NHTSA consider these factors when conducting its research.

NHTSA clarifies that the study does not intend to control for all differences in the environmental conditions that drivers experience under real-world conditions, such as nighttime evaluations. Relevant environmental conditions that drivers experience in the study (e.g., traffic levels) will be noted

during data collection, and the absence of exhaustive environmental conditions tested will be listed in a section of the report describing limitations.

Furthermore, data collection will not be conducted in conditions of greater than minimal precipitation of any form to ensure that L2 operation is equally available to all participants throughout the planned drive and that road conditions do not affect participants’ willingness to engage L2. NHTSA believes the study will provide valuable insight to drivers’ DMS and L2 system interactions under nominal conditions.

Alliance for Automotive Innovation expressed that the agency should also specify the extent to which the aforementioned detection methods will factor into its final vehicle make and model selection.

The detection methods and mechanisms mentioned in the comment (i.e., camera-based, steering wheel sensor-based, or hybrid systems, and underlying capabilities and technologies) will be important considerations for this study. Descriptions of these systems for the vehicles included in the study will be documented during the conduct of the research project, and described in the final report.

After thoughtful consideration of the above comments and the submission from Alliance for Automotive Innovation on the whole, NHTSA will further emphasize the focus group probing questions, and clarifies the recruitment of novice and experienced participants in the on-road portion of the study, to seek insights and data from drivers more experienced with L2 system interactions and with DMS, and will take steps to ensure reported findings are couched in the context of differing L2 system designs and capabilities. These modifications yield no changes in the participant burden estimate from that which was published in the 60-day notice.

Affected Public: For the focus group portion of the study, the potential respondent universe is comprised of all residents of the United States who are between the ages of 18 and 64 and for the on-road driving portion of the study, the potential respondent universe is comprised of study volunteers in the greater Phoenix, Arizona area who are between the ages of 18 and 64.

Estimated Number of Respondents: For the focus group portion of the study, the study anticipates screening 500 potential participants to obtain the target sample of 144 research participants who meet study inclusion criteria and fully participate in the study. While the goal is 144 final

participants, the research team will ensure eligibility and interest of 192 participants to account for potential attrition. However, while NHTSA estimates 500 potential research participants screened and up to 192 in the research study, NHTSA’s burden estimates are based on the average number of respondents to each information collection in each year of the three-year project. Accordingly, NHTSA has estimated that, on average, there are 167 respondents to the eligibility questionnaire (500 potential participants ÷ 3 years) and 64 respondents to each of the other information collections (192 research participants ÷ 3 years) annually. As such, we anticipate conducting a maximum of 500 individual eligibility interviews to recruit the necessary participants for the information collection.

For the on-road driving portion of the study, the study anticipates screening 500 potential participants to obtain the target sample of 120 research participants who meet study inclusion criteria and fully participate in the study. While the goal is 120 final participants, the research team will ensure eligibility and interest of 160 participants to account for potential attrition. However, while NHTSA estimates 500 potential research participants screened and up to 160 in the research study, NHTSA’s burden estimates are based on the average number of respondents to each information collection in each year of the three-year project. Accordingly, NHTSA has estimated that, on average, there are 167 respondents to the eligibility questionnaire (500 potential participants ÷ 3 years) and 53 respondents to each of the other information collections (160 research participants ÷ 3 years) annually.

Frequency: This study is a one-time information collection.

Estimated Number of Responses: This is a one-time data collection with 117 complete responses planned (i.e., one response per respondent; 64 responses to the focus group activity, 53 responses to the on-road driving activity).

Estimated Total Annual Burden Hours: The estimated annual burden is 318 hours (155 hours for focus groups and 163 for the on-road portion).

The estimated total burden is 946 hours (461 total hours for focus groups and 485 total hours for on-road portion). As stated above, the research team will ensure eligibility and interest of 192 participants for the focus groups portion of the study and 160 participants for the on-road portion of the study. This estimate includes 125 hours for 500

potential participants to complete the initial screening for the focus groups and the on-road driving portions of the study. The burden estimate for the focus groups portion of the study includes 32 hours for the consented participants and 304 hours for the enrolled participants to complete all focus group study tasks. The burden estimate for the on-road portion of the study includes 32 hours for the 160 consented participants and 328 hours for the enrolled participants to complete all study tasks above and beyond the driving they would normally complete during the naturalistic driving observation periods. The on-road driving study tasks include a 12-minute

introduction procedure, a 10-minute questionnaire that assesses the participants' risky driving behavior in the past 12 months, a 3-minute assessment of the participants' grip strength, a 15-minute eye tracker setup and calibration, a 10-minute vehicle familiarization and training briefing, one 55-minute planned drive, an 8-minute questionnaire addressing trust, an 8-minute acceptance questionnaire, a 10-minute system understanding questionnaire, and a 4-minute final debriefing. The total burden is the sum of both the focus groups and the on-road driving activities and includes screening, consenting, and completing

all of the focus groups and on-road driving activities for a total estimate of 946 hours.

To calculate the opportunity cost to participants in this study, NHTSA used the average (mean) hourly earnings from employers in all industry sectors in the State of Arizona, which the Bureau of Labor Statistics lists at \$31.61 per hour.³ NHTSA estimates that the total annual opportunity cost is approximately \$10,779.01 (\$4,899.55 for the focus groups portion of the study, and \$5,879.46 for the on-road driving portion of the study). The details are presented in Tables 1 through 4 below.

TABLE 1—TOTAL STUDY BURDEN HOURS—FOCUS GROUPS

Form No.	Information collection	Number of respondents	Time per response (minutes)	Frequency of response	Total burden hours
1830	Eligibility Questionnaire	500	15	1	125
1831	Informed Consent	192	10	1	32
1832	Focus Group Study	192	85	1	272
2190	Debriefing	192	10	1	32
Total .....	.....	.....	.....	.....	461

TABLE 2—ANNUAL BURDEN ESTIMATES—FOCUS GROUPS

Form No.	Information collection	Number of respondents	Time per response (minutes)	Opportunity cost per response	Frequency of response	Annual burden hours	Annual opportunity costs
1830	Eligibility Questionnaire	167	15	\$7.90	1	41.75 hours; 42 hours	\$1,327.62
1831	Informed Consent	64	10	5.27	1	10.67 hours; 11 hours	347.71
1832	Focus Group Study	64	85	44.78	1	90.67 hours; 91 hours	2,876.51
2190	Debriefing	64	10	5.27	1	10.67 hour; 11 hours	347.71
Annual Estimates .....	.....	.....	.....	.....	.....	155 hours	4,889.55

TABLE 3—TOTAL STUDY BURDEN HOURS—ON-ROAD DRIVING

Form No.	Information collection	Number of respondents	Time per response (minutes)	Frequency of response	Total burden hours
1833	Eligibility Questionnaire	500	15	1	125
1834	Informed Consent	160	12	1	32
1835	Perception of Risk/Frequency of Risky Behavior Questionnaire	160	10	1	26.67
1836	Grip Strength Measurement	160	3	1	8
N/A	Study Drive (Eye Tracker Setup & Calibration, Vehicle Familiarization/ Training, Study Drive)	160	80	1	213.33
1837	Trust in Automated Systems Scale	160	8	1	21.33
1838	Onboard Monitoring System Acceptance Survey	160	8	1	21.33
1839	System Understanding Questionnaire	160	10	1	26.67
2190	Debriefing	160	4	1	10.67
Total .....	.....	.....	.....	.....	485

TABLE 4—ANNUAL BURDEN ESTIMATES—ON-ROAD DRIVING

Form No.	Information collection	Number of respondents	Time per response (minutes)	Opportunity cost per response	Frequency of response	Annual burden hours	Annual opportunity costs
1833	Eligibility Questionnaire	167	15	\$7.90	1	41.75 hours; 42 hours	\$1,327.62
1834	Informed Consent	53	12	6.32	1	10.60 hours; 11 hours	347.71
1835	Perception of Risk/Frequency of Risky Behavior Questionnaire	53	10	5.27	1	8.83 hours; 9 hours	284.49

³ US Department of Labor, Bureau of Labor and Statistics, May 2024 State Occupational

Employment and Wage Estimates Arizona: <https://www.bls.gov/oes/tables.htm#00-0000>.

TABLE 4—ANNUAL BURDEN ESTIMATES—ON-ROAD DRIVING—Continued

Form No.	Information collection	Number of respondents	Time per response (minutes)	Opportunity cost per response	Frequency of response	Annual burden hours	Annual opportunity costs
1836	Grip Strength Measurement	53	3	1.58	1	2.65 hours; 3 hours	94.83
2189	Study Drive (Eye Tracker Setup & Calibration, Vehicle Familiarization/Training, Study Drive.	53	80	55.84	1	70.6 hours; 71 hours	2,971.34
1837	Trust in Automated Systems Scale.	53	8	4.21	1	7.06 hours; 7 hours	221.27
1838	Onboard Monitoring System Acceptance Survey.	53	8	4.21	1	7.06 hours; 7 hours	221.27
1839	System Understanding Questionnaire.	53	10	5.27	1	8.83 hours; 9 hours	284.49
2190	Debriefing	53	4	2.11	1	3.53 hours; 4 hours	126.44
Annual Estimates .....	.....	.....	.....	.....	.....	163 hours	5,879.46

Estimated Total Annual Burden Cost:
\$0

Public Comments Invited: You are asked to comment on any aspects of this information collection, including (a) 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; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (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 the use of automated collection techniques or other forms of information technology.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; 49 CFR 1.49; and DOT Order 1351.29A.

Cem Hatipoglu,

Associate Administrator, Vehicle Safety Research.

[FR Doc. 2026–07017 Filed 4–9–26; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Debt Management Advisory Committee Meeting

Notice is hereby given, pursuant to 5 U.S.C. App. 2, 10(a)(2), that a meeting will be held at the United States Treasury Department, 15th Street and Pennsylvania Avenue NW, Washington, DC on May 5, 2026, at 10:30 a.m., of the following debt management advisory committee:

Treasury Borrowing Advisory Committee.

At this meeting, the Treasury is seeking advice from the Committee on topics related to the economy, financial

markets, Treasury financing, and debt management. Following the working session, the Committee will present a written report of its recommendations. The meeting will be closed to the public, pursuant to 5 U.S.C. App. 2, 10(d) and Public Law 103–202, § 202(c)(1)(B)(31 U.S.C. 3121 note).

This notice shall constitute my determination, pursuant to the authority placed in heads of agencies by 5 U.S.C. App. 2, 10(d) and vested in me by Treasury Department Order No. 101–05, that the meeting will consist of discussions and debates of the issues presented to the Committee by the Secretary of the Treasury and the making of recommendations of the Committee to the Secretary, pursuant to Public Law 103–202, § 202(c)(1)(B).

Thus, this information is exempt from disclosure under that provision and 5 U.S.C. 552b(c)(3)(B). In addition, the meeting is concerned with information that is exempt from disclosure under 5 U.S.C. 552b(c)(9)(A). The public interest requires that such meetings be closed to the public because the Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decisions on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community. When so utilized, such a committee is recognized to be an advisory committee under 5 U.S.C. App. 2, 3.

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of the Committee, premature disclosure of the Committee's deliberations and reports would be likely to lead to significant financial speculation in the securities market. Thus, this meeting falls within the

exemption covered by 5 U.S.C. 552b(c)(9)(A).

The Office of Debt Management is responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of Committee activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. 552(b). The Designated Federal Officer or other responsible agency official who may be contacted for additional information is Fred Pietrangeli, Director for Office of Debt Management (202) 622–1876.

Dated: April 8, 2026.

Frederick E. Pietrangeli,

Director for Office of Debt Management.

[FR Doc. 2026–06957 Filed 4–9–26; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

[Docket ID No. TREAS–DO–2026–0034]

Designation of Databases to the Do Not Pay Working System

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Notice of designation.

The Do Not Pay Working System is a centralized portal through which agencies can search multiple databases to obtain information about potential federal payees and awardees for the purpose of identifying and preventing improper payments. Pursuant to 31 U.S.C. 3354(b)(2), the Director of the Office of Management and Budget has delegated authority to the Secretary of the Treasury to designate additional databases for inclusion in the Do Not Pay Working System when those databases substantially assist in preventing improper payments. Section 3354(b)(2) requires the Department of

the Treasury (Treasury) to provide public notice and an opportunity for comment prior to designating additional databases for inclusion in the Do Not Pay Working System. In fulfillment of this requirement, Treasury published a Notice of Proposed Designation on February 10, 2026, for the Social Security Administration's Numerical Identification System (Numident) database. At the expiration of the comment period, Treasury received a total of three responsive comments on the proposed designation. The commenters all expressed support for the use of SSA's Numident to strengthen the integrity of Federal funds disbursements in health or income maintenance programs.

One commenter expressed privacy concerns relating to Social Security data and stated that there should be limits on who can access the data. Treasury's Do Not Pay program will employ strict safeguards to protect Numident data, including adherence to the Privacy Act, SSA's system-specific requirements, and Fiscal Service's established administrative, technical, and physical security controls. These controls include limited, need-to-know access; audit logging; secure transmission protocols; mandatory privacy and security training; and compliance with Federal Information Security Modernization Act and National Institute of Standards and Technology requirements.

Two commenters raised concerns regarding the potential for Numident data quality issues and recommended that Treasury describe the process by which individuals can identify and correct errors arising from Numident-based verifications. We understand the concern regarding the possibility of payment determinations based on Do Not Pay results containing incorrect Numident information. Do Not Pay will provide guidance to agencies eligible to access Numident, including requirements to make an independent judgment regarding decisions to certify a payment for disbursement and to take additional independent steps to verify a benefit recipient's eligibility before taking any adverse action, when necessary or appropriate or when required by law. *See, e.g.*, 31 U.S.C. 3528 (regarding the certifying official's responsibility for the legality of proposed payments); 31 U.S.C. 3354(b)(4) ("When using the Do Not Pay Initiative, an executive agency shall recognize that there may be circumstances under which the law requires a payment or award to be made to a recipient, regardless of whether that recipient is identified as potentially

ineligible under the Do Not Pay Initiative."); 5 U.S.C. 552a(p) (requiring agencies participating in computer matching programs to verify match results and provide individuals an opportunity to contest the results prior to taking adverse action on the basis of the results).

One commentor suggested that Treasury provide a definition for "health or income maintenance programs" to reflect the full range of programs that may have access to the Numident database through the Do Not Pay Working System. A "health maintenance program" is any noncommercial program (*e.g.*, Medicare and Medicaid) administered by a government agency that is designed to provide an individual with healthcare (both prevention and treatment) or to subsidize the cost of such care. *See* SSA Program Operations Manual System (POMS) GN 03313.001.C.1.d and GN 03314.001.A.3. An "income maintenance program" is any noncommercial program administered by a government agency that is designed to provide an individual with basic necessities of life (*e.g.*, food, clothing, shelter, and utilities), or supplement the individual's income to permit the purchase of such necessities. *See* POMS GN 03313.001.C.1.d and GN 03314.001.A.4. Examples of income maintenance programs include subsidized housing, Supplemental Nutritional Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), services under Title XX of the Social Security Act, fuel subsidies, unemployment insurance compensation, and government pension programs. *See* POMS GN 03314.001.A.4. Loan programs are *not* income maintenance programs for disclosure purposes. *See* POMS GN 03313.001.C.1.d and GN 03314.001.A.4.

Treasury has determined that the designation of Numident to the Do Not Pay Working System should proceed. Effective immediately, Treasury has designated Numident to the Do Not Pay Working System. Under this designation, Numident will be available solely for the purpose of verifying the names, Social Security numbers, and dates of birth of individuals receiving payments and awards under federal and federally funded state-administered health or income maintenance programs.

FOR FURTHER INFORMATION CONTACT: Office of the Fiscal Assistant Secretary, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220, Telephone (202) 622-2000 or

email AmericasBankAccountEO@treasury.gov.

Gary Grippo,

Acting Fiscal Assistant Secretary.

[FR Doc. 2026-06959 Filed 4-9-26; 8:45 am]

BILLING CODE 4810-AK-P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974: System of Records

AGENCY: Department of Veterans Affairs.

ACTION: Notice of a new matching program.

SUMMARY: Notice is hereby given that the Department of Veterans Affairs (VA) intends to conduct a re-established computer matching program. This will match personnel records of the Department of Defense (DoD) with VA records of benefit recipients under the Montgomery GI Bill—Active Duty, Montgomery GI Bill—Selected Reserve, and the Post-9/11 GI Bill. The goal of these matches is to identify the eligibility status of Veterans, servicemembers, and reservists who have applied for or who are receiving education benefit payments under the Montgomery GI Bill—Active Duty, Montgomery GI Bill—Selected Reserve, and the Post-9/11 GI Bill. The purpose of the match is to enable VA to verify that individuals meet the conditions of military service and eligibility criteria for payment of benefits determined by VA under the Montgomery GI Bill—Active Duty, Montgomery GI Bill—Selected Reserve, and Post-9/11 GI Bill.

DATES: Comments on this match must be received no later than 30 days after date of publication in the **Federal Register**. If no public comment is received during the period allowed for comment or unless otherwise published in the **Federal Register** by VA, the new agreement will become effective a minimum of 30 days after date of publication in the **Federal Register**. If VA receives public comments, VA shall review the comments to determine whether any changes to the notice are necessary. This matching program will be valid for 18 months from the effective date of this notice. This agreement shall be valid for 18 months from its effective date. The agreement may be renewed for up to an additional 12 months, if the conditions outlined in the Computer Matching Agreement are met and with the concurrence of the Data Integrity Boards of the participating agencies.

ADDRESSES: Comments may be submitted through www.Regulations.gov

or mailed to VA Privacy Service (005R1A), 810 Vermont Avenue NW, Washington, DC 20420. Comments should indicate that they are submitted in response to CMA VBA/DoD MGIB and Post 9/11 (which uses records covered under SORN 58VA21/22/28). Comments received will be available at regulations.gov for public viewing, inspection or copies.

FOR FURTHER INFORMATION CONTACT: Brian Schlias, Data Analytics Team Chief, Education Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (918) 658-1710.

SUPPLEMENTARY INFORMATION: This matching program supports VA's administration of education benefits by verifying eligibility information with the Department of Defense (DoD). The current agreement is being reestablished to continue these data exchanges and ensure accurate benefit determinations. The existing agreement expired on February 6, 2026.

The authority to conduct this match is found in 38 U.S.C. 3684A(a)(1). The records covered include eligibility records extracted from DoD personnel files and benefit records that VA establishes for all individuals who have applied for and/or are receiving or have received education benefit payments under the Montgomery GI Bill—Active Duty, Montgomery GI Bill—Selected Reserve, and the Post-9/11 GI Bill. These benefit records are contained in a VA system of records identified as 58VA21/22/28 entitled: Compensation, Pension, Education, and Vocational Rehabilitation and Employment Records—VA, first published in the **Federal Register** at 41 FR 9294 (March 3, 1976), and last amended at 90 FR 44464 (September 15, 2025), with other amendments as cited therein.

Participating Agencies: This computer match is between the Department of Veterans Affairs (VA) and the Department of Defense (DoD).

Authority for Conducting the Matching Program: The authority to conduct this match is 38 U.S.C. 3684A(a)(1).

Purpose(s): This agreement establishes the conditions under which the Department of Defense (DoD) agrees to disclose information regarding eligibility to education benefits under the Montgomery GI Bill, Montgomery GI Bill—Selected Reserve and the Post-9/11 GI Bill to the Department of Veterans Affairs (VA). The purpose of this computer matching program between VA and DoD is to verify that individuals meet the conditions of military service

and eligibility criteria for payment of benefits determined by VA under three enacted programs.

Categories of Individuals: Veterans, Servicemembers, Reservists and Dependents.

Categories of Records: Department of Defense (DoD), as the source agency, will provide to VA the eligibility records on DoD individuals which contain specific data relating to eligibility requirements, including member contribution amounts, service periods, and transfer of entitlement. VA will match on attributes, including Social Security Number (SSN), DoD Electronic Data Interchange Personal Identifier (EDIPI or VA ID), Date of Birth, Last Name, and File Identification Number.

System(s) of Records: These benefit records are contained in a VA system of records identified as 58VA21/22/28 entitled: Compensation, Pension, Education, and Vocational Rehabilitation and Employment Records—VA, first published in the **Federal Register** at 41 FR 9294 (March 3, 1976), and last amended at 90 FR 44464 (September 15, 2025) and eligibility records are extracted from a DoD system of records identified as DMDC 02, DoD, entitled “Defense Enrollment Eligibility Reporting System (DEERS),” published in the **Federal Register** at 87 FR 32384 (May 31, 2022).

Signing Authority: The Senior Agency Official for Privacy, or designee, approved this document 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. Lisa Rosenmerkel, Chief Privacy Officer and Chair of the Data Integrity Board, Department of Veterans Affairs approved this document on February 26, 2026 for publication.

Dated: April 8, 2026.

Saurav Devkota,

Government Information Specialist, VA Privacy Service, Office of Compliance, Risk and Remediation, Office of Information and Technology, Department of Veterans Affairs.

[FR Doc. 2026-07012 Filed 4-9-26; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0474]

Agency Information Collection Activity Under OMB Review: Create Payment Request for the VA Funding Fee Payment System (VA FFPS); A Computer Generated Funding Fee Receipt

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Comments and recommendations for the proposed information collection should be sent by May 11, 2026.

ADDRESSES: To submit comments and recommendations for the proposed information collection, please type the following link into your browser: www.reginfo.gov/public/do/PRAMain, select “Currently under Review—Open for Public Comments”, then search the list for the information collection by Title or “OMB Control No. 2900-XXXX.”

FOR FURTHER INFORMATION CONTACT: Dorothy Glasgow, 202-461-1084, VAPRA@va.gov.

SUPPLEMENTARY INFORMATION:

Title: Create Payment Request for the VA Funding Fee Payment System (VA FFPS); A Computer Generated Funding Fee Receipt.

OMB Control Number: 2900-0474
<https://www.reginfo.gov/public/do/PRASearch>

Type of Review: Revision of a currently approved collection.

Abstract: A funding fee must be paid to VA before a loan can be guaranteed and evidence of guaranty issued. The funding fee is payable on all VA-guaranteed loans (*i.e.*, assumptions, manufactured housing, refinances, and real estate purchase and construction loans). Lenders are required to pay the funding fee in an internet-based application, VA Funding Fee Payment System (FFPS), that permits lenders to pay the funding fee online to obtain a

VA loan guaranty. The application calculates the appropriate fee, including any late fees and interest that may be due. Lenders may also choose to pay the funding fee via batch payment processing by uploading an XML file into FFPS. VA notes that although the frequency of the estimated completion time is unchanged since the last revision. However, the annual burden decreased due to a reduction in the total number of respondents, which fell from 800,000 to 465,000 and is directly tied

to the decrease in the volume of VA-guaranteed loans.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 91 FR 4790, February 2, 2026.

Affected Public: Individuals or Households.

Estimated Annual Burden: 15,500 hours annually.

Estimated Average Burden Per Respondent: 2 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 465,000.

Authority: 44 U.S.C. 3501 *et seq.*

Shunda Willis,

Alternate, VA PRA Clearance Officer, Office of Information Technology, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2026-06958 Filed 4-9-26; 8:45 am]

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FEDERAL REGISTER

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Part II

Federal Deposit Insurance Corporation

12 CFR Parts 324, 330, and 350

GENIUS Act Requirements and Standards for FDIC-Supervised Permitted Payment Stablecoin Issuers and Insured Depository Institutions; Proposed Rule

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 324, 330, and 350

RIN 3064–AG19

GENIUS Act Requirements and Standards for FDIC-Supervised Permitted Payment Stablecoin Issuers and Insured Depository Institutions

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is soliciting comment on a proposal that would implement certain requirements pursuant to the Guiding and Establishing National Innovation for U.S. Stablecoins Act (GENIUS Act) applicable to FDIC-supervised permitted payment stablecoin issuers and insured depository institutions, clarify deposit insurance coverage for deposits held as reserve assets for payment stablecoins, and clarify the treatment of tokenized deposits.

DATES: Comments must be received by the FDIC no later than June 9, 2026.

ADDRESSES: You may submit comments, identified by RIN 3064–AG19, by any of the following methods:

- **FDIC Website:** <https://www.fdic.gov/federal-register-publications>. Follow instructions for submitting comments on the agency website.
- **Email:** Comments@fdic.gov. Include RIN 3064–AG19 in the subject line of the message.
- **Mail:** Jennifer M. Jones, Deputy Executive Secretary, Attention: Comments—RIN 3064–AG19, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- **Hand Delivery to FDIC:** Comments may be hand-delivered to the guard station at the rear of the 550 17th Street NW building (located on F Street) on business days between 7 a.m. and 5 p.m.
- **Public Inspection:** Comments received, including any personal information provided, may be posted without change to <https://www.fdic.gov/federal-register-publications>.

Commenters should submit only information that the commenter wishes to make available publicly. The FDIC may review, redact, or refrain from posting all or any portion of any comment that it may deem to be inappropriate for publication, such as irrelevant or obscene material. The FDIC may post only a single representative example of identical or substantially identical comments, and in such cases

will generally identify the number of identical or substantially identical comments represented by the posted example. All comments that have been redacted, as well as those that have not been posted, that contain comments on the merits of the proposed rule will be retained in the public comment file and will be considered as required under all applicable laws. All comments may be accessible under the Freedom of Information Act.

This proposal, all comments received, and a summary of not more than 100 words of the proposed rule pursuant to the Providing Accountability Through Transparency Act of 2023 are available at <https://www.fdic.gov/federal-register-publications>.

FOR FURTHER INFORMATION CONTACT:

Alfred L. Seivold, Acting Senior Deputy Director, (415) 808–8248, aseivold@fdic.gov, Charles Kirkner, Senior CFI Specialist, (917) 320–2739, ckirkner@fdic.gov, Division of Complex Institution Supervision and Resolution; Sumaya Muraywid, Chief, Emerging Technology Section, (202) 898–3904, smuraywid@fdic.gov, Mark Mickelson, Senior Examination Specialist, (763) 229–6532, mamickelson@fdic.gov, Division of Risk Management Supervision; David Friedman, Special Advisor to the Director, (703) 508–3934, dfriedman@fdic.gov, Division of Depositor and Consumer Protection; Michael Overmyer, Senior Special Counsel, (917) 320–2795, movermyer@fdic.gov, Chantal Hernandez, Counsel, (202) 898–7388, chhernandez@fdic.gov, Eugene Frenkel, Fin-Tech Counsel, (202) 898–3578, yfrenkel@fdic.gov, James Watts, Counsel, (202) 898–6678, jwatts@fdic.gov, Legal Division.

SUPPLEMENTARY INFORMATION:

I. Policy Objectives

The FDIC is issuing this notice of proposed rulemaking (proposed rule) to implement certain requirements under the GENIUS Act (or the Act).¹ The proposed rule would implement requirements that would apply to FDIC-supervised permitted payment stablecoins issuers (PPSIs), including requirements related to reserve assets, capital, liquidity, and risk management requirements. The proposed rule would also implement requirements that would apply to FDIC-supervised PPSIs and insured depository institutions (IDIs) that provide payment stablecoin-related custodial and safekeeping services (collectively, FDIC-supervised custodians). The proposed rule aims to

establish a tailored, principles-based regulatory regime for FDIC-supervised PPSIs and FDIC-supervised custodians, consistent with the GENIUS Act, to support the responsible growth and use of digital assets and related technologies in the banking sector.² In addition, the proposed rule also aims to provide clarity to all IDIs with respect to deposit insurance coverage under the Federal Deposit Insurance Act (FDI Act) for deposits held at IDIs that serve as reserve assets of a PPSI's payment stablecoin, as well as clarify the treatment of tokenized deposits.³

II. Background and Authority

The GENIUS Act requires the FDIC, along with the other primary Federal payment stablecoin regulators⁴ as well as the Department of Treasury, to implement regulations to carry out the Act's requirements in establishing a Federal payment stablecoin regulatory framework for supervised entities.⁵ The FDIC is the primary Federal payment stablecoin regulator of subsidiaries of insured State nonmember banks and State savings associations (collectively, "FDIC-supervised IDIs") approved to issue payment stablecoins. In December 2025, the FDIC issued a notice of proposed rulemaking under section 5 of the GENIUS Act that would establish application procedures for FDIC-supervised IDIs to request approval to issue payment stablecoins through a subsidiary.⁶

This proposed rule would implement other GENIUS Act requirements, specifically requirements for FDIC-supervised PPSIs and FDIC-supervised

² See Executive Order 14178, Strengthening American Leadership in Digital Financial Technology, 90 FR 8647 (Jan. 31, 2025).

³ The term "tokenized deposit" generally refers to a tokenized form of an IDI's deposit liability recorded in an on-chain or off-chain account enabled with distributed ledger technology. "Deposit tokens" are similar in application to tokenized deposits. Generally, a deposit token is more digitally native without a credit in a corresponding account. The terms "tokenized deposit" and "deposit token" are sometimes used interchangeably when discussing deposit tokenization. For purposes of this proposal, "tokenized deposit" is intended as a general term to also include "deposit token."

⁴ The primary Federal payment stablecoin regulators are the FDIC, the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (FRB), and the National Credit Union Administration (NCUA). See 12 U.S.C. 5901(25).

⁵ See 12 U.S.C. 5913. In developing this proposed rule, the FDIC, as required by section 13 of the GENIUS Act, 12 U.S.C. 5913, coordinated with fellow regulators, as appropriate. The GENIUS Act will become effective on January 18, 2027, or 120 days after the date on which the primary Federal payment stablecoin regulators issue any final regulations implementing the Act, if earlier. See 12 U.S.C. 5901 note.

⁶ 90 FR 59409 (Dec. 19, 2025).

¹ Public Law 119–27, 139 Stat. 419 (codified at 12 U.S.C. 5901–5916).

custodians. Section 4 of the GENIUS Act establishes the general framework applicable to PPSIs, including, among other things, requirements regarding reserve assets, activities, and disclosures.⁷ Section 4 of the Act also directs the FDIC, and other primary Federal payment regulators, to develop capital, liquidity, and risk management requirements and standards for supervised PPSIs.⁸ Section 6 of the Act contains requirements regarding the FDIC's supervisory and enforcement authority over regulated PPSIs.⁹ Moreover, section 10 of the GENIUS Act establishes requirements for FDIC-supervised custodians.¹⁰ This proposed rule, if finalized and in conjunction with finalizing the proposed rule covering the application procedures, would establish regulatory requirements for FDIC-supervised PPSIs as mandated by the GENIUS Act, as well as provide further clarity for FDIC-supervised custodians.

With respect to proposed amendments to clarify deposit insurance coverage of deposits that serve as reserve assets and the treatment of tokenized deposits, the FDIC is authorized by the FDI Act to prescribe regulations as it may deem necessary to carry out the provisions of the FDI Act.¹¹ The FDIC has previously used this authority to issue rules providing specificity on insurance coverage.

III. Description of the Proposed Rule

To implement the statutory requirements required by the GENIUS Act, the proposed rule would amend part 350 of the FDIC Rules and Regulations. Subpart A would apply to FDIC-supervised PPSIs. Subpart B would apply to FDIC-supervised custodians.

On March 2, 2026, the OCC published in the **Federal Register** a notice of proposed rulemaking to issue implementing GENIUS Act regulations with respect to entities subject to the OCC's jurisdiction.¹² Although the OCC's proposed rule is more expansive than this proposed rule because the OCC is the primary Federal payment stablecoin regulator for subsidiaries of national banks and Federal qualified

payment stablecoin issuers—including nonbank entities—approved to issue payment stablecoins, the FDIC has endeavored, in many areas, to align this proposed rule with the OCC's proposed rule, to the extent relevant. In addition to seeking comment on each of the particular provisions described below, the FDIC seeks comment on the extent to which the primary Federal payment stablecoin regulators should further align in their final rules to promote consistency of regulations applicable to all PPSIs subject to the GENIUS Act.

The proposed rule would also amend the deposit insurance coverage rules in part 330 that apply to all FDIC-insured depository institutions by clarifying that deposits held as reserves backing a payment stablecoin would be insured to the PPSI under the FDIC's coverage rules for corporate deposits, but would not be insured to payment stablecoin holders on a pass-through basis. Lastly, the proposed rule would clarify the treatment of tokenized deposits under the FDI Act.

A. Subpart A—Requirements and Standards for Permitted Payment Stablecoin Issuers

1. Purpose and Scope (Proposed § 350.0)

Proposed § 350.0 sets forth the purpose and scope of the regulations in subpart A. Paragraph (a) describes the purpose to implement the GENIUS Act, 12 U.S.C. 5901 *et seq.*, with respect to entities for which the FDIC is authorized to issue regulations under the Act. Paragraph (b) provides that proposed part 350 subpart A would apply to all PPSIs for which the FDIC is the primary Federal payment stablecoin regulator.

2. Definitions (Proposed § 350.1)

Proposed § 350.1 contains the definitions of terms used throughout subpart A, which generally follow the definitions provided under the GENIUS Act. For additional clarity, proposed § 350.1(a) would provide that definitions not otherwise defined in subpart A would have the same meaning given to them as in section 2 of the GENIUS Act (12 U.S.C. 5901).

Affiliate. With respect to individuals and entities that may be involved or associated with a PPSI, the FDIC would define “affiliate” to mean a person that controls, is controlled by, or is under common control with another person. This definition would be consistent with the definition used in section 3(w)(6) of the FDI Act (12 U.S.C.

1813(w)(6)),¹³ with a modification to replace “company” with “person,” as that term is defined under the GENIUS Act.

Bank Secrecy Act. Consistent with the definition provided in section 2(2) of the GENIUS Act (12 U.S.C. 5901(2)), the FDIC would define “Bank Secrecy Act” to mean (i) section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b); (ii) Chapter 2 of title I of Public Law 91–508 (12 U.S.C. 1951 *et seq.*); and (iii) Subchapter II of chapter 53 of title 31, United States Code and notes thereto (31 U.S.C. 5311 *et seq.*). The FDIC proposes to add “and notes thereto” as a clarification.

Customer. The FDIC would define “customer” to mean a person that purchases (through any consideration) the products or services of a PPSI directly from the PPSI. The FDIC believes this definition would be appropriate to distinguish from situations where a person has no direct relationship with a PPSI, such as a payment stablecoin holder who receives a payment stablecoin in exchange for goods or services sold, or who purchases a payment stablecoin on the secondary market, and does not establish a relationship with the PPSI. The proposed “customer” definition under part 350, subpart A only applies to part 350, subpart A.¹⁴

Demand deposit. The FDIC would define “demand deposit” to have the meaning given that term at 12 CFR 204.2(b). The term “demand deposit” includes those deposits in tokenized form.

Deposit. The FDIC would define “deposit” to have the meaning as given that term in section 3(l) of the FDI Act (12 U.S.C. 1813(l)). Consistent with section 4(a)(1)(A)(viii) of the GENIUS Act (12 U.S.C. 5903(a)(1)(A)(viii)), the proposed rule would clarify that the term includes deposits in tokenized form.

Digital asset. The FDIC would define “digital asset” to mirror the definition provided under section 2(6) of the GENIUS Act (12 U.S.C. 5901(6)), and the term would mean any digital representation of value that is recorded

⁷ 12 U.S.C. 5903.

⁸ 12 U.S.C. 5903(a)(4)(A).

⁹ 12 U.S.C. 5905.

¹⁰ 12 U.S.C. 5909.

¹¹ 12 U.S.C. 1819(a)(Tenth); *see also* 12 U.S.C. 1820(g) (authorizing the FDIC to prescribe regulations to carry out the FDI Act); 12 U.S.C. 1821(d)(4)(B)(iv) (authorizing the FDIC to promulgate regulations as necessary to assure that the requirements of section 11 of the FDI Act, which governs the determination and payment of deposit insurance, can be implemented).

¹² 91 FR 10202 (March 2, 2026).

¹³ This provision cites to the definition of “affiliate” under the Bank Holding Company Act, 12 U.S.C. 1841(k).

¹⁴ The proposed “customer” definition under part 350, subpart A is not intended to affect any GENIUS Act requirements promulgated to implement the GENIUS Act's direction to treat PPSIs as financial institutions for purposes of the Bank Secrecy Act and to apply Federal law applicable to a financial institution located in the United States relating to the prevention of money laundering, including customer identification program or customer due diligence requirements applicable to PPSIs. *See* 12 U.S.C. 5093(a)(5)(A).

on a cryptographically secured distributed ledger.

Distributed ledger. The FDIC would define “distributed ledger” to mirror the definition provided under section 2(8) of the GENIUS Act (12 U.S.C. 5901(8)), and the term would mean technology in which data is shared across a network that creates a public digital ledger of verified transactions or information among network participants and cryptography is used to link the data to maintain the integrity of the public ledger and execute other functions.

Distributed ledger protocol. The FDIC would define “distributed ledger protocol” to mirror section 2(9) of the GENIUS Act (12 U.S.C. 5901(9)), and the term would mean publicly available and accessible executable software deployed to a distributed ledger, including smart contracts or networks of smart contracts.

Eligible financial institution. The FDIC would define “eligible financial institution” to mean either: (i) a Federal Reserve Bank; or (ii) a person that is eligible to hold reserve assets in custody under section 10(a) of the GENIUS Act (12 U.S.C. 5909(a)) and that (A) complies with the applicable requirements in section 10(b), (c), and (d) of the GENIUS Act, including with applicable implementing regulations issued by the relevant primary Federal payment stablecoin regulator, primary financial regulatory agency, State bank supervisor, or State credit union supervisor; and (B) if applicable, enters into a custody agreement with a PPSI documenting the person’s compliance with applicable requirements in section 10(b), (c), and (d) of the GENIUS Act, and has implemented policies and procedures as to ensure compliance. The proposed term would be used in connection with requirements for maintaining required reserves. A PPSI that engages a financial institution for custody should ensure that the financial institution is contractually obligated to comply with the GENIUS Act section 10 and requirements under proposed part 350 subpart B or applicable implementing regulations by the relevant primary Federal payment stablecoin regulator, primary financial regulatory agency, State bank supervisor, or State credit union supervisor to ensure that reserves are adequately protected. This requirement is expected to encourage PPSIs to engage in appropriate due diligence of any financial institutions that offer to maintain reserve assets for PPSIs.

Fair value. The FDIC would define “fair value” to mean fair value as determined under GAAP.

GAAP. The FDIC would define “GAAP” to mean generally accepted

accounting principles as used in the United States.

Insured credit union. The FDIC would define “insured credit union” to mirror section 2(14) of the GENIUS Act (12 U.S.C. 5901(14)), and the term would have the meaning given that term in section 101 of the Federal Credit Union Act. (12 U.S.C. 1752).

Insured depository institution. The FDIC would define “an “insured depository institution” to have the same meaning as that term is given in section 3(c)(2) of the FDI Act (12 U.S.C. 1813(c)(2)). The FDIC believes this divergence from the GENIUS Act, which includes “insured credit union” within the term in section 2 of the GENIUS Act (12 U.S.C. 5901(15)), would be helpful to FDIC-supervised PPSIs and IDIs as it would be consistent with how the term is defined under other provisions within the FDIC’s Rules and Regulations.

Monetary value. The FDIC would define “monetary value” to mirror section 2(17) of the GENIUS Act (12 U.S.C. 5901(17)), and the term would mean a national currency or deposit (as defined in section 3(I) of the FDI Act (12 U.S.C. 1813(I)) denominated in a national currency.

National currency. The FDIC would define “national currency” to mirror section 2(19) of the GENIUS Act (12 U.S.C. 5901(19)), and the term would mean (i) a Federal Reserve note (as the term is used in the first undesignated paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 411)); (ii) money standing to the credit of an account with a Federal Reserve Bank; (iii) money issued by a foreign central bank; or (iv) money issued by an intergovernmental organization pursuant to an agreement by two or more governments.

Outstanding issuance value. The FDIC would define “outstanding issuance value” to mean the total consolidated par value of all of a PPSI’s payment stablecoins issued. The definition would include the combined total par value of different brands of payment stablecoins issued by the PPSI. This definition would be relevant for requirements related to reserve assets, redemptions, reporting, and audits for larger PPSIs.

Payment stablecoin. The FDIC would define “payment stablecoin” to mirror section 2(22) of the GENIUS Act (12 U.S.C. 5901(22)), and the term would mean a (i) digital asset (A) that is, or is designed to be, used as a means of payment or settlement; and (B) the issuer of which (I) is obligated to convert, redeem, or repurchase for a fixed amount of monetary value, not including a digital asset denominated in a fixed amount of monetary value; and

(II) represents that such issuer will maintain, or creates the reasonable expectation that it will maintain, a stable value relative to the value of a fixed amount of monetary value. The proposed definition would also (ii) track the exceptions included in the statutory definition to explicitly exclude from the definition a digital asset that is a (A) national currency; (B) a deposit (as defined in section 3 of the FDI Act (12 U.S.C. 1813), including a tokenized deposit recorded using distributed ledger technology; or (C) a security, as defined in section 2 of the Securities Act of 1933 (15 U.S.C. 77b), section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c), or section 2 of the Investment Company Act of 1940 (15 U.S.C. 80a–2). The FDIC would include the addition of “tokenized” to “deposit recorded using distributed ledger technology” to clarify deposits in tokenized form would not be a payment stablecoin.¹⁵

Permitted payment stablecoin issuer. The FDIC would define “permitted payment stablecoin issuer” to have the meaning given that term in section 2(23) of the GENIUS Act (12 U.S.C. 5901(23)).

Person. The FDIC would define “person” to mirror section 2(24) of the GENIUS Act (12 U.S.C. 5901(24)), and the term would mean an individual, partnership, company, corporation, association, trust, estate, cooperative organization, or other business entity, incorporated or unincorporated.

Primary financial regulatory agency. The FDIC would define “primary financial regulatory agency” to have the meaning given that term in 12 U.S.C. 5301(12)(B) or (C), as applicable. The FDIC believes this term is helpful to define in connection with the eligible financial institution definition.

Private key. The FDIC would define “private key” to mean the unique alphanumeric sequence that allows for a transfer of a particular unit of a digital asset using a distributed ledger. The FDIC believes defining this term is important because cryptographic control of private keys is the cornerstone of digital trust, acting as the ultimate authorization for transfers of digital assets.

Registered public accounting firm. The FDIC would define “registered public accounting firm” to mirror section 2(26) of the GENIUS Act (12 U.S.C. 5901(26)), and the term would have the meaning set forth in section 2 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201(12)).

Reserve asset. The FDIC would define “reserve asset” to mean an asset

¹⁵ See *infra* Section III.D.

maintained by a PPSI of a type enumerated in § 350.4(e).

Significant redemption request. The FDIC would define “significant redemption request” to mean a circumstance in which aggregate redemption requests exceed 10 percent of a PPSI’s outstanding issuance value within a single 24-hour period. As noted below, the FDIC seeks comment on whether 10 percent is the right threshold for redemption requests and whether 24 hours is the right time period.

Subsidiary. The FDIC would define “subsidiary” to have the meaning given that term in section 3(w)(4) of the FDI Act (12 U.S.C. 1813(w)(4)).

United States Coins and Currency. The FDIC would define “United States coins and currency” to mean U.S. coins and currency as described in 31 U.S.C. 5103. This definition is relevant for proposed reserve asset composition, reserve asset value calculation, and operational backstop requirements.

Questions for Definitions Section (Proposed § 350.1)

The FDIC requests comment on the definitions provided under proposed § 350.1, including the following:

Question 1: Are the definitions in the proposed rule sufficiently clear? What additional clarifications, if any, would be helpful? Should the FDIC define any additional terms?

Question 2: Is the distinction, legal or otherwise, between conversion, redemption, or repurchase of payment stablecoins sufficiently clear? Should the FDIC define conversion, redemption, or repurchase? If so, how? Should the FDIC define “redemption” broadly to mean that, for example, the PPSI has initiated payment to the payment stablecoin holder in return for a tendered payment stablecoin? Are there reasons to define “redemption” more narrowly? For example, should the FDIC define redemption to mean that the PPSI’s payment to a payment stablecoin holder in exchange for a payment stablecoin has settled on chain (without any initiation of payment in return for a tendered payment stablecoin or associated settlement)?

Question 3: The FDIC proposes to define the term “customer” to mean a person that purchases (through any consideration) the products or services of a PPSI. Is this definition appropriately scoped? Should the FDIC consider defining the term to also include persons with indirect relationships with a PPSI, such as downstream payment stablecoin holders? Why or why not?

Question 4: Is the term “distributed ledger” sufficiently clear? Is it necessary to clarify and distinguish ledger types? Does the phrase “public digital ledger” require regulatory clarity? Under what conditions should restricted (permissioned) ledgers be classified as “public?” How should frameworks differentiate between fully open, hybrid, and permissioned systems?

Question 5: Should the FDIC define the term “smart contract?” If so, how?

Question 6: Is the definition of “eligible financial institution” sufficiently clear? Should the definition be revised to include additional entities or exclude certain entities?

Question 7: Is the definition of “fair value” sufficiently clear? How could the term be further refined or clarified?

Question 8: Is the term “outstanding issuance value” appropriately defined? If not, how could the term be revised, refined, or clarified?

Question 9: Is the term “payment stablecoin” sufficiently clear? Should the FDIC provide additional clarity as to whether a particular type of stablecoin is a “payment stablecoin” under the GENIUS Act?

Question 10: Is the term “private key” appropriate? How could the term be further amended, refined, or clarified?

Question 11: Is the term “reserve asset” sufficiently clear? How could the term be further refined or clarified?

Question 12: Is the term “significant redemption request” sufficiently scoped? If not, how should the FDIC revise the definition? Is 10 percent the appropriate threshold, and is 24 hours the appropriate time period?

Question 13: The GENIUS Act refers to “payment stablecoin holders” across various provisions, particularly with respect to priority of claims, but the Act does not define the term. Should the FDIC define the term? If so, should the term be defined to mean the person that beneficially owns the payment stablecoin? Or should the FDIC instead define the term based on possession via digital wallets or control of private keys? What interactions with other requirements in the proposed rule should the FDIC consider if it chooses to define the term?

3. Severability (Proposed § 350.2)

The FDIC is proposing to include a severability clause in proposed § 350.2, which would provide that the provisions of proposed part 350 are separate and severable from one another. In the event a court stays a particular provision of this rule or determines any provision is invalid, the FDIC intends that the remaining provisions shall continue in effect.

4. Activities (Proposed § 350.3)

Core Activities

Proposed § 350.3 encompasses the range of activities that could be performed by a PPSI, consistent with section 4(a)(7) of the GENIUS Act (12 U.S.C. 5903(a)(7)).

Section 4(a)(7) of the GENIUS Act lists a narrow set of activities that may be performed by a PPSI. Consistent with the Act, the FDIC is proposing to limit a PPSI’s activities as set out in section 4(a)(7) in § 350.3(a) of the proposed rule. First, a PPSI may only (1) issue payment stablecoins; (2) redeem payment stablecoins; (3) manage reserves related to payment stablecoins; and (4) provide custodial or safekeeping services limited to certain assets.¹⁶ The management of payment stablecoin reserves includes purchasing, selling, and holding or holding under custody reserve assets, consistent with Federal and State law.¹⁷ Custody and safekeeping services are limited to only the holding of payment stablecoins, required payment stablecoin reserves, or private keys of payment stablecoins. It does not include custody of non-payment stablecoin digital assets.¹⁸ Proposed § 350.2(a)(1) through (4) of the proposed rule set out the limited range of PPSI activities, which represent the core set of activities of a PPSI.

Activities Directly Supporting Core Activities

Additionally, section 4(a)(7)(A)(v) of the GENIUS Act (12 U.S.C. 5903(a)(7)(A)(v)) provides that a PPSI may undertake other activities that “directly support” any of the core activities of issuing and redeeming payment stablecoins, managing payment stablecoin reserves, and providing custody and safekeeping services, as limited by the Act. The allowance of these other supporting activities is reflected in proposed § 350.3(a)(5).

The FDIC would view activities that directly support the core activities enumerated in the Act as only those that would be considered necessary for the PPSI to have the capability to perform the permitted activities or that are fundamental to the operations in performing the core activities. Examples might be hosting digital wallet infrastructure using cloud platforms or on-premises, air-gapped hardware security modules to provide secure safekeeping of payment stablecoin

¹⁶ 12 U.S.C. 5903(a)(7)(A)(i)–(iv).

¹⁷ 12 U.S.C. 5903(a)(7)(A)(iii).

¹⁸ Digital assets are defined in 12 U.S.C. 5901(6). The term “digital asset” can include payment stablecoins, however the Act specifically allows for a PPSI to custody or keep safe payment stablecoins.

private keys or providing other essential services.

Activities supporting a PPSI's issuance and redemption of payment stablecoins, management of payment stablecoin reserves, and custody and safekeeping for payment stablecoins are limited to direct support activities, and are irrespective of whether they are performed by a PPSI itself, or through arrangement with an affiliate or a third party.

If a PPSI has questions about whether an activity would be considered by the FDIC to be one directly supporting its core activities of issuing or redeeming payment stablecoins, managing payment stablecoin reserve assets, or providing safekeeping and custody services, the PPSI should contact the FDIC. The FDIC is seeking comment on whether there should be a more formal process for clarifications around permissibility, including whether the FDIC should provide additional clarity to the public through long-established channels such as financial institution letters, published frequently asked questions, or other means.

Activities Subject to FDIC Approval

Beyond the core activities and those that directly support those activities, section 4(a)(7)(B) of the GENIUS Act (12 U.S.C. 5903(a)(7)(B)) provides a rule of construction such that none of a PPSI's activities discussed above (*i.e.*, issuance, redemption, managing reserve assets, limited custody, *etc.*) are to be construed as a limitation on certain incidental activities or digital asset service provider activities if the activities are authorized by the FDIC. Digital asset service provider activities encompass: (1) exchanging digital assets for monetary value; (2) exchanging digital assets for other digital assets; (3) transferring digital assets to a third party; (4) acting as a digital asset custodian; and (5) participating in financial services relating to digital asset issuance.¹⁹ The FDIC is intending to adhere to the Act's rule of construction by proposing § 350.3(a)(6).

The FDIC's authority to approve these activities is limited to those activities specified by the Act that are consistent with all other Federal and State laws,

and provided that in any insolvency proceedings described under section 11 of the Act (12 U.S.C. 5911), the activities would not jeopardize the claims of payment stablecoin holders, which would rank senior to claims of non-payment stablecoin creditors.²⁰ The FDIC seeks comment on how to interpret section 4(a)(7)(B) of the GENIUS Act (12 U.S.C. 5903(a)(7)(B)) and whether it serves as an independent grant of authority or whether it must be consistent with a grant of authority provided from another Federal or State law.

Related Fee Activity and Customer Buy, Sell Facilitation

Section 16(b) of the GENIUS Act (12 U.S.C. 5915(b)) provides that entities regulated by the FDIC as the primary Federal payment stablecoin regulator, namely PPSIs, are authorized to engage in payment stablecoin activities and investments contemplated by the Act, including acting as principal or agent with respect to any payment stablecoin and the payment of fees to facilitate customer transactions. As a result, beyond the activities outlined in section 4 of the Act (core, direct support, and approvable activities), but consistent with them, proposed § 350.3(a)(9) would provide that a PPSI may undertake any activity contemplated by the GENIUS Act in the capacity of principal or agent with respect to any payment stablecoin, if consistent with the Act. Proposed § 350.3(a)(7) and (8) also list among the permitted activities of a PPSI the assessment of fees associated with purchasing or redeeming payment stablecoins and the payment of fees to facilitate customer transactions, which the FDIC views as incidental to the issuance and redemption of payment stablecoins consistent with law and not affecting the claims of payment stablecoin holders in any insolvency proceedings.

Prohibitions

In addition to setting out what is permitted, the GENIUS Act prescribes several prohibited activities. Consistent with the GENIUS Act, proposed § 350.3(b) would clarify that PPSIs may not engage in certain activities.

Use of Deceptive Names

Proposed § 350.3(b)(1) would prohibit a PPSI from using any combination of terms related to the United States Government, including, but not limited to "United States," "United States Government," and "USG" in the name of a payment stablecoin, consistent with

section 4(a)(9) of the GENIUS Act (12 U.S.C. 5903(4)(a)(9)). Proposed § 350.3(b)(2) would prohibit a PPSI from marketing a payment stablecoin in a manner that a reasonable person would perceive the payment stablecoin to be legal tender, issued by the United States, or guaranteed or approved by the United States Government, consistent with section 4(e)(2) of the GENIUS Act (12 U.S.C. 5903(e)(2)). The prohibitions in proposed § 350.3(b)(1) and (2) would not apply to abbreviations of currency that the PPSI is obligated to convert, redeem, or repurchase for a fixed amount of monetary value, as described in proposed § 350.3(c).

Consistent with section 4(e) of the GENIUS Act (12 U.S.C. 5903(e)), proposed § 350.3(b)(3) would provide that a PPSI may not directly or through implication represent that payment stablecoins are backed by the full faith and credit of the United States, guaranteed by the United States Government, or subject to Federal deposit insurance or Federal share insurance.²¹ Although disclaimers may be components of complying with these requirements, the FDIC also expects PPSIs to appropriately ensure that representations, marketing materials, and disclosures are clear and consistent with these requirements to avoid direct representations or implications that are likely to cause confusion.

Interest and Yield Solely in Connection With Holding, Use, or Retention

Proposed § 350.3(b)(4) would prohibit a PPSI from paying the holder of any payment stablecoin any form of interest or yield (whether in cash, tokens, or other consideration) solely in connection with the holding, use, or retention of such payment stablecoin consistent with section 4(a)(11) of the GENIUS Act (12 U.S.C. 5903(a)(11)). The proposed rule would further provide that the FDIC presumes a PPSI violates the prohibition if: (A) the PPSI has a contract, agreement, or other arrangement with an affiliate of the PPSI or related third party to pay interest or yield to the affiliate or related third party; (B) the affiliate, related third party, or an affiliate of a related third party has a contract, agreement, or other arrangement to pay interest or yield (whether in cash, tokens, or other consideration) to a holder of any payment stablecoin issued by the PPSI solely in connection with the holding,

¹⁹ 12 U.S.C. 5901(7)(A). Not included in the activities of a digital asset service provider are engaging as a digital ledger protocol; developing, operating, or engaging in the business of developing distributed ledger protocols or self-custodial software interfaces; as an immutable and self-custodial software interface; developing, operating, or engaging in the business of validating transactions or operating a distributed ledger; or participating in a liquidity pool or other similar mechanism for the provisioning of liquidity for peer-to-peer transactions. 12 U.S.C. 5901(7)(B).

²⁰ See 12 U.S.C. 5903(a)(7)(B).

²¹ In addition, section 18(a)(4) of the FDI Act, 12 U.S.C. 1828(a)(4), and its implementing regulation, 12 CFR part 328, also prohibit any person from misusing the name or logo of the FDIC, engaging in false advertising, or making knowing misrepresentations about deposit insurance.

use, or retention of such payment stablecoin; and (C) to the extent the person, or an affiliate of the person, is a related third party of the PPSI because the PPSI issues payment stablecoins on the related third party's behalf or under the related third party's branding, the arrangement between the related third party and the holder of the payment stablecoin would consider the holder of the payment stablecoin to be the holder of the payment stablecoin issued by the PPSI on the related third party's behalf or under the related third party's branding.

With respect to this presumption, the proposed rule would define a related third party to mean (A) a person offering to pay interest or yield to payment stablecoin holders as a service; and (B) any person that the PPSI issues payment stablecoins on the person's behalf or under the person's branding. A PPSI may rebut the presumption by submitting written materials that, in the FDIC's judgment, demonstrate that the contract, agreement, or other arrangement is not prohibited under proposed § 350.3(b)(4) and not an attempt to evade the prohibition.

The FDIC seeks comment on this specific part of the proposal, and whether this is an appropriate interpretation and implementation of the prohibition in section 4(a)(11) of the GENIUS Act (12 U.S.C. 5903(a)(11)).

Pledging, Rehypothecating, and Reusing Reserve Assets

Proposed § 350.3(b)(5) would prohibit a PPSI from pledging, rehypothecating, or reusing any reserve assets required under § 350.4(a) and (e) of the proposed rule either directly or indirectly, including through a third party custodian of the reserve assets, except for the exceptions described in proposed § 350.3(b)(5)(i) through (iii), consistent with section 4(a)(2) of the GENIUS Act. A PPSI may only pledge, rehypothecate or re-use any reserve assets for the purpose of: (i) satisfying margin obligations in connection with investments in required reserves under proposed § 350.4(e)(5) or (6); (ii) satisfying obligations associated with the use, receipt, or provision of standard custodial services; or (iii) creating liquidity to meet reasonable expectations of requests to redeem payment stablecoins, such that reserves in the form of Treasury bills with a maturity of 93 days or less may be sold as purchased securities in repurchase agreements, provided that either: (A) the repurchase agreements are cleared by a clearing agency registered with the Securities and Exchange Commission; or (B) the PPSI receives prior written

approval from the FDIC. With respect to any repurchase agreement under proposed § 350.4(e)(6), the FDIC will deem them as approved wherein the Treasury bills that are sold as purchased securities have a maturity of 93 days or less and the liquidity obtained through the repurchase agreement is not being obtained for purposes other than meeting redemption requests. The FDIC is proposing to limit the amount of reserve assets that a PPSI can pledge, rehypothecate, or reuse directly or indirectly, including through a custodian, which would include affiliates of the custodians or sub-custodians, to ensure that reserve assets remain liquid and payment stablecoin holders have confidence in the payment stablecoin. Although there are exemptions to the prohibition on pledging, rehypothecating, or reusing reserve assets, the FDIC expects that the PPSI would rely on the exemptions only as necessary for the purposes described in proposed § 350.3(b)(5)(i) through (iii), and not for any other business purpose.

Evasion

Proposed § 350.3(b)(6) would prohibit a PPSI from engaging in any activity that the FDIC determines is done in evasion of the requirements, standards, or prohibitions found in section 4 of the GENIUS Act or proposed part 350. This paragraph is consistent with section 4(h)(1) of the GENIUS Act (12 U.S.C. 5903(h)) which gives the FDIC the authority to issue regulations to prevent evasions of section 4 of the GENIUS Act.

Unlawful Marketing

Proposed § 350.3(b)(7) would prohibit a PPSI from marketing a product in the United States as a payment stablecoin, or from issuing a payment stablecoin, unless the product or payment stablecoin is issued in compliance with the GENIUS Act and part 350. This paragraph is consistent with section 4(e)(3)(A) of the GENIUS Act (12 U.S.C. 5903(e)(3)(A)) which makes it unlawful to market a product in the United States as a payment stablecoin unless it is issued pursuant to the GENIUS Act. The FDIC will monitor FDIC-supervised PPSI's marketing, as appropriate, to ensure that they do not violate the GENIUS Act or part 350 of the proposed rule, and for referral to the Department of Treasury for possible violation of section 4(e)(3)(A) of the GENIUS Act.

Providing Credit

The FDIC is also proposing to prohibit a PPSI from providing credit to its customers to purchase payment stablecoins in § 350.3(b)(8) of the proposed rule. The FDIC interprets the

GENIUS Act's requirements that a PPSI maintain reserve assets comprised of a narrow set of highly liquid assets and that a PPSI engage in a narrow set of activities to be the key guardrails to ensure a PPSI is able to satisfy redemption requests. If a PPSI lends funds to customers to enable customers to purchase payment stablecoins, or were to otherwise issue payment stablecoins to customers on credit extended by the PPSI, the PPSI would then, in effect, need to access separate funding to acquire and maintain identifiable reserve assets to back the payment stablecoins issued on credit. This could result in a highly leveraged balance sheet in which the reserve assets do not provide the intended resiliency. The FDIC seeks comment on whether this is an appropriate prohibition, and whether other alternatives would better achieve the Act's objectives.

Questions for Activities Section (Proposed § 350.3)

The FDIC requests comment on the activities described in proposed § 350.3, including the following:

Question 14: Are there any other activities that the FDIC did not include in proposed § 350.3 that PPSIs would need to, or should be able to, engage in under the GENIUS Act? If so, please describe the kinds of activities and any appropriate limits for such activities.

Question 15: Are there other limits or conditions the FDIC should consider with respect to PPSIs acting as principal or agent with respect to payment stablecoins? Should the FDIC specify the activities contemplated under the GENIUS Act for which a PPSI may act as principal or agent for payment stablecoins under section 16(b) of the Act (12 U.S.C. 5915(b))?

Question 16: Should the FDIC clarify proposed § 350.3(a)(6) by providing specific examples of activities that are incidental to the activities in proposed § 350.3(a)(1) through (4)? Are there specific examples of activities that are incidental to the activities in proposed § 350.3(a)(1) through (4) that should be clarified?

Question 17: Should the FDIC include by rule at proposed § 350.3 a process for the FDIC to approve additional activities? Should the FDIC adopt a formal process for clarifications around permissible activities, including through long-established channels such as financial institution letters, published frequently asked questions, or by other means? If so, how should the processes work? How should the FDIC coordinate such a process with other primary Federal payment stablecoin regulators?

Question 18: Should the FDIC distinguish between what it means for an activity to directly support the activities in proposed § 350.3(a)(1) through (4), and therefore, satisfy the test in proposed § 350.3(a)(5) as opposed to what it means for an activity to satisfy the test in proposed § 350.3(a)(6) and be incidental to the activities in proposed § 350.3(a)(1) through (4), as provided in section 4(a)(7)(B) of the GENIUS Act?

Question 19: Are there additional steps the FDIC should take to ensure representations and disclosures by PPSIs are clear and minimize the risk of consumer confusion? Should the FDIC require PPSIs to provide specific disclosures or statements? Should the FDIC provide examples of specific representations that would be prohibited under proposed § 350.3(b)?

Question 20: Is any further clarity needed regarding the prohibition on the use of deceptive names, marketing, and representations in proposed § 350.3(b)(1) through (3)?

Question 21: Is it appropriate for the FDIC to apply the GENIUS Act's prohibition on paying interest or yield to affiliates and related third parties? Are there alternatives the FDIC should consider?

Question 22: Should the FDIC include a rebuttable presumption regarding the payment of interest or yield by an affiliate or related third party? If so, should the FDIC provide additional clarity on how the presumption could be rebutted?

Question 23: Should the prohibition on interest and yield in proposed § 350.3(b)(4) clarify the terms "pay," "interest," "yield," "solely," or any other terms? If so, what clarifications would be helpful? What types of rewards, if any, should or should not be subject to the prohibition?

Question 24: What would the economic or market impact of a narrow prohibition on paying interest or yield solely in connection with the holding, use, or retention of a payment stablecoin be relative to a broader prohibition (*i.e.*, one that includes relationships with affiliates or third parties)?

Question 25: Is the scope of the prohibition against pledging, rehypothecating, or reusing reserve assets sufficiently clear? Are there specific types of transactions, relationships, or structures for which it would be helpful to clarify whether the prohibition applies? For example, should the FDIC clarify whether the prohibition would prevent establishing a collateral trustee that would hold a security interest in reserve assets for the benefit of payment stablecoin holders? What arguments weigh for and against

finding that the prohibition would prohibit these arrangements?

Question 26: Should the FDIC cap the total amount of reserve assets that a PPSI can pledge or rehypothecate to maximize payment stablecoin holders' recoveries in the event of a bankruptcy or economic stress event? Are there business reasons for why a PPSI would want to rehypothecate a significant amount of their reserve assets? If so, what controls would PPSIs have in place to ensure those rehypothecated assets are returned at 100 percent of their asset value in time to meet redemptions, and mitigate other associated risks? Which scenarios or risks could cause these rehypothecated assets to lose value or not be returned at original value?

Question 27: Should the FDIC specify what "creating liquidity to meet reasonable expectations of requests to redeem payment stablecoins" means under proposed § 350.3(b)(5)(iii)? Should the FDIC pre-approve repurchase agreements by rule as proposed in § 350.3(b)(5)(iii)(B)? Alternatively, should the FDIC allow for broad and open-ended approvals of the sale of reserves as purchased securities in repurchase agreements or should approvals be limited to specific types of transactions? What factors should the FDIC consider prior to granting approval of the sale of reserves as purchased securities in repurchase agreements under proposed § 350.3(b)(5)(iii)(B)?

Question 28: Is the proposed prohibition on providing credit to customers to purchase payment stablecoins appropriate? If so, should the prohibition be modified in any way? Should it be narrower or broader? If not, are there alternatives to achieve the intended objective or ensuring reserve assets achieve the intended resiliency? Are there any other activities that the FDIC should expressly prohibit as not being permissible and not in direct support of the core activities of issuance, redemption, managing reserves, and providing certain safekeeping and custody services?

5. Reserve Assets (Proposed § 350.4)

Reserve Requirement

Proposed § 350.4 contains requirements applicable to reserve assets as required by section 4(a) of the GENIUS Act (12 U.S.C. 5903(a)), which provides that a PPSI must maintain identifiable reserves backing the outstanding payment stablecoins of the PPSI on an at least one-to-one basis and specifies the required reserve asset types.

Proposed § 350.4(a)(1) would require the PPSI to maintain identifiable reserves fully backing the outstanding payment stablecoins of the PPSI, the reserve asset value of which must at all times meet or exceed the total outstanding issuance value of payment stablecoins issued by the PPSI. To maintain "identifiable reserves," the PPSI shall maintain appropriate records to identify required reserve assets underlying a particular payment stablecoin. The FDIC generally anticipates that reserve assets will be recorded on the PPSI's balance sheet under GAAP and be included in the quarterly reports required under proposed § 350.7 and on Consolidated Reports of Condition and Income (Call Reports) for the parent IDI. Proposed § 350.4(a)(2) would require the PPSI to monitor the issuance and redemption of payment stablecoins to ensure compliance. To maintain reserves at all times, the PPSI would monitor the value of the required reserves underlying the payment stablecoin regularly throughout the day. However, the PPSI would only need to notify the FDIC as described in proposed § 350.4(i)(1) if the reserve asset value of the required reserves is less than the par value of outstanding payment stablecoins at the PPSI's close of business. Proposed § 350.4(a)(3) would require the PPSI to maintain reserves directly or maintain them in the custody of an eligible financial institution.

Reserve Asset Value

Proposed § 350.4(b) provides that for purposes of calculating the reserve asset value of the reserve assets backing each outstanding payment stablecoin issued by the PPSI, reserve assets shall be valued at fair value, with the exceptions of United States coins and currency which shall be valued at face value. Valuing reserve assets at fair value would result in reserve assets reflecting market prices at that time and ensure that the PPSI has sufficient reserves to meet redemption requests at par value. U.S. coins include those minted of precious metals, such as gold and silver. Valuing coins at fair rather than par value could lead to gold or silver, in coin form, backing payment stablecoins, which the FDIC believes is not consistent with Congressional intent.

Identifiable Reserves

Proposed § 350.4(c) would require that reserves maintained by a PPSI are readily identified as backing outstanding payment stablecoins issued and differentiated from assets not backing payment stablecoins, particularly when the PPSI issues more

than one distinguishable brand²² of payment stablecoin. A PPSI may issue multiple brands of distinct payment stablecoin but, under the proposal, would be required to maintain required reserves with assets that can be separately identified as backing a particular brand of distinct payment stablecoin and each brand of payment stablecoin would independently comply with proposed § 350.4(a). Thus, if a PPSI issues more than one brand of distinct payment stablecoin, each payment stablecoin must have a segregated pool of reserves, kept, maintained, and recorded separately, unless the FDIC approves in writing that the PPSI may commingle reserves.

If one of the PPSI's payment stablecoins fails to maintain reserves on a one-to-one basis to its outstanding issuance value, in some cases, that may erode market confidence in the PPSI's other brands of payment stablecoins, even as the PPSI maintains separate required reserves identifiable for each brand of payment stablecoin. Under the proposal, the FDIC would expect, at a minimum, that a PPSI with multiple brands of payment stablecoins maintain separate and segregated pools of reserves for each payment stablecoin to protect against the contagion risk from one payment stablecoin failing. The PPSI would also be expected to regularly monitor the value of reserves for each brand of payment stablecoin, with the ability to immediately identify if any one brand of payment stablecoin falls below the required threshold in proposed § 350.4(a) of the proposed rule. Further, the FDIC would expect that PPSIs with multiple brands of payment stablecoin would establish clear procedures for winding down a brand of payment stablecoin without disrupting the PPSI's other payment stablecoins.

The FDIC invites comment on these considerations, particularly how to address risk of instability from a PPSI that issues more than one brand of payment stablecoin. The proposal requires a PPSI to maintain identifiable and segregated reserve assets for each payment stablecoin. Further, the reserve assets identified as satisfying the statutory 1:1 reserve requirement of each brand of payment stablecoin would be required to only be used as required reserves supporting the payment stablecoin to which the reserves are identified.

Under this approach, reserve assets required to satisfy the statutory 1:1 reserve requirement for one payment stablecoin could not be used to meet redemptions requests for another payment stablecoin issued by the same PPSI. Such an approach would promote transparency regarding the assets supporting each payment stablecoin and help ensure that potential liquidity risks associated with one payment stablecoin would not be transferred to holders of another payment stablecoin issued by the same PPSI.

However, the FDIC recognizes that in the ordinary course of business, a PPSI may hold reserve assets in excess of that which are necessary to maintain the statutory 1:1 reserve requirement for a particular payment stablecoin. Required reserves that maintain the statutory 1:1 ratio would be required to remain segregated and dedicated to the payment stablecoin to which they relate and could not be used to satisfy redemption requests for another payment stablecoin. However, if the amount of reserve assets exceeds the 1:1 ratio for a particular stablecoin, the PPSI may remove reserve assets from that payment stablecoin's pool of reserve assets and use those reserve assets to meet redemption requests of another payment stablecoin, but *only* so long as the payment stablecoin with "excess reserves" remains above the 1:1 ratio.

The FDIC also notes there are other alternative approaches the FDIC could take. The FDIC could take an approach that all reserves identified and segregated to each payment stablecoin cannot be removed from that pool of reserve assets without approval from the FDIC or public notice. Another alternative approach would be to permit a PPSI that issues multiple payment stablecoins to maintain one reserve asset pool backing all of the PPSI's outstanding payment stablecoins, without segregating reserve assets that back each individual payment stablecoin. Another alternative approach would be to limit each PPSI to only issuing one payment stablecoin, thus requiring an FDIC-supervised IDI that wanted to set up an entity to issue multiple payment stablecoin brands would need to set up a separate subsidiary approved by the FDIC to issue each payment stablecoin.

The FDIC requests comment on all aspects of this proposed approach including whether it appropriately addresses risks that may arise for a single PPSI that issues multiple brands of payment stablecoins.

Monetization Capability

Proposed § 350.4(d) would require that a PPSI demonstrate the operational capability to access and monetize reserve assets, commensurate with the PPSI's risk profile and business model. The PPSI must be able to monetize the reserve assets, potentially quickly and at short notice, to meet redemption requests. If the PPSI was unable to quickly monetize reserve assets, then the PPSI would not be able to show that it can maintain a stable value, or retain the expectation of maintaining a stable value, relative to the value of a fixed amount of monetary value. To comply with the proposed monetization capability requirement, the PPSI would be expected to demonstrate that it can quickly and efficiently monetize its reserve assets that underlie each payment stablecoin. A smaller, less complex PPSI could satisfy this requirement by demonstrating the ability to monetize reserve assets by establishing appropriate arrangements with counterparties through which it can quickly sell reserve assets at fair value and receive liquid funds that can be used for redemptions. A PPSI could also demonstrate an arrangement with its parent IDI that would provide funding through purchases of the PPSI's reserves. However, PPSIs would likely regularly monetize reserve assets in managing reserves in the ordinary course of business and should be able to demonstrate on a regular basis that the PPSI has adequate monetization channels commensurate with the PPSI's risk profile and business model.

Reserve Composition

Under proposed § 350.4(e), commensurate with the PPSI's risk profile and business model, reserve assets shall only be comprised of: (1) United States coins and currency (including Federal Reserve notes); (2) money standing to the credit of an account with a Federal Reserve Bank; (3) funds held as demand deposits or other deposits that may be withdrawn upon request at any time at an IDI or insured shares held by an insured credit union (including any foreign branches or agents, including correspondent banks, of an IDI); (4) Treasury bills, notes, or bonds with a remaining maturity of 93 days or less, or issued with a maturity of 93 days or less; (5) money received under repurchase agreements with the PPSI acting as a seller of securities and with an overnight maturity backed by Treasury bills with a maturity of 93 days or less provided the money is received consistent with one or more of the

²² For purposes of this proposal, the FDIC is using the term "brand" to describe each legally distinguishable payment stablecoin issued by the same PPSI.

allowable exceptions to rehypothecation, reuse, or pledging as circumscribed in 12 U.S.C. 5903(a)(2); (6) reverse repurchase agreements with the PPSI acting as a purchaser of securities and with an overnight maturity that are collateralized by Treasury notes, bills, or bonds on an overnight basis, subject to overcollateralization in line with standard market terms, that are: (i) tri-party; (ii) centrally cleared through a clearing house registered with the Securities and Exchange Commission; or (iii) bilateral with a counterparty that the issuer has determined to be adequately creditworthy even in the event of severe market stress; and (7) securities issued by an investment company registered under section 8(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–8(a)), or other registered Government money market fund, and that are invested solely in underlying assets described in proposed § 350.4(e)(1) through (6). Proposed § 350.4(e) implements section 4(a)(1)(A) of the GENIUS Act (12 U.S.C. 5903(a)(1)(A)).

Asset Diversification and Concentration

Section 4(a)(4)(A)(iii) of the Act (12 U.S.C. 5903(a)(4)(A)(iii)) requires the FDIC to issue regulations implementing reserve asset diversification, including deposit concentration at banking institutions and interest rate risk management standards that are tailored to the business model and risk profile of the PPSI and that do not exceed standards that are sufficient to ensure the ongoing operations of the PPSI. Proposed § 350.4(f) would implement tailored reserve asset diversification requirements.

Given the narrow scope of eligible reserve assets, the FDIC does not believe extensive asset diversification requirements are necessary. However, the FDIC is seeking comment on whether limitations on any specific reserve asset category or other restrictions on reserve asset concentration would be appropriate. For example, given that uninsured deposits present credit risk, the FDIC seeks comment on whether there should be limits on the extent to which reserve assets may be held in deposits not insured by the FDIC.

Proposed § 350.4(f) would require that a PPSI limit its total counterparty exposure to any one eligible financial institution, regardless of type of reserve asset, to no more than 40 percent of its reserve assets, across all brands of payment stablecoins issued by the PPSI. This requirement would limit a PPSI from being overly exposed to or

concentrated in a single eligible financial institution. The PPSI should take into account exposure across all of an eligible financial institution's parents, subsidiaries, or affiliates, in terms of its risk management required under proposed § 350.4(f) of the proposed rule, so the PPSI minimizes its risk of being subject to the health of a single eligible financial institution. This requirement would ensure that a PPSI has multiple arrangements for meeting redemption requests if reserve assets held by any one eligible financial institution are at risk. The FDIC selected 40 percent so no single eligible financial institution custodies a majority of the PPSI's reserve assets.

Monthly Report on Reserve Composition

Proposed § 350.4(g) would require PPSIs to publish, for each brand of payment stablecoin issued by the PPSI, by close of business on the last day of each month, the composition of the PPSI's reserves held pursuant to proposed § 350.4(e) as of close of business of the last day of the prior month, using a format substantially similar to the template provided in table 1 to proposed § 350.4(g). The report should contain the total number of outstanding payment stablecoins issued by the PPSI, including the average tenor and geographic location of custody of each category of reserve asset. The report should contain information as of the previous month. These public disclosures are not required to include specific information on the institutions, branches, or counterparties involved in the holding of reserve assets.

Monthly Certification; Examination of Reports by Registered Public Accounting Firm

Proposed § 350.4(h)(1) would require PPSIs to have the information disclosed in the previous month-end report as required in proposed § 350.4(g) examined by a registered public accounting firm which will issue a written report of findings to the PPSI's audit committee, or board of directors if there is no audit committee. In addition, the PPSI shall publish the report on its website at the same time as the report under proposed § 350.4(g). Consistent with section 4(a)(3) of the GENIUS Act (12 U.S.C. 5903(a)(3)), proposed § 350.4(h)(2) would require the chief executive officer and chief financial officer of a PPSI, or persons performing the equivalent functions, to submit a certification of the accuracy of the monthly report to the FDIC, including a copy of the written report prepared in proposed § 350.4(h)(1). Consistent with

section 4(a)(3)(C) of the GENIUS Act (12 U.S.C. 5903(a)(3)(C)), any person who submits this required certification knowing that such certification is false shall be subject to the same criminal penalties as those set forth under 18 U.S.C. 1350(c).

Failure To Meet Minimum Reserve Assets Requirement

Proposed § 350.4(i)(1) provides that a PPSI shall notify the FDIC in writing when the PPSI determines or has reasonable grounds to suspect that the aggregate fair value of identified reserves backing any of the PPSI's outstanding payment stablecoins is less than the amount required under proposed § 350.4(a). Proposed § 350.4(i)(1) would also provide that, upon notification by a PPSI that identified reserves have fallen below the amount required under proposed § 350.4(a), the FDIC in its sole discretion may take any of the steps described below.

Proposed § 350.4(i)(1)(i) would enable the FDIC to direct a PPSI to suspend or reduce issuance of a payment stablecoin, until the aggregate fair value of identifiable reserves backing the brand of payment stablecoins exceeds the outstanding issuance value of the particular payment stablecoin. Proposed § 350.4(i)(1)(ii) would enable the FDIC to direct the PPSI to take measures to increase the aggregate value of identifiable reserves until the aggregate value of identifiable reserves backing outstanding payment stablecoins exceeds the value of outstanding payment stablecoins. Finally, proposed § 350.4(i)(1)(iii) would enable the FDIC to direct the PPSI to begin orderly redemption of the payment stablecoin in light of exigent circumstances.

Proposed § 350.4(i) is intended to give the FDIC discretion in supervising a PPSI and to protect payment stablecoin holders. The FDIC recognizes that different tools may be appropriate for different circumstances, and thus believes allowing discretion would be valuable.

Restoration Plan

Proposed § 350.4(j) would require PPSIs to maintain a written contingency plan describing the measures that it will take to restore compliance with the requirements in proposed §§ 350.4(a)(1) or (e) or 350.9 if the PPSI is not meeting those requirements. The FDIC would expect the plan to include reserve monitoring systems that would trigger alerts to the PPSI when falling below specific thresholds, actions the PPSI will take as the fair value reserves fall below specific thresholds, and delineate

immediate steps that the PPSI shall take. The PPSI may consider identifying pre-arranged funding sources and designate responsible staff with authority to decide what steps the PPSI shall take to comply with proposed §§ 350.4(a) and 350.9.

Proposed § 350.4(i) and (j) do not limit the FDIC's authority to pursue other appropriate measures with respect to the PPSI or the payment stablecoin.

Questions for Reserves Assets Section (Proposed § 350.4)

The FDIC requests comment on the reserve asset requirements contained in proposed § 350.4, including the following:

Question 29: Is the description of maintaining “identifiable” reserves sufficiently clear? Is the FDIC’s description of “identifiable” in proposed § 350.4(c) appropriate or should the proposed rule include additional measures to ensure that reserve assets are appropriately traceable and linked to their corresponding brand of payment stablecoin so as to avoid any difficulties in resolving claims to reserve assets? How could the term be further defined or clarified?

Question 30: Should the proposed rule require PPSIs to structure or title reserve assets in a prescribed manner as part of the requirement to maintain “identifiable” reserves? If so, what measures should the proposed rule include to ensure a treasury management structure is bankruptcy remote? What specific asset holding titles would prevent a PPSI from using reserve assets for operational purposes or lending them out? Is the FDIC’s description of “identifiable” in proposed § 350.4(c) appropriate or should the proposed rule include additional measures to ensure that reserve assets are appropriately traceable and linked to their corresponding brand of payment stablecoin so as to avoid any difficulties in resolving claims to reserve assets?

Question 31: How should the FDIC approach a PPSI that wants to issue more than one brand of payment stablecoin? Should the FDIC impose any limits or controls on the ability of a PPSI to issue more than one brand of payment stablecoin?

Question 32: If a PPSI issues more than one brand of stablecoin, should the FDIC require the reserve assets for each brand to be segregated, as in the proposal, or should the PPSI be permitted to commingle the reserve assets, such that there would be one pool of reserve assets for all payment stablecoins issued by the PPSI? What

are the pros and cons of each alternative?

Question 33: Should the FDIC require reserve assets to be held in a special purpose, bankruptcy remote vehicle?

Question 34: Section 4(a)(1)(A)(vii) of the GENIUS Act (12 U.S.C. 5903(a)(1)(A)(vii)) provides that reserve assets may include “any other similarly liquid Federal Government-issued asset approved by the Federal payment stablecoin regulator, in consultation with the State payment stablecoin regulator, if applicable.” In the proposed rule, the FDIC has not included any such assets in the list of eligible reserve assets. Should the FDIC include a list of approved reserve assets in proposed § 350.4(e) for “similarly liquid Federal government-issued assets?” If so, what asset(s) should be included? Alternatively, should the FDIC implement a procedure for approvals in the future of “similarly liquid federal government-issued assets?” If so, how should this process work? Should there be an interagency process with the other primary Federal payment stablecoin regulators?

Question 35: Should the provisions relating to repurchase agreements and reverse repurchase agreements be clarified? Should the FDIC provide that deposits can serve as collateral for repurchase agreements? If so, what limitations, if any, should the FDIC include with respect to the use of deposits as collateral?

Question 36: Should the FDIC include in its list of approved reserve assets at proposed § 350.4(e) an acknowledgment that tokenized assets that comply with all applicable laws and regulations will be permitted? If so, why? Should the FDIC include factors to consider in approving a reserve asset in a tokenized form?

Question 37: Should the FDIC include by rule at proposed § 350.4(e) a process for the FDIC to approve additional reserve asset types in the future? If so, how should that process work? How should the FDIC coordinate such a process with other payment stablecoin regulators?

Question 38: Does proposed § 350.4 provide for sufficient information and disclosures to enable payment stablecoin holders to understand reserve composition and sufficiently consider potential risks related to inadequate reserves and insolvency?

Question 39: Should the FDIC require PPSIs to maintain a minimum amount of reserve assets in the form of deposits? If yes, how would the FDIC calibrate the deposit requirement for PPSIs? Should there be a cutoff for PPSIs above or below a certain size threshold that

should be required to place deposits? If so, why? What would be the implications of such a cutoff?

Question 40: Given that uninsured deposits present credit risk, should there be a limit on the amount of reserve assets that can be held in deposits that are not FDIC-insured or shares that are not NCUA-insured?

Question 41: Consistent with the GENIUS Act, the proposed rule would allow United States coins and currency to serve as reserve assets. However, physical currency has limitations, especially if needing to deploy physical currency as it requires transportation, to meet redemption demands. Should the FDIC impose limits on physical currency as a reserve asset in the proposed rule? For example, the FDIC could require that United States coins and currency be limited to no more than 5 percent or 10 percent of a PPSI’s reserve assets. Should the FDIC impose any additional requirements with respect to physical currency to make sure that physical currency is safeguarded? Should there be periodic verification or inspection requirements for United States currency used as reserve assets?

Question 42: Should the proposed rule include special limits on Treasury notes, bills and bonds and notes that may be more thinly traded and therefore more likely to sell at a discount? The GENIUS Act would allow PPSIs to hold as reserve assets Treasury notes and bonds so long as they have a remaining maturity of 93 days or less. Older and off-the-run Treasury securities may be more difficult to sell and may only be marketable at a discount.

Question 43: Should the FDIC expressly require that a certain percentage of reserve assets be held in custody at a third-party custodian? What are the potential costs and benefits of this approach, including with respect to operational risk?

Question 44: In the provision in proposed § 350.4(e)(6) regarding reverse repurchase agreements, is the proposed rule sufficiently clear in its reference to “overcollateralization in line with standard market terms?” What other clarifications should the FDIC provide?

Question 45: Should the proposed rule include special measures to ensure that reverse repurchase agreements are appropriately overcollateralized? Proposed § 350.4(e)(6) would permit the inclusion reverse repurchase agreements “subject to overcollateralization in line with standard market terms” as reserve assets. In the proposed rule, the FDIC could include specific requirements for overcollateralization or, in the alternative, include no such measures

and leave it to the supervision process if PPSIs are failing to overcollateralize their reverse repurchase agreements in line with standard market terms.

Question 46: Should the FDIC exempt reserve assets held at a Federal Reserve Bank from the conditions in proposed § 350.4(f)?

Question 47: The reserve asset diversification and concentration limits in proposed § 350.4(f) limit a PPSI's exposure to no more than 40 percent of its reserve assets. Are these concentration limits appropriate? Are there other concentration percentages that would be more appropriate and why?

Question 48: Should the FDIC adopt any other restrictions on reserve asset concentration? If so, should these restrictions be based on exposures to particular counterparties or be more prescriptive?

Question 49: Should the FDIC impose limits on the amount of reserve assets that can be held in any particular category of reserve assets?

Question 50: Should the FDIC impose a principle-based requirement that the PPSI maintain reserve assets that are sufficiently diverse to manage potential credit, liquidity, interest rate, and price risks? Should those be in addition to the proposed limitations in proposed § 350.4(f)?

Question 51: Should there be an exception to some or all of the requirements in proposed § 350.4(f) for a subsidiary of an FDIC-supervised IDI approved to be a PPSI if the IDI has less than a certain amount of total assets (e.g., \$10 billion, \$30 billion, \$50 billion)? Should a PPSI that is a subsidiary of an FDIC-supervised IDI with less than a certain amount of total assets be permitted to hold a larger percentage, or all, of its reserve assets as deposits at the FDIC-supervised IDI? Should any such exception be subject to any conditions? Should it only be available if the FDIC-supervised IDI is well-capitalized?

Question 52: Should the FDIC require PPSIs to maintain a minimum amount of their reserve assets in cash or cash equivalents or assets that may more easily be used for short-term liquidity needs to diversify the maturity profile of reserve assets, such as within a daily or weekly timeframe, akin to the requirements for money market funds in SEC Rule 2a-7 or short-term investment funds in 12 CFR 9.18(b)(4)(iii)? Should the FDIC require PPSIs to maintain a minimum percentage of reserve assets (e.g., 10 percent) as "immediately available liquidity" (i.e., deposits or insured shares payable upon demand or money standing to the credit of an

account with a Federal Reserve Bank)? If so, should the FDIC impose a cap (e.g., 50 percent) on how much required "immediately available liquidity" a PPSI can maintain at any one eligible financial institution? Should the FDIC require PPSIs to maintain a minimum percentage of reserve assets (e.g., 30 percent) as "liquidity available within one business week" (i.e., deposits or insured shares payable upon demand, money standing to the credit of an account with a Federal Reserve Bank, or amounts receivable and due unconditionally within five business days on pending sales of reserve assets, maturing reserve assets, or other maturing transactions)? Should the FDIC impose requirements relating to the weighted average maturity of the PPSI's stock of reserve assets, such as requiring the weighted average maturity of the reserve assets to be no more than 20 days? If the FDIC includes quantitative diversification and concentration requirements like those mentioned above, should they be structured as mandatory requirements or as a safe harbor?

Question 53: Should the FDIC impose restrictions on when a PPSI can withdraw surplus reserve assets? Should the FDIC require that a PPSI only withdraw any surplus reserve assets in excess of outstanding issuance value once per month, upon the publication and certification of the composition report?

Question 54: Is the FDIC's proposed approach to consequences when a PPSI fails to meet minimum capital or operational backstop requirements appropriate? Alternatively, should the proposed rule require a PPSI to begin liquidating reserve assets at the end of two consecutive quarters of failing to meet these requirements?

Question 55: The FDIC invites comment on the extent to which additional diversification requirements are necessary. Should the FDIC require that PPSIs maintain more than one type of reserve asset?

Question 56: Is the FDIC's proposed approach to consequences when a PPSI's amount of reserves falls below the required minimum appropriate? Alternatively, should the proposed rule require a PPSI to begin liquidating reserve assets to meet redemption demands if the PPSI fails to meet its minimum reserve asset requirement in proposed § 350.4(a)?

Question 57: Section (4)(a)(1)(A)(ii) of the GENIUS Act (12 U.S.C. 5903 (a)(1)(A)(ii)) authorizes the FDIC to establish limitations in respect of deposits placed as reserve assets by PPSIs at IDIs to address safety and

soundness risks to such IDIs. Should the FDIC impose any such limitations? Should the FDIC establish a limitation that would require an IDI to hold an amount of cash assets (e.g., balances at a Federal Reserve Bank) equal to the amount by which deposits placed by PPSIs for reserve purposes exceed a specified percentage of the IDI's total deposits? If so, at what percentage of total deposits should such a requirement be calibrated? Should the IDI be required to segregate such cash assets, and if so, how would that be operationalized? Alternatively, should the FDIC set a cap on the amount of deposits an IDI can accept from any one PPSI, or across all PPSIs, for purposes of holding reserve assets? If so, how should such a cap be calibrated? Are there other types of relevant limitations that the FDIC should consider?

Question 58: Should the FDIC cap the total amount of reserve assets that a PPSI can pledge or rehypothecate (in aggregate, across all counterparties) to maximize payment stablecoin holders' recoveries in the event of a bankruptcy or stress event? What percentage of reserve assets do PPSIs plan to rehypothecate, if at all? Which scenarios or risks could cause these rehypothecated assets to lose value or not be returned at original value and what controls can mitigate these risks?

Question 59: Should other liquidity rules be amended to accommodate the changes made by the proposed rule and the GENIUS Act? Should the liquidity coverage ratio (LCR) and net stable funding ratio (NSFR) rules be amended so that depository institutions are unable to include high quality liquid assets (HQLA) held by PPSI subsidiaries as eligible HQLA in their own LCR and NSFR calculations? Similarly, should any outflows associated with a PPSI subsidiary be excluded from a parent entity's LCR calculations? Should the payment stablecoin activities of permitted payment stablecoin subsidiaries be fully excluded from the LCR calculations of parent entities? Or should there be a limited outflow commensurate with the possibility that a parent entity may provide support to a PPSI subsidiary (for example, 1 percent, 5 percent, or 10 percent or outstanding issuance value)? Should the LCR rule be amended in light of any other implications of the GENIUS Act, such as how it may apply to custodians under section 10 of the GENIUS Act?

Question 60: For purposes of incorporating "average tenor and geographic location of custody of each category of reserve assets" in the composition report required under proposed § 350.4(g), what, if any,

specific content and structure should the FDIC require? Should the composition report conform to a template? Should the FDIC require PPSIs to state granular geographic location of custody or is stating by country sufficient? Should the report include information about deposit concentration and CUSIPs of securities? Should the required content include the composition of the reserve assets by type of assets and maturities and by counterparty issuer? For “geographic tenor,” are there specific methods for calculating tenor that the rule should require or permit?

Question 61: Are there any additional steps that the FDIC should take to encourage transparency while minimizing burden with respect to the reserve asset composition report?

Question 62: With respect to a PPSI that issues multiple brands of payment stablecoins, such as in white label arrangements, what modifications to the reporting requirements, including the reserve asset composition report, would be appropriate? Are there any additional disclosures that the PPSI should provide so the report is not misleading?

Question 63: Should the composition report be required to list and name any IDIs holding reserve assets? Should the report be required to list and name other eligible financial institutions holding reserve assets?

Question 64: Should the values and information in the monthly report be required to be as of a particular date or time? Should the monthly report be required to include both month end figures (for the previous month) and some information that can be presented in real-time (for example, the value of reserves or outstanding issuance value)? Are there potential challenges in providing assurance over real-time information presented in a monthly report?

Question 65: Is the requirement in proposed § 350.4(h) to have information disclosed in the previous month-end report examined by a registered public accounting firm sufficiently clear? If not, what additional clarity should the FDIC provide with respect to the examination by a registered public accounting firm? Should the examination be performed at the “reasonable assurance” level or at some other standard? What additional standards, if any, should the FDIC apply to ensure that the examination by the registered public accounting firm is accurate and appropriate? Should the engagement letter between the PPSI and the registered public accounting firm require the registered public accounting firm to attest to whether the PPSI is in

compliance with the reserve asset requirements in proposed § 350.4, based on the information available to the registered public accounting firm? What criteria should be used for the examination by the registered public accounting firm? Would assertions from the management of the PPSI regarding the information in the issuer’s weekly or monthly report be sufficient? If not, what other criteria should be included?

Question 66: Should the FDIC add or remove specific data points from Table 1 to proposed § 350.4(g)—Monthly Composition Template? Is the template appropriately configured to capture the data needed for the required month-end reports? Should the FDIC provide instructions for using the template or is the format of the template sufficiently clear to complete without instructions? Is there a different format or template that is better suited for this purpose than the proposed Table 1?

Question 67: Should the FDIC require PPSIs to monitor the financial condition of eligible financial institutions, including IDIs, holding reserve assets?

Question 68: Is the FDIC’s approach to PPSIs that fail to meet minimum reserve requirements in proposed § 350.4(i) appropriate? If the PPSI is unable to meet the requirements what other actions should the FDIC consider directing the PPSI to perform? What measures would be appropriate for a PPSI to take to meet their requirements in proposed § 350.4(a)?

Question 69: The FDIC proposes that all PPSIs maintain a written contingency plan in proposed § 350.4(j). Should the FDIC specify what measures PPSIs should include in their contingency plans? If yes, what measures would be appropriate to include?

Question 70: Should the FDIC require that PPSIs maintain processes for the orderly redemptions of outstanding payment stablecoins in exigent circumstances in proposed § 350.4(k)? If so, what, if anything, should be required?

6. Redemption (Proposed § 350.5)

Section 350.5 of the proposed rule addresses redemption requirements imposed by section 4(a)(1)(B) of the GENIUS Act (12 U.S.C. 5903(a)(1)(B)). Consistent with the Act, under proposed § 350.5(a), a PPSI must publicly disclose its redemption policy. The FDIC proposes PPSIs also include additional information as described below.

Redemption Policy

Proposed § 350.5(a)(1) requires PPSIs to disclose the timeframe in which the PPSI will redeem payment stablecoins

issued by the PPSI for a fixed amount of monetary value and the timeframe under proposed § 350.5(b)(1).

Proposed § 350.5(a)(2) would require the PPSI to include the statement in proposed § 350.5(b)(2), which requires that any discretionary limitations on timely redemptions can only be imposed by the FDIC.

Proposed § 350.5(a)(3) would require the PPSI to explain when the redemption period may be extended, as detailed in proposed § 350.5(c).

In proposed § 350.5(a)(4), the PPSI would be required to provide a statement with clear instructions on how a payment stablecoin holder can redeem a payment stablecoin, including a link to the website where a payment stablecoin holder can redeem the payment stablecoin.

Under proposed § 350.5(a)(5) the PPSI must disclose the minimum number of payment stablecoins that it will redeem, but the minimum number the PPSI will redeem may not be greater than one payment stablecoin.

Redemption Policy Requirements

Proposed § 350.5(b) requires a permitted payment stablecoin redemption policy to provide clear and conspicuous procedures for timely redemption of outstanding payment stablecoins. The FDIC is proposing to define “timely” to mean that a PPSI shall redeem a payment stablecoin no later than two business days following the date of the requested redemption in proposed § 350.5(b)(1). Under the proposal, two business days would be the maximum amount of time a PPSI could choose to redeem payment stablecoins, but a PPSI could choose a shorter time period. The FDIC recognizes that the market may expect redemptions to occur far more quickly than two business days. The FDIC is requesting comment on this provision on whether the number of business days is appropriate. In addition, consistent with the Act, the FDIC is proposing that discretionary limitations on timely redemptions can only be imposed by the FDIC.

Timeliness Extended in Certain Scenarios

Proposed § 350.5(c) would provide that the PPSI must notify the FDIC immediately if it receives redemption requests that exceed 10 percent of its outstanding issuance value within a 24-hour period, which the FDIC defines as a “significant redemption request.” If a PPSI receives redemption requests that exceed 10 percent over a time period of less than 24 hours, the PPSI is required to provide immediate notice to the FDIC

upon the 10 percent threshold being crossed, rather than waiting until the end of the 24-hour period. Along with that notification, the PPSI may request that the FDIC grant the PPSI approval to extend the redemption time period beyond the required two business days. The FDIC may also request the PPSI to provide a specific time period by which it expects to be able to satisfy all of the redemption requests and, if appropriate, whether it is at risk of potentially not satisfying requirements in proposed § 350.4(i) or plans to implement the measures in proposed § 350.4(j). The FDIC in its sole discretion may choose to grant or deny the request for extension or grant a different amount of time than one requested by the PPSI.

Disclosures and Fees Associated With Purchase and Redemptions

Proposed § 350.5(d)(1) would provide that a PPSI must also publicly, clearly, and conspicuously disclose in plain language and in a format that is readily noticeable, readily understandable, and segregated from other information: (i) the name of the PPSI that issues the brand of payment stablecoin; (ii) that the PPSI is the entity that is obligated to convert, redeem, or repurchase the payment stablecoin for a fixed amount of monetary value; (iii) the link to the monthly composition report of the relevant PPSI's reserves as required under proposed § 350.4(g); and (iv) all fees associated with purchasing or redeeming payment stablecoins. The PPSI should make such disclosures clear for each brand of payment stablecoin.

Proposed § 350.5(d)(2) provides that a PPSI shall update the disclosures in proposed § 350.5(d)(1)(iv) if there are any increases in the fees associated with purchasing or redeeming payment stablecoins and provide at least seven calendar days' prior notice of the change, including by securely delivering the notice to current customers for whom the PPSI has contact information. Such disclosures and any updates to its disclosures shall be published on the PPSI's website, as described in proposed § 350.5(d)(3).

Proposed § 350.5(d)(4) provides that a PPSI shall include the disclosures in proposed § 350.5(d)(1) and any updates made with respect to proposed § 350.5(d)(2) in any customer agreements that it provides.

Questions for Redemption Section (350.5)

The FDIC requests comment on the redemption requirements contained in proposed § 350.5, including the following:

Question 71: Has the FDIC appropriately defined “timely” for purposes of redemption in proposed § 350.5(b)(1) as not exceeding two business days? If not, what may be a more appropriate timeframe? For example, should the FDIC consider other timeframes ranging from less than one calendar day to seven calendar days? Should “timely” be defined to scale with the liquidity of specific required reserve assets or with other factors? How should the definition of “timely” appropriately balance considerations of price stability and run risk?

Question 72: The proposed rule would require PPSIs to notify the FDIC if they receive “significant redemption requests,” and, as part of that notification, PPSIs may request that the FDIC extend the redemption time beyond two days. The FDIC may choose in its sole discretion to grant or deny the redemption request. Is this notification requirement appropriate? Are there reasons why monitoring for redemption requests exceeding 10 percent and immediately notifying the FDIC would be operationally challenging? Should the FDIC provide in the rule specific time periods that it could choose when granting extensions to redemption requests? What metrics and data should the FDIC review or request from the PPSI for its determination when granting extensions to redemption requests?

Question 73: Should the FDIC require a permitted payment stablecoin issuer to include in its redemption policy an automated, emergency safety mechanism, commonly known as a “circuit breaker,” designed to pause trading, redemptions, or minting when extreme price volatility or a de-pegging event occurs?

Question 74: Are there limitations that the FDIC should impose related to redemption fees, e.g., to reduce the risk of reserves assets falling below outstanding payment stablecoin issuance value, discourage run risk, or encourage price stability?

Question 75: Should the FDIC include specific additional provisions regarding fee disclosures in the regulation text? If so, what additional requirements should be included?

Question 76: Should the FDIC propose any other categories of disclosures with respect to redemption requirements? Would potential payment stablecoin holders have sufficient information to inform their use of payment stablecoins?

Question 77: Should the FDIC impose any additional rules addressing minimum amounts for redemption? For

example, should the FDIC prohibit any redemption minimums or set the minimum at some point other than one payment stablecoin?

Question 78: Should the FDIC include in proposed § 350.5(c) a provision permitting a PPSI to make exceptions to its redemption policy or refuse a redemption request in the event of fraud? Should a PPSI be able to pause or refuse redemption in any other scenarios like a cyber-attack or idiosyncratic market events? If the FDIC permits exceptions or refusals to timely redemption for cases of fraud, cyber-attack or market events, how should the FDIC design or limit the exception so that the purpose of the timely redemption provision is not thwarted?

7. Risk Management (Proposed § 350.6)

Section 4(a)(4)(A)(iv) of the GENIUS Act (12 U.S.C. 5903(a)(4)(A)(iv)) provides that the FDIC must issue regulations implementing appropriate operational, compliance, and information technology risk management principles-based requirements and standards, including Bank Secrecy Act and sanctions compliance standards, that are tailored to the business model and risk profile of PPSIs and consistent with applicable law. Accordingly, proposed § 350.6 would implement this provision and address: (i) general operational and managerial standards; (ii) information technology and security; and (iii) the anti-money laundering and economic sanctions compliance programs certification requirement.

Internal Controls and Information Systems

The FDIC is proposing risk management requirements and standards in proposed § 350.6(a) that largely provide for the PPSI to design commensurate with the nature, complexity, and risk of a PPSI's activities. Many of the standards in proposed § 350.6(a) are adapted from relevant provisions of 12 CFR part 364, Appendix A, which in turn implement 12 U.S.C. 1831p–1. The FDIC identified standards from Appendix A of Part 364 that fit the requirements of section 4(a)(4)(A)(iii) or 4(a)(4)(A)(iv) of the GENIUS Act (12 U.S.C. 5903(a)(4)(A)(iii), (iv)) and then adapted and tailored those standards to the business models of PPSIs, as appropriate. The FDIC is also seeking comment on whether to adopt more general risk management standards, with less specificity than provided in the proposal, as described below.

Proposed § 350.6(a)(1) would require that a PPSI have internal controls and

information systems that are appropriate for the size and complexity of the PPSI and the nature, scope, and risk of its activities and that provide for: (i) an organizational structure that establishes clear lines of authority and responsibility for monitoring adherence to established policies; (ii) effective risk assessment; (iii) timely and accurate financial, operational, and regulatory reporting, including with respect to the reports required under this part; (iv) adequate procedures to monitor, safeguard, manage, and control assets, including reserve assets; and (v) compliance with applicable laws and regulations. Internal controls refer to the systems, policies, procedures, and processes implemented by management to operate effectively, safeguard assets, produce reliable financial records, and ensure compliance with applicable laws and regulations. The internal control standards are principles-based to account for the varying size, complexity, and risks of PPSIs. For example, the procedures to monitor, safeguard, and manage assets and to comply with applicable laws and regulations would be expected to include measures to monitor and ensure reserve requirements are met on a daily basis.

Internal Audit System

Proposed § 350.6(a)(2) requires PPSIs to have an internal audit system that is appropriate to the size and complexity of the PPSI and the nature, scope, and risk of its activities and that provides for: (i) adequate monitoring of the system of internal controls through an internal audit function, or for a PPSI whose size, complexity or scope of operations does not warrant a full scale internal audit function, a system of independent reviews of key internal controls; (ii) independence and objectivity; (iii) qualified persons; (iv) adequate independent testing and review of internal controls and information systems; (v) adequate documentation of tests and findings and any corrective actions; and (vi) verification and review of management actions to address deficiencies. Internal audit programs are expected to include independent tests and reviews, as appropriate, with scopes and activities that are informed by an assessment of the risk and control environment. While the proposed § 350.6(a)(2) requires that internal audit functions be structured with independence and objectivity to promote impartiality and avoid potential conflicts of interest, the proposed rule would not mandate a specific organizational structure or a standardized risk management approach. PPSIs will be able to tailor the

size and organizational structure of the internal audit function, and any outsourcing arrangements, commensurate with the size, complexity, and risk profile of its activities.

Interest Rate Exposure

Proposed § 350.6(a)(3) addresses interest rate risk pursuant to section 4(a)(4)(A)(iii) of the GENIUS Act (12 U.S.C. 5903(a)(4)(A)(iii)) which requires the FDIC to establish interest rate risk management standards among other things. The proposal would require a PPSI to manage interest rate risk in a manner that is appropriate to the size and complexity of the PPSI and the complexity of its assets and liabilities. Although the reserve composition requirements proposed under proposed § 350.4(e) limit reserve assets to those that generally have limited duration or no duration (e.g., funds held as demand deposits), PPSIs should understand the impact that changes in interest rates, particularly increases in interest rates over short-time periods, may have on the fair value and monetization of interest-sensitive reserve assets. Interest rate risk management practices may also need to consider the impact that the interest rate environment may have on the demand for payment stablecoins and anticipated redemptions, given the prohibition of paying interest to payment stablecoin holders solely in connection with the holding, use, or retention of payment stablecoins under proposed § 350.3(b)(4).

Asset Growth

Proposed § 350.6(a)(4) requires a PPSI's asset growth to be commensurate with risk management and operational capabilities. The proposal does not establish limits on asset growth rates or the overall size of a PPSI but is intended to ensure the growth of assets is managed prudently and that management maintains risk management and operational capabilities.

Insider and Affiliate Transactions

Proposed § 350.6(a)(5) addresses insider and affiliate transactions and is intended to add to the protection of the assets and resources of a PPSI from misuse for the benefit of insiders, affiliates, or related entities. Under proposed § 350.6(a)(5)(i), a PPSI would be required to ensure that transactions between or among the PPSI and insiders or affiliates (other than the parent IDI of which it is a subsidiary): (A) do not pose significant risks of material financial loss to the PPSI and (B) are conducted on terms that are the same or at least as

favorable to the PPSI as those prevailing at the time for comparable transactions with or involving non-insiders or non-affiliates (or in the absence of comparable transactions, are offered on terms and under circumstances that, in good faith would be offered to, or would apply to non-affiliates or non-insiders).

Oversee Service Provider Arrangements

Proposed § 350.6(a)(6) would provide requirements for overseeing third-party service provider arrangements. Specifically, a PPSI must: (i) exercise appropriate due diligence in selecting its service providers; (ii) require its service providers by contract to implement appropriate measures designed to meet the requirements of proposed part 350; and (iii) as appropriate, monitor its service providers to confirm they have satisfied their obligations under proposed part 350. Appropriate due diligence provides PPSIs with the information needed to evaluate whether third-party service providers can perform as expected and whether risks associated with the relationship can be adequately identified, monitored, and controlled. Further, properly structured contractual arrangements can help protect PPSIs compliance with proposed part 350, and effective monitoring practices enable management to determine if third-party service providers are performing as expected.

Liquidity

Proposed § 350.6(a)(7) establishes liquidity standards, pursuant to section 4(a)(4)(A)(ii) of the GENIUS Act (12 U.S.C. 5903(a)(4)(A)(ii)). The proposed rule would require a PPSI to: (i) appropriately monitor and validate compliance with the requirements of proposed § 350.4 and (ii) manage liquidity risk in a manner that is appropriate to the business model and risk profile of the PPSI. Appropriate monitoring and management of liquidity is integral to the operations of a PPSI and its ability to facilitate the timely redemption of payment stablecoins and adhere to the requirements under proposed § 350.4.

Information Technology and Security

Section 4(a)(4)(A)(iv) of the GENIUS Act (12 U.S.C. 5903(a)(4)(A)(iv)) directs the FDIC to establish appropriate information technology risk management principles-based requirements and standards that are tailored to a PPSI's business model and risk profile, and consistent with applicable law. Proposed § 350.6(b) sets forth such principles-based information technology risk management standards

for PPSIs consistent with the GENIUS Act. Proposed § 350.6(b) would require an FDIC-supervised PPSI to account for information technology risks arising from activities authorized by the GENIUS Act, including reliance on distributed ledger(s) or distributed ledger protocol(s) to process and record payment stablecoin transactions. The standards in proposed § 350.6(b) are in addition to, and do not supersede, any information technology risk management rules, standards, or guidelines generally applicable to a subsidiary of an IDI, including the Interagency Guidelines Establishing Information Security Standards (Appendix B to Part 364), with which IDIs should already be familiar.

Information Technology and Security Program

Proposed § 350.6(b)(1) provides that a PPSI must establish a comprehensive framework that addresses information technology and security-related risks. This framework shall include a structured program for assessing and managing information technology and security risks. A comprehensive information technology and security program will facilitate the operational resilience of the PPSI, as well as mitigate technology vulnerabilities and security threats that could disrupt operations, including redemption of payment stablecoins. Furthermore, maintenance of such a program by a PPSI is consistent with the approach to risk management by regulated financial institutions generally.

Required Elements of Program

Under proposed § 350.6(b)(2), a PPSI's information technology and security program shall include: (i) an inventory and classification of information technology assets, processes, and sensitivity of data; (ii) an assessment of the information technology and security risks associated with the issuance of stablecoins; (iii) controls supporting and safeguarding the confidentiality, integrity, and availability of information technology; (iv) controls for the development, maintenance, and changes to information technology, including controls for testing, storage, and deployment of the code base, including the smart contract code; (v) evaluation, validation, and reporting processes to ensure that information technology systems and controls, including smart contracts, are operating as intended; (vi) periodic independent testing of controls; and (vii) a comprehensive and effective program for the identification, assessment, and response to operational and security incidents. A

comprehensive incident response program is essential for a PPSI to respond in an effective and timely manner to an incident and mitigate its impact.

Safe Handling of Digital Assets

Proposed § 350.6(b)(3) provides that a PPSI shall develop, implement, and maintain appropriate measures to ensure secure handling of digital assets, including private key management, backup, and recovery incorporating: (i) relevant technical, operational, strategic, market, legal, and compliance considerations relating to each digital asset and its underlying distributed ledger(s); and (ii) material developments specifically related to supported digital assets and their underlying distributed ledger(s).²³ Maintaining appropriate measures for private key management, backup, and recovery incorporating both technical and operational factors and material on-chain developments is essential to manage risk associated lost or stolen private keys and the resulting loss or theft of assets. For example, depending on the assessed risk, appropriate layered security could include controls such as: (1) private key security via multi-party computation or multi-signature technology to prevent single points of failure, alongside, cold/offline storage for assets; (2) geographically dispersed, encrypted, and regularly tested recovery keys; and (3) monitoring for technical, legal, and material on-chain updates, such as blockchain forks or smart contract vulnerabilities.

Adjust the Program

Proposed § 350.6(b)(4) would require that a PPSI monitor, evaluate, and adjust, as appropriate, the information technology and security program in light of any relevant changes in technology, the sensitivity of its customer information, internal or external threats, and the PPSI's own changing business arrangements, such as mergers and acquisitions, alliances and joint ventures, third-party arrangements, and changes to applicable information systems. Monitoring, evaluating, and adjusting the

information technology and security program facilitates a risk-based approach, ensuring that information technology defenses keep pace with rapidly evolving cyber threats, blockchain technology advancements, and business changes like mergers and acquisitions.

Notification of Unauthorized Access

Proposed § 350.6(b)(5) would provide that a PPSI shall maintain an appropriate program to notify its customers if the PPSI becomes aware of an incident of unauthorized access to sensitive customer information. The standards in proposed § 350.6(b)(5) are in addition to, and do not supersede, other notification standards including the Interagency Guidelines Establishing Information Security Standards (Appendix B to Part 364). A PPSI could, if it so chose, satisfy the notification obligation under this section and other notification requirements through a single, comprehensive notification that met all relevant timing and content requirements. The program shall require the delay of customer notice if an appropriate law enforcement agency determines that notification will interfere with a criminal investigation and provides the permitted payment stablecoin issuer with a written request for the delay.

Information Technology Resilience

Proposed § 350.6(b)(6) would provide that a PPSI's information technology and security program shall include measures to reasonably address continuity of operations and recovery of critical functions in the face of disruptions, including by business impact analyses, testing of vulnerability, and testing with critical service providers. The operational resilience of a PPSI is challenged by a range of threats and vulnerabilities, including ransomware, service provider outages, or smart contract exploits. Such threats and vulnerabilities can cause severe de-pegging, transaction delays, or loss of access to reserves. Addressing operational resilience for payment stablecoin functions is particularly challenging given the 24/7 nature of blockchain networks. By implementing these business continuity measures, a PPSI can protect itself from significant operational and financial impact and support its customers' access to their digital assets, during market stress or a cyber-attack, for example.

²³ If a PPSI holds digital assets on a customer's behalf, the PPSI's risk management practices must reflect this activity. Consistent with the July 14, 2025 Joint Statement on Risk Management Considerations for Crypto-Asset Safekeeping, a PPSI holding digital assets on a customer's behalf would be required to maintain risk management practices, and information security practices in particular, that reflect the PPSI's capacity to understand a complex and evolving asset class, ability to ensure a strong control environment, and appropriate contingency plans to address unanticipated challenges in effectively providing services to customers.

Anti-Money Laundering and Economic Sanctions Compliance Programs Required Certification

Proposed § 350.6(c) would implement requirements under section 5(i) of the GENIUS Act (12 U.S.C. 5904(i)) regarding the initial and annual anti-money laundering and economic sanctions compliance programs certifications. The proposed rule would require a PPSI to file with the FDIC a certification that it has implemented anti-money laundering and economic sanctions compliance programs that are reasonably designed to prevent the PPSI from facilitating money laundering, in particular, facilitating money laundering for cartels and organizations designated as foreign terrorist organizations under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189) and the financing of terrorist activities, as required by the GENIUS Act. The PPSI would be required to file the initial certification within 180 days of being approved under the application process and by April 1 of each year thereafter. Given that the certification requirement would be ongoing and related to a PPSI's compliance programs, the FDIC is proposing to include the certification requirement within the risk management provisions in subpart A of 12 CFR part 350.

Questions for Risk Management Section (Proposed § 350.6)

The FDIC requests comment on the risk management requirements contained in proposed § 350.6, including the following:

Question 79: Should the FDIC streamline proposed § 350.6(a) by replacing it with a high-level requirement that the PPSI establish a prudent risk management framework commensurate with its size, complexity, and risk, including appropriate risk management frameworks to manage liquidity and interest rate risk? If so, should it, also at a higher level than proposed, specify that such risk management framework include risk assessment, internal controls, organizational structure with clear lines of authority and responsibility, and an internal audit system?

Question 80: Are the risk management standards included in proposed § 350.6 appropriate? Are there any the FDIC should remove or modify? Are there any risk management standards the FDIC should add?

Question 81: Are the liquidity risk management requirements in proposed § 350.6(a)(7) unnecessary, given the requirements that are proposed in § 350.4?

Question 82: Should the risk management standards under proposed § 350.6(a) provide for clear management roles, responsibilities, and accountability? Should the standards include any requirements for the PPSI's board of directors and senior management to maintain appropriate competence and experience relevant to its activities? If so, should any standards regarding competence and experience be similar to the considerations set forth in section 5(c)(3) of the GENIUS Act?

Question 83: Should proposed § 350.6(b) expressly address risks relating to smart contracts, encryption, tokenized assets, or any other technology or procedure? Are there standards which were included but are not relevant to PPSIs?

Question 84: Are the restrictions on insider and affiliate transactions in proposed § 350.6(a)(5) appropriate? What modifications, if any, are warranted? Should there be similar restrictions applied to transactions with the parent IDI? Should there be limitations on the ability of a parent IDI to "bail out" a subsidiary PPSI during stress? What are the pros and cons of permitting such actions? Should the requirements include any prescriptive qualitative or quantitative limits? Should certain transactions require approval by the board of directors?

Question 85: Should the FDIC require PPSIs to take any steps to manage risks related to customer-facing operational issues, such as with respect to fraud, unauthorized activity, customer disputes, or service disruptions?

Question 86: To what extent are the requirements in proposed § 350.6 consistent with other actions the FDIC is taking to make supervision less process-focused and more focused on financial risks?

8. Audits, Reports, and Supervision (Proposed § 350.7)

Section 6(a)(1) of the GENIUS Act (12 U.S.C. 5905(a)(1)) subjects PPSIs to the supervision of the FDIC. Section 6(a)(3) of the GENIUS Act (12 U.S.C. 5905(a)(3)) requires the FDIC to examine PPSIs to assess: (i) the nature of the operations and the financial condition of the PPSI; (ii) the financial, operational, technological, compliance, and other risks associated with the PPSI that may pose a threat to the safety and soundness of the PPSI or the stability of the financial system of the United States; and (iii) the systems of the PPSI for monitoring and controlling the risks. Pursuant to section 6(a)(4) of the GENIUS Act (12 U.S.C. 5905(a)(4)), in supervising and examining a PPSI, the FDIC shall, to the fullest extent possible,

use existing reports and other supervisory information, avoid duplication, and shall only request examinations at a cadence and in a format that is similar to that required for similarly situated entities regulated by the FDIC.

Examinations

Proposed § 350.7(a) outlines that the FDIC will fulfill its examination responsibilities, pursuant to Section 6(a)(3) of the GENIUS Act (12 U.S.C. 5905(a)(3)), and will do so consistent with existing examination timelines established for the parent IDI outlined in § 337.12 of the FDIC Rules and Regulations, which generally require the FDIC to conduct examinations at least once during each 12-month period, but may be conducted at least once during each 18-month period if certain conditions outlined in § 337.12(b) are met by the parent IDI. Consistent with section 6(a)(3) of the GENIUS Act (12 U.S.C. 5905(a)(3)), the scope of the examination will include: (i) an assessment of the nature of the operations and financial condition of the PPSI; (ii) the financial, operational, technological and other risks associated within the permitted payment stablecoin; and (iii) the systems (including practices) for monitoring and controlling those risks. Such examinations will review compliance with laws and regulations and assess overall safety and soundness.

Proposed § 350.7(b) of the proposed rule requires that, upon request by the FDIC, PPSIs must grant the FDIC prompt and complete access to all officers, directors, employees, agents, and relevant books, records, or documents of any type, including distributed ledgers. The FDIC, through its examination authority over State nonmember banks and State savings associations, has authority to make a thorough examination.²⁴ Sections 6(a)(1) and (3) of the GENIUS Act (12 U.S.C. 5905(a)(1), (3)) give the FDIC similar authority to supervise and examine PPSIs. Proposed § 350.7(b) proposes that the books and records of a PPSI include, but are not limited to, information retained on distributed ledgers. Proposed § 350.7(b) applies the FDIC's supervisory and examination approach of access to all books and employees to perform adequate examination and supervision to PPSIs similarly to State nonmember banks and State savings association. Additionally, proposed § 350.7(c) clarifies that the FDIC may conduct examinations either on-site or remotely.

²⁴ 12 U.S.C. 1820(b), (c).

Proposed § 350.7(d) allows the FDIC to conduct examinations of PPSIs as frequently as the FDIC deems necessary, including examinations of a limited scope. This is consistent with the FDIC's statutory authority under Section 6(a) of the GENIUS Act (12 U.S.C. 5905) and the FDIC's supervisory authority over State nonmember banks and State savings associations.

Recordkeeping

Proposed § 350.7(e) provides that PPSIs must maintain a complete set of books and records. Proposed § 350.7(f) requires PPSIs to develop and implement a records retention policy that ensures the PPSI can demonstrate compliance with the GENIUS Act, this part, and all applicable laws and regulations.

Reporting

Section 6(a)(2) of the GENIUS Act (12 U.S.C. 5905(a)(2)) requires that each PPSI shall, upon request, submit to the FDIC a report on: (i) the financial condition of the PPSI; (ii) the systems of the PPSI for monitoring and controlling financial and operating risks; and (iii) compliance by the PPSI (and any subsidiary thereof) with the GENIUS Act.

Proposed § 350.7(g) would require the PPSI to submit a confidential weekly report to the FDIC, pursuant to the FDIC's authorities in section 6(a)(2) of the GENIUS Act (12 U.S.C. 5905(a)(2)). The FDIC is seeking comment on what the FDIC should require. The requirement could include information regarding required reserves, issuance and redemption, and other relevant information. The FDIC understands that this type of information is currently monitored on an ongoing basis by existing PPSIs. Such reporting includes additional or more frequent information beyond the composition report that would be required in proposed § 350.4(g) and the quarterly financial condition reporting required in proposed § 350.7(h) and will allow the FDIC to more effectively supervise PPSIs to identify changes in risk profile and financial condition between examinations, in a timely manner, and to more efficiently supervise PPSIs by facilitating risk scoping.

Proposed § 350.7(h) would require PPSIs to submit quarterly reports of financial condition to the FDIC in a standardized format to be established by the FDIC, pursuant to the FDIC's authorities in sections 6(a)(1) and (2) of the GENIUS Act (12 U.S.C. 5905(a)(1)–(2)). The reports of financial condition would be required within 30 days of the end of the prior quarter and will include

an income statement, balance sheet, reserves, statement of changes in equity, issuance value, and assets under custody, among other things. These reports of financial condition are intended to replicate, in a streamlined manner, the quarterly Consolidated Reports of Condition and Income (commonly referred to as the Call Report). Similar to the Call Report, the FDIC intends to publish the information for public use and intends to require the chief financial officer (or the individual performing an equivalent function) of the PPSI to attest to the accuracy of the filing. In addition, the FDIC would require directors and senior management of the PPSI, other than the officer signing the chief financial officer declaration, to attest to the accuracy of the report of financial condition. Such reporting includes additional information beyond the composition report that would be required in proposed § 350.4(g) and the weekly reporting required in proposed § 350.7(g) and will allow the FDIC to more effectively supervise PPSIs to identify changes in risk profile and financial condition between examinations, in a timely manner, and to more efficiently supervise PPSIs by facilitating risk scoping.

Proposed § 350.7(i) would require the PPSI to submit reports on the following to the FDIC, upon request, as required by section 6(a)(2) of the GENIUS Act (12 U.S.C. 5905(a)(2)): (i) the financial condition of the PPSI; (ii) the systems of the PPSI for monitoring and controlling financial and operational risks; and (iii) compliance of the PPSI and any subsidiary thereof with the GENIUS Act, and proposed part 350.

Audits

Proposed § 350.7(j) implements section 4(a)(10) of the GENIUS Act (12 U.S.C. 5903(a)(10)), which requires a PPSI with more than \$50,000,000,000 in consolidated total outstanding issuance value, that is not subject to the reporting requirements under section 13(a) or 15(d) of the Securities and Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)), to prepare an annual financial statement, obtain an audit of that financial statement, and make the audited annual financial statement publicly available and submit it to the FDIC. Under the proposed rule, each PPSI with more than \$50,000,000,000 in total outstanding issuance value, that is not subject to the reporting requirements under section 13(a) or 15(d) of the Securities and Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)), is required to prepare an annual financial statement, in accordance with GAAP, and which

shall include the disclosure of any related party transactions, as defined by GAAP. Consistent with section 4(a)(10)(A)(ii) of the GENIUS Act (12 U.S.C. 5903(a)(10)(A)(ii)), proposed § 350.7(j)(1) would require a registered public accounting firm to audit and report on the annual financial statements. While section 4(a)(10)(A)(ii) of the GENIUS Act (12 U.S.C. 5903(a)(10)(A)(ii)) requires that such audit be performed in accordance with all applicable auditing standards established by the Public Company Accounting Oversight Board (PCAOB), proposed § 350.7(j)(1) seeks to provide additional flexibility relevant for non-public entities that would allow the audit to be performed either in accordance with generally accepted auditing standards or PCAOB auditing standards. Also, while Section 4(a)(10)(A)(i) of the GENIUS Act (12 U.S.C. 5903(a)(10)(A)(i)), is limited to a PPSI that is not subject to the reporting requirements under section 13(a) or 15(d) of the Securities and Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)), the FDIC interprets section 4(a)(10)(A)(iii) of the GENIUS Act (12 U.S.C. 5903(a)(10)(A)(iii)) to mean those “applicable auditing standards” would apply if the PPSI were subject to the reporting requirements under section 13(a) or 15(d) of the Securities and Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)). Also, the FDIC may at any time request that a registered public accounting firm provide to the FDIC certain additional information or documents relating to information provided by the PPSI. The registered public accounting firm must retain the working papers related to the audit of the PPSI and agree to provide copies of any working papers, policies, and procedures relating to services performed in connection with the audit required under section 4(a)(10)(A)(iii) of the GENIUS Act (12 U.S.C. 5903(a)(10)(A)(iii)). Proposed § 350.7(j)(2)(i) would require a PPSI to make the audited financial statements publicly available on the PPSI's website and submit them to the FDIC within 120 days after the end of its fiscal year. Proposed § 350.7(j)(2)(ii) would require a PPSI that is unable to file all or any portion of its financial statement in a timely manner, to submit a written notice of late filing to the FDIC: (1) before the filing date; (2) stating its inability to timely file all, or specified portions, of its annual financial statement and the reasons for such inability to timely file, in reasonable detail; and (3) stating the date by which the financial statement will be filed.

Questions for Audits, Reports and Supervision Section (Proposed § 350.7)

The FDIC requests comment on the audits, reports, and supervision provisions contained in proposed § 350.7, including the following:

Question 87: Should the FDIC modify any aspects of the examination requirements under proposed § 350.7 for PPSIs? If so, what examination requirements should be modified, and why?

Question 88: Proposed § 350.7(d) provides the FDIC authority to conduct examinations of any PPSI as frequently as the FDIC deems necessary. Should the proposal include criteria that the FDIC should consider when exercising its authority to conduct more frequent examinations?

Question 89: Should the FDIC coordinate examinations with other appropriate primary Federal payment stablecoin regulators in the event a PPSI participates in a consortium of multiple entities supervised by more than one primary Federal payment stablecoin regulator? If so, should it utilize existing processes? If no, how should coordination be structured?

Question 90: Should the FDIC modify any aspects of the proposed reporting requirements under proposed § 350.7 for PPSIs? If so, what reporting requirements should be modified, and why? Are any changes needed to the frequency or content of required reports?

Question 91: In proposed § 350.7(g), the FDIC proposes to collect confidential weekly data from PPSIs. The weekly data could include some or all of the following: (i) outstanding issuance value; (ii) reserve assets; (iii) redemptions; (iv) minting and issuance; (v) exchanges on which the payment stablecoin trades; (vi) the largest holders of the payment stablecoin; (vii) data concerning securities held as reserve assets (including information regarding reserve assets' CUSIPs, yield, weighted average maturity and weighted average life); and (viii) information regarding repurchase agreements and reverse repurchase agreements (including information regarding the counterparty, clearing agency, collateral, and interest). Has the FDIC identified the appropriate data and categories of information it would collect from a PPSI on a weekly basis to understand the operations and risks unique to its business model? If not, are there data listed above that the FDIC should not request on a weekly basis and/or are there any additional data beyond those listed above that the FDIC should collect on a weekly basis? If the payment stablecoin trades on the

secondary market, should the FDIC collect secondary market transaction data (e.g., trading price and volume), if applicable? Would it be too burdensome for PPSIs to provide the proposed weekly data to the FDIC electronically on a daily or real-time basis? Should the FDIC collect additional data regarding the custody of reserve assets (or other covered assets)? To what extent, if any, would a PPSI be anticipated to track the information listed above on a regular or real-time basis for its own use? To what extent would the proposed weekly and quarterly reporting requirements tend to reduce the frequency at which the FDIC would need to examine PPSIs? Are there other reporting requirements that the FDIC could request that might reduce the frequency at which the FDIC would need to examine PPSIs?

Question 92: In proposed § 350.6(h), the FDIC requires all PPSIs to submit a quarterly report of financial condition. Should the FDIC tailor this requirement for PPSIs with assets below a certain threshold? If so, what should the threshold be? For PPSIs under the threshold, what changes to reporting frequency or information should be considered? Should the FDIC consider any changes to the quarterly report of financial condition required under proposed § 350.6(h) with respect to the filing of quarterly Call Reports by the PPSI's IDI parent? Could such changes to the Call Report be utilized in lieu of the report proposed in § 350.6(h)? Should the quarterly report under proposed § 350.6(h) be attached to the Call Report as an appendix as opposed to a separate filing? Why or why not? Are there changes that should be made to the Call Report to limit duplicative reporting requirements? Should reports required under proposed § 350.6(h) and proposed part 350 more generally be coordinated and developed on an interagency basis across the primary Federal payment stablecoin regulators?

Question 93: Is the flexibility proposed in § 350.7(j)(1) that would allow the audit relevant for non-public entities to be performed either in accordance with generally accepted auditing standards or PCAOB auditing standards reasonable, and why or why not?

Question 94: How can the FDIC best minimize duplication of reports, including for PPSIs subject to the audit requirement contained in proposed § 350.7(j)? Should the FDIC also include in the rule text that it may at any time request that a registered public accounting firm provide to the FDIC certain additional information or documents relating to information provided by the PPSI and that the

registered public accounting firm must agree to provide copies of any working papers, policies, and procedures relating to services in connection with the audit required under section 4(a)(10)(A)(iii) of the GENIUS Act (12 U.S.C. 5903(a)(10)(A)(iii))?

Question 95: The proposal does not include a requirement that a person seeking to acquire control of a PPSI follow the requirements in 12 CFR part 303 subpart E, which requires an FDIC-supervised insured State nonmember bank or insured State savings association to provide prior notice to the FDIC prior to a change in control. Should the FDIC require a person seeking to acquire control, as that term is defined in 12 CFR 303.81(c), of a PPSI to provide the FDIC prior notice of the proposed acquisition pursuant to the requirements of 12 CFR part 303, subpart E, as if the PPSI were a covered institution? Should a person acquiring control of an FDIC-supervised PPSI through an acquisition be required to notify the FDIC, or would section 5 of the GENIUS Act (12 U.S.C. 5904) and implementing regulations be adequate, such that a person would be required to file an application with the appropriate primary Federal payment stablecoin regulator rather than the FDIC?

9. Capital Requirements

Section 4(a)(4)(A)(i) of the GENIUS Act (12 U.S.C. 5903(a)(4)(A)(i)) requires the FDIC to establish capital requirements for PPSIs that are tailored to the business model and risk profile of PPSIs and not exceed requirements sufficient to ensure the ongoing operations of PPSIs. Under the proposal, capital requirements would be established based on an individualized evaluation of each PPSI.

Under the GENIUS Act, Congress established stringent reserve requirements to serve as the key safeguard to ensure PPSIs can meet redemptions throughout cycles. To the extent a PPSI limited its activity most narrowly to payment stablecoin issuance and redemption, the FDIC would expect its capital requirements to be relatively low. However, to the extent a PPSI engaged in additional permitted activities that presented additional risks, the FDIC would expect capital requirements to play more of a role. Given the uncertainty at this stage regarding the potential risks and activities, the FDIC is proposing to require PPSIs to develop a process to assess and meet their capital requirements, with the FDIC maintaining an ability to require additional capital if warranted. The FDIC is also seeking comment on

whether this is the right approach, or whether standardized capital requirements would be a preferable approach.

Capital Elements (Proposed § 350.8)

Under proposed § 350.8, regulatory capital for PPSIs would consist of two capital elements, common equity tier 1 capital and additional tier 1 capital. These two elements are generally consistent with the capital elements under 12 CFR part 324 for FDIC-supervised IDIs. These elements consist of common equity, retained earnings, and noncumulative perpetual preferred stock that meet certain terms designed to ensure significant loss-absorbing capabilities. FDIC-supervised IDIs that may seek to establish PPSI subsidiaries are generally familiar with the long-standing criteria for capital instruments to qualify under the existing 12 CFR part 324 framework.

Common equity tier 1 capital would consist of common stock instruments (par value, if any, and related surplus), retained earnings, and any accumulated other comprehensive income (AOCI), all as reported under GAAP. Common stock instruments would need to meet various proposed criteria, including being the most subordinated claim on the PPSI's assets, being fully paid-in, having no maturity date, and not being redeemable except with prior FDIC approval. Any dividends must be fully discretionary, paid out only after fulfillment of any other legal or contractual obligations. In addition, the holders of the instruments must bear losses equally, proportionally, and simultaneously with other holders of common stock instruments. As the most subordinated tier of regulatory capital, common equity tier 1 exhibits the most loss absorbency, as any dividends are discretionary and there is no expectation of redemption or repurchase of the instrument, ensuring any operating funds generated can be used for any other business need of the PPSI.

The FDIC also is proposing to include AOCI as a component of common equity tier 1 capital. Unlike in 12 CFR part 324, the FDIC is not proposing to permit any neutralization of AOCI. The FDIC permits neutralization of components of AOCI under part 324 for most banks in part to reduce regulatory capital volatility associated with changes in value of available-for-sale fixed income securities due to changes in interest rates. Changes in value due to interest rate movements are generally larger for securities with longer remaining maturities. As PPSIs can only hold as reserve assets securities with remaining maturities of 93 days or less, the change

in value of these securities due to interest rate movements would be unlikely to generate material amounts of AOCI.

Additional tier 1 capital would consist of instruments that meet a different set of proposed criteria, generally consistent with noncumulative perpetual preferred stock issuances that are classified as equity under GAAP. Generally, these instruments would be subordinated to all claims except those of common shareholders. The instruments could not have a maturity date but may be callable after at least 5 years with prior approval of the FDIC. In addition, the terms of the instrument must provide for the payment of dividends only if and when declared by the board of directors of the PPSI. This feature provides the PPSI the ability to retain earnings and capital if needed. These provisions all help ensure that the instrument provides significant loss absorbency by limiting the PPSI's obligations to holders.

The FDIC's capital framework for banks also permits tier 2 capital elements, which mainly consist of tier 2 capital instruments, such as certain types of subordinated debt instruments, and certain allowances for credit losses. The FDIC is not proposing to adopt tier 2 capital elements for PPSIs. Allowing subordinated debt obligations of a PPSI to qualify as capital may incentivize a PPSI to take on material leverage beyond its payment stablecoin liabilities, which may increase the risk profile of the PPSI. Separately, as PPSIs generally would not be providing loans or other credit to customers, they likely would not have any allowance for credit losses.

The proposed rule would not require any specific deductions from regulatory capital for PPSIs. The FDIC's current rules for FDIC-supervised IDIs in 12 CFR part 324 require deductions from capital for goodwill, other intangible assets, and certain other assets such as mortgage servicing assets greater than a specified amount of capital, generally due to their volatility and their inability to predictably absorb losses. The FDIC does not believe such deductions are necessary or appropriate for a PPSI. While a PPSI's goodwill and other intangible assets may exhibit similar valuation volatility as those of an IDI, the FDIC expects these risks to be sufficiently addressed through the operational backstop, as well as through proposed requirements around risk management, ongoing capital adequacy assessments, and reserve asset composition. For example, a PPSI that holds a significant amount of goodwill from the acquisition of another entity

would be expected to appropriately incorporate in its capital adequacy assessment the risk that the goodwill may become impaired and reduce retained earnings. The FDIC seeks comment, however, on whether any deductions should be required. In addition, the FDIC expects that the minimum capital requirement for a PPSI with material or volatile intangible assets would typically be higher, both in the *de novo* period and on an ongoing basis, than for a PPSI with only small amounts of intangible assets.

As an alternative, the FDIC is considering a simpler framework for identifying qualifying capital instruments for PPSIs. Under this alternative, any balance sheet account that is classified as equity under GAAP would qualify as a capital element, including common stock, retained earnings, accumulated other comprehensive income, and certain preferred stock. This alternative could be easier for some PPSIs to implement, as it is based on the GAAP definitions of equity without any additional requirements. These benefits may be small, however, given that the FDIC-supervised IDI that controls an FDIC-supervised PPSI would already be familiar with the additional requirements for common equity tier 1 capital and additional tier 1 capital. Moreover, those additional requirements are designed to ensure that the equity instruments are sufficiently loss absorbing and reduce the risk of loss to payment stablecoin holders. For example, the additional proposed requirements would help ensure a PPSI does not redeem equity instruments with funds that are necessary to support the liquidity or operations of the payment stablecoin and associated reserves, or make loans to potential third-party shareholders to purchase stock, which provides no loss absorbency. The FDIC is also seeking comment, however, on whether a simpler framework, such as one that is based on tangible equity or GAAP equity, would be more appropriate.

Minimum Capital And Operational Backstop (Proposed § 350.9)

Under proposed § 350.9, the FDIC would establish the initial minimum capital requirement for the PPSI that would apply for a minimum timeframe, generally three years. Under the proposed approach, the FDIC would consider factors such as projected revenues and expenses, cash burn rates, and expenditures necessary to implement the proposed business plan and activities of the applicant. The FDIC may consider various scenarios based

on projected payment stablecoin issuance volumes, planned composition of reserves, and projected returns on those reserves in different economic and market environments.

More specifically, under proposed § 350.9(a), the initial minimum capital requirement would apply during the “*de novo* period,” generally the three-year period following approval by the FDIC of the PPSI to issue payment stablecoins under this proposed rule. This timeframe may be extended or shortened by the FDIC. Generally, the FDIC could extend the *de novo* period based on changes to the business model or activities of the PPSI, excessive volatility in issuance and redemptions of the payment stablecoin, unexpected operating losses, weak earnings, poor risk management, or violations of the GENIUS Act or part 350.

During the *de novo* period, the FDIC may adjust a PPSI’s minimum capital requirement based on a comparison of its actual operations to the projections provided as part of the application. During this time, and afterward, the PPSI also would be required to assess its own capital adequacy and maintain an amount of capital that is commensurate with its business model and risk profile, subject to review by the FDIC.

The FDIC would consider the proposed PPSI’s risk profile, business strategy, future growth prospects, and cushions for unexpected losses. As part of the approval process and during the *de novo* period, the FDIC would consider factors including: (i) the composition, stability, and direction of revenue; (ii) the level and composition of expenses; (iii) the level of retained earnings; (iv) the quantity and direction of strategic risk; (v) the quantity of transaction risk from delivery and administration of asset management products and services; and (vi) the impact of external factors, including economic conditions and evolving technology.

The proposed rule also proposes a floor of \$5 million on the minimum capital requirement during the *de novo* period. This floor is primarily intended to ensure that a PPSI has sufficient resources to support initial operations, including resources sufficient to cover any losses that are expected to occur early in the launch of a new payment stablecoin.

In addition to the capital requirement established by the FDIC for the *de novo* period, the proposed rule would also require a PPSI to calculate a minimum capital requirement based on a thorough evaluation of the risks associated with its business model and risk profile. This amount would be based on estimates

submitted during the application phase, and after approval, this amount must incorporate the operating history of the PPSI and losses experienced from all sources, including, but not limited to, operational risk. The FDIC would review and monitor the amount of capital held by the PPSI, and the process employed by the PPSI to determine its minimum capital requirement, as part of the examination process. The amount of capital held by the PPSI must appropriately incorporate the operating history and risk profile of the PPSI. As described below, if the FDIC concludes that the minimum capital requirement established by the PPSI was inappropriate, the FDIC would have the authority to establish an additional capital requirement under proposed § 350.10.

The GENIUS Act requires that capital requirements for PPSIs be tailored to the business model and risk profile of PPSIs. In light of the reserve asset composition and diversification requirements for PPSIs, as well as the amendments to the U.S. Bankruptcy Code made by the GENIUS Act that are designed such that payment stablecoin holders are paid on their claims against an insolvent PPSI, the FDIC expects that minimum capital requirements for a PPSI with a business model that is narrowly focused on the issuance and redemption of payment stablecoins and with a correspondingly simple balance sheet will be relatively low. Conversely, if a PPSI held assets on its balance sheet outside of reserve assets that presented material risks the FDIC would expect higher capital requirements.

Although the FDIC is not currently proposing to establish any specific minimum capital amount or ratio by regulation, or a framework for determining a minimum capital requirement, the FDIC is seeking comment on whether to implement such a framework for determining more objective capital requirements.

Under proposed § 350.9(b), the FDIC is proposing that a PPSI hold an operational backstop comprised of a designated pool of highly liquid assets to maintain the ongoing operations of the PPSI during a business disruption. The operational backstop would be independent of the *de novo* and ongoing capital requirements, and the assets that comprise the backstop would be separate from assets held as reserve assets. The purpose of the proposed operational backstop would be to help ensure that, during a business disruption that impacts operations of a PPSI, the PPSI has on hand a pool of liquid assets, separate from reserve assets, that can be used to meet short

term liquidity needs, stabilize the PPSI after the disruption, and continue or resume normal operations. The operational backstop would be calculated based on the actual total expenses of the PPSI over the past 12 months. These expenses, including for utilities, data processing, and salaries, are highly correlated with a PPSI’s ability to maintain ongoing operations for the benefit of payment stablecoin holders and stabilize from a business disruption. At a minimum, the operational backstop could provide a basis for a more orderly runway for a PPSI to develop and execute potential stabilization actions or prepare for resolution. The amount of the operational backstop would be calculated each quarter, based on a PPSI’s total expenses as reported in the four most recent quarterly reports filed under proposed § 350.7 of the proposed rule. During the *de novo* period, the initial requirement would be based on reasonable expense projections and adjusted each quarter based on actual amounts for that quarter.

The operational backstop amount would need to be held as readily available liquid assets to ensure that funds are available quickly during a business disruption. Specifically, this amount would need to be held in U.S. currency directly or at a Federal Reserve Bank, as demand deposits at an IDI, or in Treasury bills, notes or bonds that meet the requirements to qualify as reserve assets. The operational backstop assets would need to be separately identified in the reports filed under proposed § 350.7, and in any other financial statements of the PPSI, from any reserve assets required to support the payment stablecoin and any other assets of the PPSI on any reports filed under proposed § 350.7. The proposed minimum capital amount, the capital held by the PPSI, and the operational backstop would be calculated as of the last day of each quarter and disclosed in the reports required under proposed § 350.7 of the proposed rule. Under proposed § 350.9(c), if a PPSI does not meet the minimum capital requirement or have sufficient liquid assets to meet the operational backstop at the end of a quarter, it must notify the FDIC in writing and provide a description of the measures it intends to take to remediate the shortfall. If the FDIC determines that such measures are not viable, the FDIC may direct a PPSI to take other remedial measures, including directing the PPSI to issue additional capital instruments or acquire additional liquid assets for the operational backstop, suspend or reduce

issuance of payment stablecoins, execute an orderly redemption of all outstanding payment stablecoins, or take other actions.

Individual Additional Capital or Backstop Requirement (Proposed § 350.10)

Proposed § 350.10 addresses individual additional capital or operational backstop requirements. As permitted by section 4(a)(4)(B)(i) of the GENIUS Act (12 U.S.C. 5903(a)(4)(B)(i)), to address cases where the PPSI's internal capital adequacy assessment is deficient in addressing the capital needs of the PPSI, or where the PPSI's available liquid assets are insufficient to ensure ongoing operations, the FDIC is proposing a process to impose on a PPSI an individual additional capital or operational backstop requirement.

Proposed § 350.10(a) includes a list of examples intended to illustrate when the FDIC may consider imposing an individual additional capital or operational backstop requirement. These include when there has been a significant increase in operational risks, excessive volatility in payment stablecoin issuance or redemptions, or additional risks that the PPSI is not appropriately reflecting in its ongoing capital adequacy assessment framework. While an individual capital or backstop requirement would be based on the facts of each individual case, proposed § 350.10(b) would describe the factors that the FDIC may consider.

Under proposed § 350.10(c), the FDIC would notify the PPSI of the proposed individual additional capital or backstop requirement, including a justification for that requirement and a target achievement date. The board of directors and management of the PPSI generally would have 30 days to respond to that notice. The FDIC may change this time period, as appropriate, based on the condition of the PPSI. For example, the time period may be shortened due to the severity of the underlying issues and need for additional capital or backstop. After the response period, the FDIC would issue a final decision establishing an individual additional capital or backstop requirement for that PPSI, which would remain in effect until modified or rescinded by the FDIC. The decision may require the PPSI to develop and submit to the FDIC, within a specified time period, an acceptable plan to reach the additional capital or backstop requirement established for the PPSI. If, after the FDIC renders its decision, there is a significant change in the circumstances that materially affects the PPSI's capital adequacy or its ability

to reach the required capital or backstop requirement, the PPSI may request, or the FDIC may propose to the PPSI, a change in the additional capital or backstop requirement for the PPSI, the date when the minimum must be achieved, or the PPSI's plan (if applicable). The FDIC may decline to consider proposals that are not based on a significant change in circumstances or that are repetitive or frivolous. Pending a decision on reconsideration, the FDIC's original decision and any plan required under that decision shall continue in full force and effect.

Proposed Adjustment to the Bank Capital Rule (Proposed Amendments to 12 CFR 324)

Section 4(a)(4)(C)(iii) of the GENIUS Act (12 U.S.C. 5903(a)(4)(C)(iii)) specifies that the leverage and risk-based capital requirements imposed by an appropriate Federal banking agency (as defined in 12 U.S.C. 1813(q)) on a consolidated basis on an IDI or depository institution holding company that includes a PPSI as a consolidated subsidiary cannot require such an IDI or depository institution holding company to hold any amount of regulatory capital with respect to such PPSI subsidiary and its assets and operations in excess of the capital that such PPSI must maintain under the capital regulations issued pursuant to the GENIUS Act.

The FDIC is the appropriate Federal banking agency for FDIC-supervised IDIs, and the FDIC's regulations impose consolidated leverage and risk-based capital requirements on FDIC-supervised IDIs (capital rule).²⁵ To comply with section 4(a)(4)(C)(iii) of the GENIUS Act, the FDIC is proposing to amend section 324.22 of the capital rule, which sets forth certain adjustments and deductions to the amount of an FDIC-supervised IDI's regulatory capital, to specify the balance sheet adjustments that an FDIC-supervised IDI with a consolidated PPSI subsidiary would be required to make for purposes of the capital rule. First, an FDIC-supervised IDI that consolidates a PPSI in accordance with regulatory reporting instructions and under GAAP would be required to deconsolidate the investment in the PPSI for regulatory capital purposes. Second, the FDIC-supervised IDI would be required to deduct any interest in the retained earnings of the PPSI from the FDIC-supervised IDI's common equity tier 1 capital. This amount would also be deducted from the asset reflecting the FDIC-supervised IDI's investment in the PPSI for risk-based and leverage capital

calculations. This interest reflects the FDIC-supervised IDI's share of retained earnings of the PPSI that have not been paid out as dividends, and the deduction ensures that the same amount would not count as capital at both the PPSI and its parent FDIC-supervised IDI. Once earnings from the PPSI are paid as dividends to the parent FDIC-supervised IDI, those funds are available for general uses of the parent FDIC-supervised IDI and no longer count as capital of the PPSI. Finally, any remaining assets of the FDIC-supervised IDI associated with the PPSI (after deducting its share of retained earnings), such as investments in or intercompany receivables from a PPSI, would be excluded when calculating the FDIC-supervised IDI's standardized total risk-weighted assets, advanced approaches risk-weighted assets,²⁶ average total consolidated assets, and total leverage exposure, as applicable. To the extent that a subsidiary PPSI incurs net losses, there would be no adjustment to increase its parent FDIC-supervised IDI's assets or retained earnings to offset those losses, so as to not overstate the resources and financial condition of the parent FDIC-supervised IDI.

The FDIC is also proposing to make conforming amendments to the definition of total assets in 12 CFR 324.401(g).

As proposed, this deconsolidation and deduction approach would ensure that an FDIC-supervised IDI that consolidates a PPSI under GAAP would not be required to hold any amount of regulatory capital with respect to such PPSI subsidiary and its assets and operations in excess of the capital that such PPSI must maintain under the capital requirements issued pursuant to the GENIUS Act. This approach would also ensure that any undistributed retained earnings of the PPSI are not double-counted as capital that can be used by the parent FDIC-supervised IDI.

However, because the proposed approach would not deduct the full amount of an FDIC-supervised IDI's investment in its PPSI subsidiary, there may be incentives for an FDIC-supervised IDI to contribute more capital to its PPSI subsidiary (in the form of permissible reserve assets for PPSIs) than necessary to prudently operate the PPSI subsidiary as a mechanism to inflate the capital ratios of the FDIC-supervised IDI. The FDIC

²⁶ The FDIC, OCC and FRB issued the Regulatory Capital Rule: Category I and II Banking Organizations, Banking Organizations with Significant Trading Activity, and Optional Adoption for Other Banking Organizations proposal that would replace the advanced approaches with the expanded risk-based approach.

²⁵ See 12 CFR part 324.

recognizes that an appropriately capitalized PPSI will have a positive capital position, and the FDIC does not intend to discourage a PPSI from maintaining reserve assets and other liquid assets in amounts that a PPSI believes are prudent given the PPSI's outstanding balance of payment stablecoins and other potential risks of the PPSI. In contrast, contributions of assets by an FDIC-supervised IDI to its PPSI subsidiary that are disproportionate to the PPSI's outstanding payment stablecoins or are not readily usable by the PPSI subsidiary for its operations, or the recognition of significant intangible assets by the PPSI subsidiary, as examples, may be indicative of balance sheet management activities intended to improve the FDIC-supervised IDI's regulatory capital position rather than serve the operations and/or business needs of the PPSI.

Consequently, the FDIC intends, through its supervision of FDIC-supervised IDIs and PPSIs, to monitor the balance sheet management activities of FDIC-supervised IDIs and their PPSI subsidiaries to ensure that an FDIC-supervised IDI does not use the balance sheet of its PPSI subsidiary to inappropriately inflate the regulatory capital ratios of the FDIC-supervised IDI. In this regard, the FDIC maintains the authority under 12 CFR 324(d)(1) to require an FDIC-supervised IDI to hold an amount of regulatory capital greater than otherwise required under 12 CFR part 324 if the capital requirement under part 324 is not commensurate with the FDIC-supervised IDI's credit, market, operational, or other risks. If the FDIC were to determine that contributions of assets by an FDIC-supervised IDI to its PPSI subsidiary appear indicative of an intent to inflate the capital ratios of the IDI rather than serve the operations and/or business needs of the PPSI, the FDIC would expect to require the FDIC-supervised IDI to hold an additional amount of regulatory capital commensurate with such disproportionate contribution of assets.

Questions for Capital Section (Proposed §§ 350.8, 350.9, 350.10)

The FDIC requests comment on the capital requirements contained in proposed §§ 350.8, 350.9, and 350.10, including the following:

Question 96: Should the FDIC establish standardized capital requirements (*i.e.*, establish minimum risk-based capital and/or leverage requirements) for PPSIs? If so, how should such capital requirements be established and calibrated? If not,

should the FDIC make any modifications to the proposed capital requirements?

Question 97: Should the FDIC provide additional clarity around its expectations for calibration of capital requirements based on the risks and activities of PPSIs?

Question 98: Are the proposed requirements for capital elements appropriate and sufficiently clear? Should the FDIC consider permitting tier 2 capital in the form of subordinated debt, similar to the permitted capital element under Part 324 for FDIC-supervised IDIs? If so, in what circumstances would it be likely for an FDIC-supervised PPSI to issue tier 2 capital instruments? Should the FDIC consider establishing limits on how much capital of each tier should be required or allowed? Alternately, should the FDIC adopt a simpler measure of capital, such as anything that qualifies as equity under GAAP, instead of importing the bank framework for capital instruments? Should the FDIC use tangible equity (retained earnings, stock, and preferred stock, net of tangible assets) as the measure of capital for a PPSI?

Question 99: Should the FDIC require deductions from regulatory capital for goodwill, certain deferred tax assets, or other illiquid or intangible assets, recognizing that these assets may not provide sufficient loss absorbency during a business disruption, and may experience volatility in value or write-downs that could deplete retained earnings? Please provide any data supporting your views.

Question 100: Are the proposed components and determination of the minimum capital and backstop requirements appropriate for PPSIs? Which alternatives, if any, should the FDIC consider and why? Should the requirements include any adjustments in recognition of newly acquired or divested businesses, or any other adjustments when calculating total expenses for purposes of the proposed backstop? Please provide any data supporting your views.

Question 101: Is the \$5 million minimum capital requirement for a *de novo* PPSI appropriate?

Question 102: Should the FDIC incorporate a capital requirement based on the outstanding issuance value or amount and type of reserve assets, including variations of any of the proposals discussed above? For example, should the FDIC impose a minimum capital requirement based on a set percentage of outstanding issuance value, as discussed above in this supplementary information? If so, are

the minimum capital requirements and thresholds discussed above appropriately calibrated? Please provide any data supporting your views.

Question 103: A PPSI and holders of payment stablecoins issued by a PPSI could be exposed to losses through the price risk, credit risk, and interest rate risk of the PPSI's portfolio of reserve assets, as well as through any operational risks to which the PPSI is exposed. Should the FDIC adopt a capital requirement based on price risk, credit risk, operational risk, or interest rate risk, including variations on any of the proposals discussed above? Please provide any data supporting your views. Should the FDIC impose a charge for credit risk, such as a capital charge for uninsured deposits? Should the FDIC impose a minimum operational risk capital charge that scales with the size of the PPSI, as discussed above?

Question 104: Should the FDIC adopt a capital requirement expressly designed to address costs of litigation, legal risk, or legal costs during insolvency that a PPSI may face? If so, how should such a requirement be calibrated?

Question 105: Should the capital and operational backstop requirements be calculated based as of the last day of a given quarter, as proposed? Or should the amount instead be calculated across some other period of time, such as an average on a monthly, bi-monthly, biannually, or yearly basis?

Question 106: Is the timing for the PPSI to meet capital and operational backstop requirements appropriate? Should consequences for falling below minimum requirements kick in sooner than the end of the quarter?

Question 107: Are the proposed criteria for imposing an individual additional capital or operational backstop requirements appropriate and sufficiently clear? What modifications, if any, are appropriate? Are there modifications to the process that are appropriate? Is the process too long or too short?

Question 108: With respect to the assets eligible for the operational backstop, the proposal would allow demand deposits at an IDI to qualify. Should this be limited to only fully insured deposits?

Question 109: Does the proposed deconsolidation and deduction approach appropriately balance the FDIC's statutory obligations under the GENIUS Act with other statutory requirements to establish risk-based and leverage capital requirements for FDIC-supervised IDIs? If not, what changes or alternatives should the FDIC consider?

Question 110: Instead of the proposed approach, should the FDIC require an FDIC-supervised IDI that includes a consolidated PPSI subsidiary to treat a PPSI subsidiary for regulatory capital purposes in the same manner that it is required to treat a financial subsidiary? This would require the FDIC-supervised IDI to deconsolidate the assets and liabilities of the PPSI subsidiary, exclude the amount of its investment in the PPSI subsidiary from its total risk-weighted assets, average total consolidated assets, and other applicable exposure measures, and deduct the amount of its investment in the PPSI subsidiary from its common equity tier 1 capital. On the one hand, this approach would ensure that the FDIC-supervised IDI's investment in its PPSI subsidiary does not increase the capital of the FDIC-supervised IDI, thus avoiding any double counting of capital. On the other hand, this approach could, at least for some period of time upon establishing a PPSI subsidiary, cause the regulatory capital ratios of an FDIC-supervised IDI that includes a consolidated PPSI subsidiary to be lower than the regulatory capital ratios of an otherwise similar FDIC-supervised IDI that did not establish a consolidated PPSI subsidiary, thus (relative to the proposal) potentially increasing the cost of establishing a PPSI subsidiary. What would be the advantages and disadvantages of this approach? If the FDIC were to adopt such an approach, should the FDIC consider calibrating the PPSI capital requirement as a percentage of the PPSI's total assets or other denominator, rather than the proposal's fixed minimum capital requirement for PPSIs? Alternatively, should the FDIC consider applying the existing treatment for financial subsidiaries to larger institutions, while retaining the proposed approach for smaller institutions, given the proposal's fixed minimum capital requirement for PPSIs? Are there other alternatives the FDIC should consider?

Question 111: Does the proposed approach appropriately reflect loss absorbing capacity of FDIC-supervised IDIs and PPSI subsidiaries?

Question 112: To what extent do commenters agree with the FDIC's characterization of the potential that an FDIC-supervised IDI could utilize a subsidiary PPSI under the proposed approach to inflate the capital ratios of the parent IDI? What are the advantages and disadvantages of the supervisory actions the FDIC would expect to take upon determining that the contribution of assets by an FDIC-supervised IDI to its PPSI subsidiary appeared indicative of an intent to improve the regulatory

capital position of the IDI rather than serve the operations and/or business needs of the PPSI? Are there other measures the FDIC could adopt to address such concerns? Would treating PPSI subsidiaries as financial subsidiaries for regulatory capital purposes, as discussed above, be a preferable approach?

B. Subpart B—Requirements for FDIC-Supervised Entities Engaged in the Custody or Safekeeping of Payment Stablecoin Reserves and Collateral

The FDIC proposes to establish subpart B to implement the custodial and safekeeping requirements outlined in section 10 of the GENIUS Act (12 U.S.C. 5909) with respect to FDIC-supervised entities.

1. Purpose and Scope (Proposed § 350.100)

Proposed § 350.100 sets forth the purpose and scope of the custodial and safekeeping regulations in subpart B. The subpart B requirements would apply to persons subject to supervision and regulation by the FDIC, including insured State nonmember banks, insured State-licensed branches of foreign banks, insured State savings associations, and PPSIs, for which the FDIC is the primary Federal banking agency or primary Federal payment stablecoin regulator, that are engaged in the business of providing custodial or safekeeping services for payment stablecoin reserves, payment stablecoins used as collateral, or private keys used to issue payment stablecoins pursuant to sections 4(a)(7)(A)(iv) and 10 of the GENIUS Act (12 U.S.C. 5903(a)(7)(A)(iv) and 5909).

Furthermore, proposed § 350.100 would provide that subpart B applies to the custody and safekeeping of any other digital asset by a PPSI authorized by the FDIC. The provision also clarifies that proposed subpart B requirements would apply in addition to any other applicable law regarding the provision of custody and safekeeping services of payment stablecoin reserves, payment stablecoins used as collateral, or private keys, and any other digital asset.

Lastly, proposed § 350.100 would provide that subpart B requirements would not apply solely on the basis of engaging in the business of providing hardware or software to facilitate a customer's self-custody or safekeeping of payment stablecoins or private keys. This exclusion is consistent with section 10(e) of the GENIUS Act (12 U.S.C. 5909(e)).

2. Definitions (Proposed § 350.101)

For purposes of proposed subpart B, the FDIC would include the following definitions in proposed § 350.101.

Applicable law. The proposed rule would define "applicable law" to mean the law of a state or other jurisdiction governing a custodian's custody relationships, any applicable Federal law governing those relationships, and any applicable court order.

Custody agreement. The proposed rule would define "custody agreement" to mean a legally binding contractual agreement between a customer, as the principal, and the custodian, as the agent, that establishes the custodian's duties and responsibilities in providing custody, safekeeping and ancillary services to the customer.

Customer. The proposed rule would define "customer" to mean a person for whom or on whose behalf a custodian receives, acquires, or holds payment stablecoin reserves, payment stablecoins used as collateral, private keys, cash, and other property received in the course of the provision of custody services for such assets. This definition is consistent with the description of the term "customer" used in section 10(b) of the GENIUS Act (12 U.S.C. 5909(b)). The proposed "customer" definition under part 350 subpart B only applies to part 350, subpart B.²⁷

Custodian. The proposed rule would define "custodian" to mean an FDIC-supervised person, including an insured State nonmember bank, insured State-licensed branch of a foreign bank, insured State savings associations, or a PPSI. This proposed definition specifies the FDIC-supervised entities that are permitted to provide custodial and safekeeping services as provided under section 10(a) of the GENIUS Act (12 U.S.C. 5909(a)).

Digital wallet. The proposed rule would define "digital wallet" to mean a software program or hardware device that stores and manages the private keys associated with a particular unit of a digital asset.

Person. The proposed rule would define "person" to mirror section 2(24) of the GENIUS Act (12 U.S.C. 5901(24)), and the term would mean an individual, partnership, company, corporation,

²⁷ The proposed "customer" definition under part 350, subpart B is not intended to affect any GENIUS Act requirements promulgated to implement the GENIUS Act's direction to treat PPSIs as financial institutions for purposes of the Bank Secrecy Act and to apply Federal law applicable to a financial institution located in the United States relating to the prevention of money laundering, including customer identification program or customer due diligence requirements applicable to PPSIs. See 12 U.S.C. 5903(a)(5)(A).

association, trust, estate, cooperative organization, or other business entity, incorporated or unincorporated.

Permitted payment stablecoin issuer. The proposed rule would define “permitted payment stablecoin issuer” to have the meaning given that term in section 2(23) of the GENIUS Act (12 U.S.C. 5901(23)).

Private keys. The proposed rule would define “private keys” to mean the unique alphanumeric sequence that allows for a transfer of a particular unit of a digital asset using a distributed ledger.

Sub-custodian. The proposed rule would define “sub-custodian” to mean a person that provides custody and safekeeping services to a custodian, including through a digital wallet for which such person controls the associated private keys, with respect to assets of a customer, for which the custodian otherwise serves as an agent under this subpart.

3. Severability (Proposed § 350.102)

Similar to subpart A, subpart B would include a severability clause in proposed § 350.102 that would provide that the provisions of subpart B are separate and severable from one another. In the event a court stays a particular provision of this rule or determines any provision is invalid, the FDIC intends that the remaining provisions shall continue in effect.

4. Custodial and Safekeeping Requirements (Proposed § 350.103)

Proposed § 350.103(a) would implement requirements in section 10(b)(1) of the GENIUS Act (12 U.S.C. 5909(b)(1)) and would require a custodian to treat payment stablecoin reserves, payment stablecoins used as collateral, private keys, cash, and other property received, acquired, or held in custody for or on behalf of a customer as belonging to such customer and not as the property of the custodian.

Proposed § 350.103(b) would require a custodian to take appropriate steps to protect the customer’s payment stablecoin reserves, payment stablecoins used as collateral, private keys, cash, and other property from the claims of the custodian’s creditors and any sub-custodian’s creditors. Under the proposed rule, these measures must be commensurate with the custodian’s size, complexity, and risk profile and with the nature of the applicable assets for which it provides custodial or safekeeping services including through adopting, implementing, and maintaining written policies, procedures, and internal controls that are adequate to comply with applicable

law. The FDIC believes this proposed § 350.103(b) would be consistent with section 10(b)(2) of the GENIUS Act (12 U.S.C. 5909(b)(2)), which requires a custodian to take appropriate steps to protect the customer’s property from the claims of the custodian’s creditors. Moreover, the requirements in proposed § 350.103(b) incorporate appropriate risk management principles that are consistent with safe and sound practices expected for institutions providing custodial and safekeeping services.²⁸

Section 350.103(c)(1) of the proposed rule would require a custodian to maintain possession or control of the customer’s property that is held directly, including in a digital wallet for which the custodian controls the associated private keys. The proposed rule would further provide that a custodian could maintain the customer’s property through the use of a sub-custodian if consistent with applicable law, provided the custodian maintains adequate safeguards and internal controls reasonably designed to provide the custodian with oversight of such sub-custodian’s compliance with the requirements of subpart B.

With respect to any payment stablecoin or tokenized reserve asset, proposed § 350.103(c)(2) provides that a custodian or sub-custodian maintains control if it can reasonably demonstrate, consistent with the standard of care established by applicable law that no other party, including the customer or any affiliate of the custodian, can control or transfer the payment stablecoin or payment stablecoin reserve in the form of an asset in tokenized form using a distributed ledger without the affirmative consent of the custodian or sub-custodian, as applicable. The custodian must have technical safeguards to prevent unauthorized access by its own personnel. This provision would be consistent with past interagency guidance regarding control of crypto assets for purposes of safekeeping²⁹ and necessary to protect a customer’s assets.

5. Commingling Prohibition and Limited Exceptions (Proposed § 350.104)

Section 350.104(a) of the proposed rule would provide that a custodian shall not commingle and shall separately account for and segregate payment stablecoin reserves, payment stablecoins, cash, and other property of a customer from the custodian’s own

assets. A custodian should ensure that accounts are appropriately titled and ownership is clear for each of the customers that own the payment stablecoin reserves, payment stablecoins, cash, and other property of that customer. This requirement would apply to any property that the custodian is maintaining on behalf of its customers. Proposed § 350.104(a) is consistent with the GENIUS Act section 10(c) (12 U.S.C. 5909(c)) and implements those requirements.

Proposed § 350.104(b) provides for three exceptions to the prohibition against a custodian commingling a customer’s assets with the custodian’s assets, consistent with the GENIUS Act section 10(c)(2), for operational convenience. Proposed § 350.104(b)(1) would permit an insured State nonmember bank, insured State-licensed branch of a foreign bank, or insured State savings association that provides custodial or safekeeping services, for convenience, to hold payment stablecoin reserves, stablecoins, cash, and other property of a customer within a single omnibus account containing assets of other customers so long as the payment stablecoin reserves remain identifiable. Proposed § 350.104(b)(2) would allow an insured State nonmember bank, insured State-licensed branch of a foreign bank, or insured State savings association that provides custodial or safekeeping services for payment stablecoin reserves in the form of cash to hold such cash in the form of a deposit liability, provided such treatment is consistent with applicable law. Proposed § 350.104(b)(3) allows a custodian to withdraw and apply the share necessary of the payment stablecoin reserves, payment stablecoins, cash, and other property of a customer to cover routine operational needs of the custodian, such as paying commission, taxes, storage fees, or other lawful charges. For each of these exceptions in proposed § 350.104(b)(1) through (b)(3), the custodian should follow safe and sound practices and remain consistent with applicable laws and regulations.

6. Reporting

Under section 10(d) of the GENIUS Act (12 U.S.C. 5909(d)), the FDIC may require a custodian to provide information, in a form and manner determined by the FDIC, concerning the custodian’s business operations and processes to protect customer assets. The FDIC recognizes that while IDIs currently provide reporting on their custodial businesses pursuant to Schedule RC–T of the Call Report,

²⁸ See e.g., Joint Statement on Crypto-Asset Safekeeping by Banking Organizations (July 14, 2025), <https://www.fdic.gov/interagency-statement-crypto-asset-safekeeping.pdf>.

²⁹ See e.g., *id.*

Schedule RC–T does not currently require reporting specific to payment stablecoins or payment stablecoin reserves. At this time, the FDIC is not proposing separate reporting requirements for custodians under subpart B. However, the FDIC is considering, and requesting comment on, whether it would be appropriate to seek revisions to Schedule RC–T or whether to require custodians to report on a separate form maintained by the FDIC information relevant to custodial or safekeeping services for payment stablecoin reserves, payment stablecoins used as collateral, or private keys used to issue payment stablecoins.

Questions for Subpart B, §§ 350.100–350.104)

The FDIC requests comment on the custodial requirements contained in proposed part 350, subpart B, including the following:

Question 113: Are the subpart B proposed definitions appropriate and sufficiently clear? Would it be helpful to define any other terms?

Question 114: FDIC's proposed subpart B would implement section 10 of the GENIUS Act (12 U.S.C. 5909) with respect to entities that are regulated by the FDIC. Are there issues that the FDIC should bear in mind if an FDIC-supervised entity holds reserve assets on behalf of a PPSI that is not regulated by the FDIC?

Question 115: The FDIC proposes principles-based requirements in line with sound custodial management practices that the FDIC understands are industry standard. Does the proposal accurately capture sound custodial management practices that are industry standard? Why or why not? Are there any additional practices or standards that FDIC should consider?

Question 116: Is it sufficiently clear in a custodial relationship when and for what assets the minimum, principles-based requirements of subpart B would apply? Are there circumstances where a custodian may be unaware that payment stablecoin reserve assets held in an account are being used as collateral and potentially subject to the requirements of subpart B?

Question 117: The proposed rule describes how a custodian maintains control of payment stablecoin reserve assets. Is this description appropriately calibrated? Are there other means by which a custodian should be deemed to have demonstrated control over these types of assets?

Question 118: Are there additional considerations the FDIC should take into account regarding a custodian's use of an omnibus account? To what extent

should the FDIC consider prescribing additional recordkeeping, customer account, disclosure, or other terms or conditions as a precondition to a custodian commingling payment stablecoin reserve assets and other custodial assets?

Question 119: Section 10(c)(3) of the GENIUS Act (12 U.S.C. 5909(c)(3)) provides a priority regime regarding the claims of customers against a custodian with regards to any payment stablecoins used as collateral. The section also allows customers to expressly waive this priority. What are the potential benefits and drawbacks of such a priority regime, including with regards to whether it may amplify losses PPSIs on payment stablecoin reserves that are custodied by a custodian that provides a diversified custodial business should there be a shortfall in a custodian's custodied assets? What market practices are likely to arise regarding the use of the contractual provisions that waive a customer's priority regarding payment stablecoins used as collateral that are held in custody? To what extent should the FDIC consider either providing guidance on the use of such contractual provisions or requiring custodians to use such contractual provisions in their custody agreements? How are customer waivers in relation to custodians likely to impact the resolution of PPSIs? For example, would they lead to additional complications in determining the priority of claims?

Question 120: The GENIUS Act provides an exclusion from the custodial requirements to any person solely on the basis that such person engages in the business of providing hardware or software to facilitate a customer's own custody, known commonly as "self-custody," or safekeeping of the customer's payment stablecoins or private keys. Should the FDIC consider implementing language to prevent this exception from being used to evade the custodial requirements of the Act?

Question 121: Are there particular circumstances for which the FDIC should provide additional clarification as to the application of subpart B or the applicability of any exception (e.g., regarding payment stablecoins locked in a smart contract for purposes of "wrapping" the payment stablecoin for use on an unsupported blockchain)?

Question 122: To ensure that a PPSI is able to meet redemptions on a timely basis, should the FDIC require that any custody agreement a custodian enters into with a PPSI provide for release of any custodied payment stablecoin reserve assets to the customer's control within a specific timeframe? What are

the costs and benefits of any such approach?

Question 123: Should the FDIC require custodians to report on a separate form information regarding custodial and safekeeping services for payment stablecoin reserves, payment stablecoins used as collateral, or private keys used to issue payment stablecoins? Should the form request information regarding total payment stablecoin reserves, payment stablecoins used as collateral, or private keys used to issue payment stablecoins under custody? For payment stablecoin reserves under custody, should the FDIC require custodians to report the payment stablecoin reserves under custody (for affiliates and third parties), including payment stablecoin reserves held in each of the permitted categories of reserve assets proposed in § 350.4? Is there additional information the FDIC should include? If other forms of reporting would be helpful, what are they? What are the costs and benefits of requiring separate reporting?

Question 124: To what extent is Schedule RC–T of the Call Report, in the case of FDIC-supervised IDIs relevant to custodial or safekeeping services for payment stablecoin reserves, payment stablecoins used as collateral, or private keys used to issue payment stablecoins? Should revisions to Schedule RC–T or other Call Report Schedules be made to require information relevant to custodial or safekeeping services for payment stablecoin reserves, payment stablecoins used as collateral, or private keys used to issue payment stablecoins? If so, what changes should be made? What are the costs and benefits of more detailed reporting requirements?

C. Proposal To Clarify Deposit Insurance Coverage for Reserve Deposits

Reserve assets backing payment stablecoins are an important component of the statutory framework established by the GENIUS Act. Through this proposal, the FDIC is seeking to clarify the treatment for such reserves for deposit insurance purposes. In particular, the FDIC is proposing to amend its deposit insurance rules, found in part 330 of the FDIC's regulations, to provide that deposits held as reserves for a payment stablecoin would be insured to the PPSI under the FDIC's coverage rules for corporate deposits, but would not be insured to payment stablecoin holders on a pass-through basis. As corporate deposits of the PPSI, such deposits would be aggregated with other corporate deposits maintained by the PPSI at the same IDI and insured for up to the Standard Maximum Deposit

Insurance Amount (SMDIA), currently \$250,000. The FDIC is seeking comment on whether this is the appropriate approach and reflects the appropriate interpretation of the GENIUS Act and FDI Act.

General Principles of Deposit Insurance Coverage

The FDIC only insures “deposits,” as that term is defined in section 3(l) of the FDI Act (12 U.S.C. 1813(l)). “Deposits” include demand deposits at insured depository institutions, which the GENIUS Act provides may comprise a portion of a PPSI’s reserves backing its payment stablecoins.³⁰

The FDI Act establishes the key parameters of deposit insurance coverage, including the SMDIA, and provides deposit insurance coverage up to the SMDIA at each separately chartered IDI where deposits are maintained. The FDI Act also provides separate insurance coverage for deposits maintained in different rights and capacities (also known as ownership categories) at the same institution. In other words, the SMDIA is \$250,000 per depositor, per IDI, for deposits held in each ownership category.

Today, some deposit accounts are eligible for pass-through deposit insurance. Pass-through deposit insurance coverage is a mechanism that allows deposits placed at an IDI by a third party on behalf of one or more owners to be insured as if deposited directly at the IDI by the owner(s). Certain regulatory requirements must be satisfied for pass-through deposit insurance to apply: (1) the deposit account records of the IDI must expressly disclose a basis for pass-through coverage, such as a custodial or agency relationship; (2) the identities and interests of the owners must be ascertainable either from the records of the IDI or records maintained in good faith and in the regular course of business by the depositor or another party that maintains such records for the depositor; and (3) the relationship that provides the basis for pass-through deposit insurance coverage must be genuine, with the deposited funds actually owned by the named owners.³¹

GENIUS Act Provisions Concerning Deposit Insurance

The GENIUS Act expressly provides that payment stablecoins “shall not be backed by the full faith and credit of the United States, guaranteed by the United

States Government, subject to deposit insurance by the Federal Deposit Insurance Corporation, or subject to share insurance by the National Credit Union Administration,” and it is unlawful to make contrary representations.³²

These provisions appear to be inconsistent with providing deposit insurance to payment stablecoin holders on a pass-through basis. When the FDIC insures deposits on a pass-through basis, it treats end customers as depositors. Treating payment stablecoin holders as the insured depositors on a pass-through basis seems inconsistent with the GENIUS Act’s prohibition on payment stablecoins being “subject to Federal deposit insurance.” Additionally, third parties that establish pass-through insurance arrangements often market the availability of FDIC deposit insurance to their customers, which is consistent with the principle that a third party offering pass-through insurance is effectively offering an access mechanism to an FDIC-insured deposit account. The GENIUS Act’s firm prohibition on marketing payment stablecoins as subject to deposit insurance seems inconsistent with the concept of payment stablecoins serving as an access mechanism for FDIC-insured deposit accounts. Moreover, the fact that a payment stablecoin holder would generally engage in transactions by transferring payment stablecoins, without funds ever leaving the FDIC-insured deposit account, further differentiates payment stablecoin arrangements from existing pass-through arrangements in which funds generally are withdrawn from the deposit account when transactions are made.

Description of the Proposed Rule (Proposed § 330.11(a)(3))

For reasons discussed above, the FDIC proposes to amend its deposit insurance rules, found in part 330 of the FDIC’s regulations, to clarify that deposits held as reserves for a payment stablecoin are not insured to payment stablecoin holders on a pass-through basis. Under the proposed rule, such deposits would be insured as corporate deposits of their owner, the PPSI. The FDIC proposes to amend its deposit insurance rules for corporate accounts, found at 12 CFR 330.11(a), to expressly include within their scope deposits held as reserves backing payment stablecoins.

The proposed rule would add a new paragraph (3) to 12 CFR 330.11(a). This new paragraph would provide that notwithstanding any other provision of

part 330, deposits at an IDI held as reserves for a payment stablecoin, as defined in the GENIUS Act, are deposits of the PPSI and insured as corporate deposits. Section 330.11(a)(1) generally provides that deposits of a corporation engaged in any independent activity are added together and insured up to the SMDIA, currently \$250,000, in the aggregate.³³ Under the proposed rule, all deposits maintained by a PPSI at an IDI would be added together for purposes of the deposit insurance limit, regardless of whether those deposits consist of reserves backing payment stablecoins or serve some other purpose (such as paying the PPSI’s operating expenses). The PPSI’s deposits would not be insured to payment stablecoin holders on a pass-through basis.

Questions on Deposit Insurance Coverage Proposal

The FDIC requests comment on the proposal to clarify deposit insurance coverage for reserve deposits, including the following:

Question 125: Is the FDIC’s proposed treatment of deposits that comprise reserves for a payment stablecoin under section 4 of the GENIUS Act (12 U.S.C. 5903(a)(1)(A)(ii)) appropriate? Is this the best reading of the GENIUS Act and FDI Act?

Question 126: If payment stablecoin reserves were eligible for pass-through deposit insurance, to what extent would PPSIs satisfy pass-through requirements, either today or in the future? Should the requirements be tailored for PPSIs in any way, and if so, how?

Question 127: If payment stablecoin reserves are or are not eligible for pass-through deposit insurance, what impact would this have on the market demand for payment stablecoins? What impact would it have on the composition of reserve assets of PPSIs?

Question 128: If payment stablecoin reserves are eligible for pass-through deposit insurance, what impact would that have on the Deposit Insurance Fund?

Question 129: If payment stablecoin reserves are eligible for pass-through deposit insurance, how would that impact the risk of a PPSI’s risk of failure?

Question 130: Should the availability of pass-through insurance or lack

³⁰ The FDIC’s deposit insurance coverage does not apply to other types of reserve assets that a PPSI may maintain pursuant to the GENIUS Act.

³¹ 12 CFR 330.5(b); 12 CFR 330.3(h).

³² 12 U.S.C. 5903(e)(1), (2).

³³ The deposit insurance regulations define being engaged in an “independent activity” to mean that the corporation is operated primarily for a purpose other than to increase deposit insurance coverage. 12 CFR 330.1(g). The FDIC has historically interpreted “corporation” broadly for purposes of section 330.11 to include similar forms of organizations established under State law, such as limited liability companies.

thereof have an impact on any of the other requirements in the proposed rule?

D. Proposal To Clarify Treatment of Deposits in Tokenized Form

The GENIUS Act establishes a Federal regulatory framework for the issuance of payment stablecoins and related payment stablecoins activities; the Act does not address tokenized deposits, other than to provide that the definition of “payment stablecoin” does not include, among other things, a deposit, including a deposit recorded using distributed ledger technology.³⁴ Although payment stablecoins and tokenized deposits can both be used as a means of payment and can use the same underlying technological components and characteristics, payment stablecoins and tokenized deposits are economically and legally distinct. Payment stablecoins generally represent a PPSI’s liability where the promise to redeem and to maintain a stable value is backed by highly liquid, short-term, and safe assets (including deposits) held in reserve to mitigate concerns of counterparty risk.

A tokenized deposit, on the other hand, is an IDI’s deposit liability represented in a particular way: in tokenized form and recorded on a distributed ledger technology. Like other deposits, tokenized deposits fund a bank’s extensions of credit and represent an integral part of the maturity and liquidity transformation services provided by banks. Banks are subject to extensive regulatory and supervisory requirements, and are eligible for Federal deposit insurance.

The FDIC is using this proposed rule as a vehicle to clarify the treatment of tokenized deposits under the FDI Act. Whether or not a particular tokenized financial product is considered a tokenized deposit for purposes of the FDI Act is relevant, among other things, to: (1) the applicability of deposit insurance;³⁵ (2) depositor preference in the event of an institution’s failure and liquidation;³⁶ (3) regulatory reporting purposes;³⁷ and (4) whether it would not be subject to the GENIUS Act.³⁸ Accordingly, the FDIC is proposing to amend its deposit insurance rules under

part 330 to clarify that the application of deposit insurance to deposits does not depend upon the technology or recordkeeping used to record a bank’s deposit liabilities.

The FDI Act’s definition of deposit is technology neutral, and therefore, tokenized forms of deposits are not a separate category of deposits under the statute. For an IDI’s tokenized financial product to be considered a deposit, it must meet the statutory definition of “deposit” under section 3(l) of the FDI Act (12 U.S.C. 1813(l)). The technology used in crediting an account, evidencing a deposit liability, or recording or transferring a deposit, is not a factor in applying the statutory definition. A tokenized product that meets the statutory definition of “deposit” is a deposit, and as such, is treated no differently under the FDI Act than other forms of deposits. Accordingly, a depositor using tokenized deposits is afforded the same Federal deposit insurance coverage under the FDI Act as a depositor using non-tokenized deposits.

The proposed rule would amend the FDIC’s deposit insurance regulations to expressly include the general principle that the technology or recordkeeping utilized by an IDI to record its deposit liabilities does not affect whether those liabilities constitute “deposits.” The proposed amendment is intended to codify this principle. Thus, an IDI’s tokenization of its deposit liabilities would not alter the legal status of those liabilities as “deposits.” Under the proposed rule, depositors with tokenized deposits would be entitled to the same benefits as depositors with more traditional forms of deposits, including the FDIC’s deposit insurance coverage.

The proposed rule also includes a conforming edit to the definition of “deposit account records” in FDIC’s deposit insurance regulations to effectuate the general principle described above. Specifically, § 330.1(e) would be amended to provide expressly that an IDI’s choice of technology or recordkeeping utilized to record deposit liabilities is not relevant to the FDIC’s determination of deposit insurance coverage.³⁹ The intent of this proposed amendment is to accommodate institutions’ potential use of technology, including blockchain and distributed

ledger infrastructures, for purposes of recording deposit liabilities.

Although a tokenized deposit is a deposit, there may be tokenized bank liabilities that are not deposits, irrespective of an intention or representation that such constitute a deposit. If a product does not meet the statutory definition of “deposit,” it is, by definition, a non-deposit product.⁴⁰ Institutions should also be mindful of the evolving characteristics and capabilities of tokenized deposits that may lead to any material changes to the underlying nature throughout a product or transaction lifecycle to ensure ongoing alignment of the underlying tokenized deposit with the FDI Act’s statutory definition.

As noted above, under the FDIC’s regulations, for pass-through deposit insurance to apply, certain recordkeeping and ownership requirements must be met.⁴¹ The FDIC seeks comment on whether any amendments to the deposit insurance rules, including the pass-through rules, are needed to address tokenized deposits.⁴² For example, the pass-through insurance rules require that an IDI’s deposit account records expressly indicate a relationship, such as a fiduciary or agent relationship, that provides a basis for pass-through coverage.⁴³ Parties often satisfy this requirement today through account titling. The pass-through rules also include specific requirements that apply where multiple levels of fiduciary relationships exist, including identification at each level of the names and interests of the person(s) on behalf of which the party at that level is acting.⁴⁴ To the extent tokenized deposit arrangements may involve different approaches to account titling or recordkeeping, the FDIC seeks comment on what clarifications to the FDIC’s pass-through rules would be appropriate.

⁴⁰ The FDIC defines a non-deposit product as any product that is not a “deposit,” including, but not limited to, insurance products, annuities, mutual funds, securities, and crypto-assets. 12 CFR 328.1. Although “crypto-asset” is not defined by regulation, the FDIC would not interpret it to include deposits in tokenized form.

⁴¹ See 12 CFR 330.5, 330.7(a).

⁴² The FDIC’s pass-through insurance rules support the agency’s ability to carry out its statutory obligation to aggregate and insure deposits to each depositor up to the insurance limit, regardless of whether funds are held in the name of the depositor or another party. See 12 U.S.C. 1821(a)(1)(C); see also 12 U.S.C. 1821(f) (requiring the FDIC to pay deposit insurance as soon as possible following an IDI’s failure).

⁴³ 12 CFR 330.5(b)(1).

⁴⁴ 12 CFR 330.5(b)(3).

³⁴ See 12 U.S.C. 5901(22).

³⁵ See 12 U.S.C. 1821(a)(1).

³⁶ See 12 U.S.C. 1821(d)(11).

³⁷ See 12 U.S.C. 1817(a)(9); 12 CFR 304.3 and 12 CFR part 370.

³⁸ See 12 U.S.C. 5901(22)(B)(ii) (stating the GENIUS Act’s definition of “payment stablecoin” expressly does not include a digital asset that “is a deposit (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), including a deposit recorded using distributed ledger technology.”).

³⁹ The FDIC currently defines “deposit account records” to include, among other things, “books and records of the institution, including records maintained by computer, which relate to the insured depository institution’s deposit taking function.” 12 CFR 330.1(e).

Questions on Treatment of Deposits in Tokenized Form

The FDIC requests comment on proposed amendments that would clarify the treatment of deposits in tokenized form and the following questions regarding tokenized deposits more broadly:

Question 131: Is the FDIC's proposed amendment to part 330 clarifying that the application of deposit insurance to deposits does not depend upon the technology or recordkeeping used to record a bank's deposit liabilities appropriate? Should the FDIC consider a more narrow amendment specifically focused on tokenized deposits?

Question 132: Should the FDIC provide additional clarity regarding the treatment of tokenized deposits outside of the deposit insurance context?

Question 133: Would it be helpful for the FDIC to consider defining relevant terms related to tokenized deposits for purposes of the FDI Act, and, if so, what defined terms should be considered?

Question 134: What key characteristics of tokenized deposits might be considered in the context of whether a particular product would be considered a "deposit" under the FDI Act? Do such products, including those that represent tokenized deposits, function similarly or dissimilarly to the types of instruments considered a deposit for purposes of the FDI Act (*e.g.*, certificates of deposits, certified checks, cashiers' checks and other official instruments)?

Question 135: Although the statutory definition of "deposit" is technology neutral, how might technology and the evolving capabilities of tokenized deposit products, including through application of smart contracts, alter the underlying nature of a bank's liability?

Question 136: Should FDIC's rules and regulations be further updated to reflect reporting and recordkeeping considerations that are unique to blockchain and distributed ledger-based systems, and if so, how?

Question 137: The FDIC determines deposit insurance coverage at the time of the failure of an IDI, based on the IDI's deposit account records and in accordance with deposit insurance coverage rules. An IDI's deposit records are evidence of its deposit obligations. What challenges, if any, do tokenized deposits present as to blockchain and distributed ledger recordkeeping, particularly as it relates to identifying owners of the deposits and aggregating tokenized deposits with other traditional deposits?

Question 138: How should the FDIC view a digital asset that only represents

an interest in or claim on a deposit at an IDI rather than being the tokenized deposit itself? Under what circumstances could such a product be viewed as a tokenized deposit product of an IDI, and under what circumstances could such a product be viewed as a payment stablecoin backed by tokenized deposits? In what other manner could such a product be characterized for purposes of the GENIUS Act and other applicable law (*e.g.*, banking and securities laws)? How would digital assets that represent tokenized deposits but are not themselves deposits be treated for accounting purposes; for example as an intangible asset or as cash and cash equivalents?

Question 139: What additional clarifications of existing pass-through rules are needed, if any, to address tokenized deposit arrangements? Should the FDIC's approach to tokenized deposits differ in any respect from the approach to other deposits? To what extent should the FDIC consider modifications with respect to expectations around account titling and recordkeeping? Are there particular considerations for any specific type of third-party arrangement?

IV. Expected Effects

The GENIUS Act was enacted to establish a comprehensive regulatory framework for the issuance of payment stablecoins in the United States,⁴⁵ prohibiting any person from issuing payment stablecoins in the United States unless they are a PPSI.⁴⁶ The proposed rule would implement the statutory requirements required by the GENIUS Act for entities under the FDIC's jurisdiction by establishing the requirements and standards applicable to FDIC-supervised PPSIs and IDIs.⁴⁷ Specifically, the proposed rule would operationalize statutory requirements for PPSIs related to reserve assets, capital, liquidity, and risk management, as well as requirements for FDIC-supervised custodians regarding payment stablecoin related custodial and safekeeping services.

This section summarizes the analysis performed by the FDIC to estimate the economic impact of the proposed rule. For this purpose, the FDIC compares estimated economic outcomes under the proposed rule to outcomes under a baseline that resembles a world absent the proposed rule. Because the proposed rule implements the non-discretionary mandates of the GENIUS Act, the FDIC utilizes a pre-statutory baseline under

which the GENIUS Act is considered unenacted. Under this baseline, FDIC-supervised IDIs generally do not issue payment stablecoins given the lack of regulatory clarity surrounding such activities; to the extent any such activity occurs, it is generally conducted on a highly limited or experimental basis under existing general authorities. Absent the GENIUS Act, no formal Federal framework exists to coordinate and homogenize the issuance of payment stablecoins, leaving the market to operate under a fragmented regulatory framework and limited Federal guidance.

The GENIUS Act requires that the FDIC, as well as other primary Federal payment stablecoin regulators and the Secretary of the Treasury, promulgate regulations within one year of the Act's enactment.⁴⁸ As such, for purposes of this analysis, the FDIC assumes that, under the proposed rule, all other Federal payment stablecoin regulators would have adopted their corresponding GENIUS Act regulations.^{49,50} This assumption allows the FDIC to focus its analysis on the most likely scenario under the proposed rule.

A. Scope of Affected Entities

The entities that fall under the direct scope of the proposed rule are all FDIC-supervised PPSIs, all FDIC-supervised PPSIs and IDIs that provide payment stablecoin-related custodial and safekeeping services, referred to as FDIC-supervised custodians, and all IDIs maintaining tokenized deposits or deposits held as reserves backing a payment stablecoin.

For the estimation of the scope and magnitude of the effects under both the proposed rule and the baseline, this analysis uses banking industry and financial data as of the quarter ending September 30, 2025. As of this date, the FDIC insures 4,388 IDIs, supervises

⁴⁸ 12 U.S.C. 5913(a).

⁴⁹ The FDIC, OCC, FRB and NCUA are concurrently working to implement the GENIUS Act mandate applicable to entities within their regulatory jurisdiction. *See, e.g.*, NCUA, Investments in and Licensing of Permitted Payment Stablecoins Issuers, 91 FR 6531 (Feb. 12, 2026); and OCC, Implementing the Guiding and Establishing National Innovation for U.S. Stablecoins Act for the Issuance of Stablecoins by Entities Subject to the Jurisdiction of the Office of the Comptroller of the Currency, 91 FR 10202 (Mar. 2, 2026).

⁵⁰ In addition, the analysis assumes that, under the proposed rule, the Secretary of the Treasury would have adopted rules to treat PPSIs as financial institutions for purposes of the Bank Secrecy Act and applied GENIUS Act obligations, including maintenance of an effective sanctions compliance program, as required by Section 4(a)(5) of the GENIUS Act (12 U.S.C. 5903(a)(5)).

⁴⁵ 12 U.S.C. 5901 *et seq.*

⁴⁶ 12 U.S.C. 5902(a).

⁴⁷ 12 U.S.C. 5903(a)(4)(A).

2,778 of these IDIs,⁵¹ and supervises zero PPSIs.

The FDIC recognizes the significant uncertainty regarding estimates of the number of FDIC-supervised PPSIs and IDIs that would seek to issue payment stablecoins or engage in other permitted payment stablecoin activities under the proposed rule. Because the regulations governing the application and approval of FDIC-supervised PPSIs are currently under development and have not yet been finalized,⁵² the FDIC lacks data on the number of entities that would ultimately fall under the scope of the FDIC-supervised PPSI category, either independently or through consortia and other partnerships. Recognizing this uncertainty, without predicting the actual amount of FDIC-supervised PPSIs, for the purposes of this analysis, the FDIC estimates that between 5 and 30 FDIC-supervised IDIs would apply for and receive approval to issue payment stablecoins through FDIC-supervised PPSIs in the first few years after the enactment of the proposed rule. The population of FDIC-supervised PPSIs under the proposed rule could be higher or lower depending on market demand, strategic operational choices of FDIC-supervised entities, and future developments in the digital landscape, among many other factors. By utilizing this range, the FDIC aims to establish an estimate that serves as the basis for evaluating the economic effects of the proposed rule, while acknowledging the inherent uncertainty resulting from a lack of historical precedent.

Beyond the direct issuance of payment stablecoins under section 4 of the GENIUS Act, the proposed rule would also encompass a broader population of institutions through its supervision of payment stablecoin-related financial activities, consistent with the GENIUS Act. As noted above, FDIC-supervised custodians would also be affected by the proposed rule. As with FDIC-supervised PPSIs, the FDIC recognizes significant uncertainty regarding the number of FDIC-supervised custodians that would provide such services. For the purposes of providing a conservative estimate, the FDIC assumes that approximately 30

FDIC-supervised IDIs would perform these activities under the proposed rule.

B. Expected Benefits

If finalized, the proposed rule would establish a new regulatory framework for payment stablecoins issued by subsidiaries of FDIC-supervised institutions. The new framework could encourage FDIC-supervised entities to establish PPSIs to issue payment stablecoins and lead to an expansion of the payment stablecoin market. The expansion would provide the general public with more choices for making payments and engaging in transactions; provide regulatory clarity for FDIC-supervised IDIs seeking to issue payment stablecoins; and expand the set of opportunities related to payment stablecoin market activities. The proposed rule would effectuate this clarity through the formalization of a Federal regulatory framework for payment stablecoin related activities. By resolving uncertainty that potentially hindered innovation and constrained capital allocation within the digital asset space, the proposed rule would stimulate payment stablecoin issuance, potentially resulting in more structured growth than would have otherwise occurred under the baseline. While these benefits are inherently difficult to quantify, the FDIC anticipates they could be material to the general public, the banking sector, and the broader economy.

The proposed rule would provide the general public with more choices for making payments and engaging in transactions. To the extent payment stablecoins issued by FDIC-supervised PPSIs under the proposed rule would have lower transaction frictions or remittance costs, or added functionality, compared to other payment options available under the baseline, the proposed rule would result in transaction cost savings or other benefits for payment stablecoin holders. Lower fees due to increased competition among payment stablecoin issuers or custodians would also benefit payment stablecoin holders under the proposed rule, relative to the baseline.

The proposed rule would also benefit payment stablecoin holders by providing a more secure environment, relative to the baseline, for activities related to payment stablecoins. The proposed rule would provide payment stablecoin holders increased assurance that their payment stablecoins are subject to elevated regulatory and supervisory standards. By codifying requirements and standards for reserves, redemption policies, and operational and compliance standards, among

others, the proposed rule would require that payment stablecoin holders are able to redeem payment stablecoins issued by an FDIC-supervised PPSI at par, including during periods of market stress.

In addition to the core activities of issuing payment stablecoins, the proposed rule may result in FDIC-supervised IDIs opening new fee-based income streams from digital asset custody, settlement services, and strategic partnerships with financial technology providers. Furthermore, the ability to settle obligations on-chain using a regulated instrument could provide operational efficiencies and lower costs associated with an institution's internal accounting functions. By establishing a definitive set of requirements and standards associated with payment stablecoins, the proposed rule would provide FDIC-supervised IDIs additional opportunities to leverage their existing customer base, payment system networks, risk management, and compliance infrastructures to compete effectively in the digital payments market.

Through the clarification of existing statutory definitions as applied to emerging technologies, the proposed rule could also generate indirect benefits for the economy, including reduced legal uncertainty, and enhanced understanding of the characterization of tokenized deposits and deposit insurance coverage rules. Under the clarity offered by the proposed rule, some IDIs may therefore choose to invest in innovations with greater confidence, potentially leading to more efficient payment mechanisms relative to the baseline.

The requirements established by the proposed rule, consistent with the GENIUS Act, would promote safety and soundness of FDIC-supervised PPSIs. The proposed rule includes a number of safeguards to protect payment stablecoin holders, such as the standards related to minimum reserve requirements, composition of reserves, and redemption policies, among others.

C. Expected Costs

The proposed rule's expected direct costs are divided into two distinct categories for discussion. First, the analysis identifies and quantifies the direct compliance costs associated with changes in reporting, recordkeeping, and disclosure requirements to affected institutions as a result of the proposed rule. Second, the analysis discusses a broader set of operational costs to all affected institutions that, although they may not be quantifiable given the inherent degree of uncertainty about

⁵¹ Including insured State nonmember banks, insured State-licensed branches of foreign banks, and insured State savings associations. FFIEC Reports of Condition and Income (Call Reports), September 30, 2025.

⁵² The FDIC has issued a notice of proposed rulemaking regarding the application process for FDIC-supervised institutions, Approval Requirements for Issuance of Payment Stablecoins by Subsidiaries of FDIC-Supervised Insured Depository Institutions, 90 FR 59409 (Dec. 19, 2025).

market developments, would still be material to the evaluation of the proposed rule's overall impact on the economy.

1. Reporting, Recordkeeping, and Disclosure Costs

The FDIC recognizes significant heterogeneity in the compliance costs imposed by the proposed rule across the population of FDIC-supervised PPSIs and FDIC-supervised custodians, given their variation in size, structure, and internal processes. For purposes of fulfilling the requirements of the Paperwork Reduction Act, the FDIC has estimated the average costs associated with the recordkeeping, reporting, and disclosure requirements in the proposed rule.⁵³ While these costs only represent a portion of the total compliance costs imposed by the proposed rule, these costs can help estimate a minimum level of the expected costs incurred by the affected populations. The following subsections describe, respectively, the one-time costs related to implementing the systems used to comply with the proposed rule's recordkeeping, reporting, and disclosure requirements and the ongoing costs related to maintaining these systems.

Implementation/Initial Set-Up Burden

FDIC-supervised PPSIs would be required under the proposed rule to create and maintain systems of records of reserve management and internal audit procedures, and establish contingency and restoration plans. In addition, they would be required to submit weekly reports to the FDIC, notify the FDIC under certain circumstances (such as for a significant redemption request),⁵⁴ and provide monthly public reports on reserve composition and public disclosures of redemption policies.⁵⁵ Large PPSIs that are not subject to the reporting requirements under section 13(a) or 15(d) of the Securities and Exchange Act of 1934 would also be required to have a registered public accounting firm audit their annual financial statements.⁵⁶ FDIC-supervised custodians, pursuant to part 350, subpart B of the proposed rule would also be required to establish and maintain policies and procedures associated with protecting customer payment stablecoin reserves, payment

stablecoins, private keys, cash, and other property.

To establish the systems to comply with the requirements listed above, the FDIC estimates that FDIC-supervised PPSIs would incur an average of 922 hours of burden in their first year.⁵⁷ While the FDIC estimates that between 5 and 30 PPSIs would fall under the FDIC's supervisory authority under the proposed rule, for purposes of its Paperwork Reduction Act estimates, the FDIC assumes that: (1) 10 FDIC-supervised IDIs would seek approval for their subsidiary to become a PPSI each year over the first three years after the proposed rule is finalized and (2) there would be approximately 30 FDIC-supervised custodians, some of which may also be FDIC-supervised PPSIs themselves. At an estimated hourly labor compensation rate of \$112.31,⁵⁸ ten new FDIC-supervised PPSIs each year would incur an aggregate \$1.04 million in estimated costs to comply with the proposed rule's implementation requirements, as described above.⁵⁹ As a conservative estimate, if 30 FDIC-supervised PPSIs entered in a single year, this one-time cost would rise to an estimated \$3.11 million.

Ongoing Burden

For the purpose of estimating the ongoing compliance costs under the proposed rule, each FDIC-supervised

PPSI is expected to incur, on average, approximately 1,000 hours of annual burden to comply with the proposed recordkeeping, reporting, and disclosure requirements.⁶⁰ At an estimated hourly labor compensation rate of \$112.31, as described above, the estimated total annual ongoing cost to FDIC-supervised PPSIs would be upwards of \$3.37 million per year under the upper-bound assumption that 30 FDIC-supervised PPSIs would be approved under the proposed rule.⁶¹

2. Broader Operational Costs to Affected Institutions

FDIC-supervised PPSIs are expected to incur operational expenses—beyond those associated with reporting, recordkeeping, and disclosure—related to the range of permitted activities that would fall under proposed § 350.3, including issuing and redeeming payment stablecoins, managing eligible reserves, and providing custodial or safekeeping services. Commensurate with their risk profile and business model, FDIC-supervised PPSIs would also be expected to incur operational costs associated with risk management, including the implementation of information technology and security practices (proposed § 350.6), and maintain minimum capital and an operational backstop (proposed § 350.9). The FDIC recognizes that seeking PPSI status and issuing payment stablecoins would be, nonetheless, a voluntary, market driven activity resulting from the strategic decisions to engage in the payment stablecoin market. Therefore, an FDIC-supervised IDI would generally only engage in these activities if the projected revenue generated through, for example, transaction-based fees and/or enhanced customer retention, were expected to outweigh the aggregate operating and compliance costs associated with those activities.

Part 350, subpart B of the proposed rule would also establish requirements for FDIC-supervised custodians that are engaged in the business of providing custodial or safekeeping services for payment stablecoin reserves or payment stablecoins used as collateral. To the extent that custody requirements for payment stablecoins and related assets differ from existing requirements, FDIC-supervised custodians engaging in custody and safekeeping services may experience some incremental costs under the proposed rule. The FDIC does not have the data necessary to quantify

⁵³ These requirements are described fully in Section VI.B.

⁵⁴ Proposed 12 CFR 350.1(b)(24).

⁵⁵ A complete list of Paperwork Reduction Act requirements is described fully in Section VI.B.

⁵⁶ Proposed 12 CFR 350.7(j).

⁵⁷ Details of the burden hours for each requirement are described fully in Section VI.B.

⁵⁸ Bureau of Labor Statistics: National Industry-Specific Occupational Employment and Wage Estimates: Industry: Credit Intermediation and Related Activities (5221 and 5223 only) (May 2024); Employer Cost of Employee Compensation (March 2024); and Employment Cost Index (March 2024 and September 2025). For the implementation burden associated with the proposed rule, the FDIC estimated the following labor allocation for entities complying with these requirements: Executives and Managers (11–0000): 20 percent; Lawyers (23–0000): 45 percent; Compliance Officers (13–1040): 25 percent; and IT specialists (15–0000): 10 percent. For the ongoing reporting burden associated with the proposed rule, the FDIC estimated the following labor allocation: Executives and Managers: 20 percent; Lawyers: 10 percent; Compliance Officers: 50 percent; IT specialists: 10 percent; Financial Analysts (13–2051); and Clerical workers (43–0000): 5 percent each. For the ongoing recordkeeping burden associated with the proposed rule, the FDIC estimated the following labor allocation: Executives and Managers: 15 percent; Lawyers: 5 percent; Compliance Officers: 50 percent; IT specialists: 10 percent; Financial Analysts: 15 percent; and Clerical workers: 5 percent. For the ongoing disclosure burden associated with the proposed rule, the FDIC estimated the following labor allocation: Executives and Managers: 15 percent; Lawyers: 10 percent; Compliance Officers: 50 percent; IT specialists: 10 percent; Financial Analysts: 10 percent; and Clerical workers: 5 percent.

⁵⁹ The FDIC estimates that none of these PPSIs will be small for purposes of the Regulatory Flexibility Act.

⁶⁰ Details of the burden hours for each requirement are described fully in Section VI.B.

⁶¹ In addition, FDIC-supervised custodians are expected to incur approximately one hour of burden per year.

these costs but expects that they would generally be mitigated by the ability of an FDIC-supervised IDI to leverage existing custody and safekeeping infrastructure and expertise. Furthermore, FDIC-supervised IDIs would generally only engage in these services if the projected revenue generated through custody and safekeeping were expected to outweigh the aggregate operating and compliance costs associated with those activities.

In addition, the proposed rule would provide clarity to all IDIs with respect to deposit insurance coverage under the FDI Act for deposits held at IDIs that serve as reserve assets of a PPSI's payment stablecoin, as well as clarify the treatment of tokenized deposits, specifically, that the elements of the statutory definition of "deposit" under the FDI Act apply irrespective of technology. In this case, these clarifications in the proposed rule would not alter or amend existing legal or regulatory requirements for FDIC-insured depository institutions, and as such would not impose direct costs on IDIs.

D. Indirect Effects on the Banking System and the Broader Economy

In addition to the benefits and costs discussed above, the proposed rule could have indirect effects across the banking system and the broader economy, relative to the baseline in which the GENIUS Act were not enacted.

One potential impact of the proposed rule, relative to the baseline, could be driven by shifts in the composition and aggregate volume of deposits. Under the proposed rule, some depositors may choose to transition a portion of their holdings from transactional demand deposit accounts (including retail checking accounts) into payment stablecoins to access faster settlement, programmable transaction capabilities, smart contract integration, as well as other features. Such shifts would alter the nature of deposits across the banking system. The implementation of the proposed rule could simultaneously attract a new set of participants into the banking system. Specifically, a Federal regulatory framework for the payment stablecoin market could draw in capital from individuals and entities outside of the regulated banking system, both existing digital payment consumers and those who would not participate under the baseline specifically due to the lack of regulatory clarity, as well as international participants seeking a dollar-denominated payment system offered within a Federally regulated framework.

The FDIC does not have the data necessary to estimate the net effect on deposits resulting from the proposed rule. The outcome would depend on several factors, including the rate of payment stablecoin adoption across different segments of the population, the strategic responses of institutions utilizing existing payment technologies, and the development of the digital asset market more broadly.

In the event that a large redemption request were to place operational stress on FDIC-supervised PPSIs, the proposed rule would mitigate this risk through the reserve asset composition requirement specified in proposed § 350.4(e), which would limit those assets backing outstanding payment stablecoins to safe, highly-liquid assets. Combined with regular reporting and third-party attestations, monthly attestations by a registered public accounting firm, and the monthly report on reserve composition, the proposed reserve asset composition requirement would ensure that the expansion of the payment stablecoin market occurs within a supervised framework that prioritizes the stability of the broader financial system.

As discussed in section III.A.9, the proposed amendments to § 324.22 on regulatory capital may result in changes in the capital ratios, relative to the baseline, of an FDIC-supervised IDI with a consolidated PPSI subsidiary. The FDIC does not have the data to quantify these effects; however, the risk of inflated capital ratios through balance sheet management activities intended to improve the FDIC-supervised IDI's regulatory capital position rather than serve the operations and/or business needs of its PPSI would be mitigated by the FDIC's supervision of the parent IDI and corresponding PPSI subsidiary.

For these reasons, the FDIC does not expect that the proposed rule would increase risks to the Deposit Insurance Fund (DIF) or undermine the stability of the financial system. This expectation is in part supported by the structural requirements of the GENIUS Act and the specific prudential guardrails established in the proposed rule. By maintaining a strict legal and operational separation between payment stablecoin issuance and insured deposits, the proposed rule would ensure that the DIF would not be exposed to the specific liquidity or market risks associated with payment stablecoin redemption.

Given the economic effects discussed above, the FDIC expects that the benefits of the proposed rule justify its costs.

The FDIC invites comments on all aspects of the supporting information

provided in the Expected Effects section. The FDIC is particularly interested in comments on any material economic effects that the agency has not identified.

V. Alternatives Considered

The FDIC is proposing to amend its regulations to implement certain provisions of the GENIUS Act. Because the amendments are statutorily mandated, the FDIC has not considered a "no action" alternative. Although the FDIC has not developed any alternative proposals, the FDIC will consider any alternative regulatory approaches raised by commenters, especially any that are directly responsive to the questions for commenters set forth above.

VI. Regulatory Analysis

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency, in connection with a proposed rule, to prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of the proposed rule on small entities.⁶² However, an initial regulatory flexibility analysis is not required if the agency certifies that the proposed rule would not, if promulgated, have a significant economic impact on a substantial number of small entities. The Small Business Administration (SBA) has defined "small entities" to include banking organizations with total assets of less than or equal to \$850 million.⁶³

Generally, the FDIC considers a significant economic impact to be a quantified effect in excess of 5 percent of total annual salaries and benefits or 2.5 percent of total noninterest expenses. The FDIC believes that effects in excess of one or more of these thresholds typically represent significant economic impacts for FDIC-insured institutions.

The FDIC estimates the effects of the required mandates of the proposed rule on small FDIC supervised entities. As noted in Section IV, the FDIC utilizes a pre-statutory baseline under which the GENIUS Act is considered unenacted. Under this baseline, specifically, FDIC-supervised IDIs do not issue payment

⁶² 5 U.S.C. 601 *et seq.*

⁶³ The SBA defines a small banking organization as having \$850 million or less in assets and determines an organization's assets by averaging the assets reported on its four quarterly financial statements for the preceding year. *See* 13 CFR 121.201 (as amended by 87 FR 69118, effective December 19, 2022). Following these regulations, the FDIC uses an FDIC-supervised institution's affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the FDIC-supervised institution is "small" for the purposes of the RFA.

stablecoins given the lack of regulatory clarity surrounding such activities; to the extent any such activity occurs, it is conducted on a highly limited or experimental basis under existing general authorities. Absent the GENIUS Act, no formal Federal framework exists to coordinate and homogenize the issuance of payment stablecoins, leaving the market to operate under a fragmented regulatory framework and limited Federal guidance.

As previously discussed, the proposed rule would apply to all FDIC-supervised PPSIs and certain IDIs or FDIC-supervised IDIs that would choose to provide custodial and safekeeping services or hold reserves for payment stablecoins.⁶⁴ As of the quarter ending September 30, 2025, the FDIC insures 4,388 depository institutions, of which 3,062 are “small,” and supervises 2,778 IDIs, of which 2,064 are considered “small” for the purposes of RFA.⁶⁵

For those “small” IDIs or FDIC-supervised IDIs that choose to provide custodial and safekeeping services or hold reserves for payment stablecoins, the FDIC expects that the direct impact of the proposed rule would be insignificant. Most IDIs perform custodial and safekeeping services under the baseline; the proposed rule would only impose *de minimis* incremental costs on these IDIs.

For those “small” IDIs that would have a PPSI subsidiary the FDIC expects that the direct impact of the proposed rule may be significant. The FDIC recognizes considerable uncertainty regarding the number of FDIC-supervised PPSIs that would emerge under the proposed framework. For the purposes of this analysis, the FDIC estimates that the number of FDIC-supervised PPSIs would likely range between 5 and 30 in the first few years after the enactment of the proposed rule. Given the early stages of the payment stablecoin market, this range accounts for significant uncertainty regarding the volume of future participants. The population of FDIC-supervised PPSIs under the proposed rule could be higher or lower depending on market demand, strategic operational choices of eligible institutions, and future developments in the digital landscape. By utilizing this range, the FDIC aims to establish an estimate that serves as the basis for evaluating the economic effects of the proposed rule, while acknowledging the inherent uncertainty resulting from a lack of historical precedent.

Because an FDIC-supervised PPSI must be a subsidiary of an IDI, the FDIC

expects that the initial adopters of this technology will likely be larger institutions with the compliance infrastructure and capital necessary to support payment stablecoin issuance. As such, the FDIC anticipates that most, if not all, FDIC-supervised PPSIs would not be “small” entities as defined by the SBA. Therefore, the FDIC believes the proposed rule is unlikely to have a significant economic impact on a substantial number of small entities.

However, given the lack of historical precedent and the evolving nature of the payment stablecoin market, the FDIC conservatively assumes that, for the purpose of this analysis, all the entities falling within the previously discussed scope of 5 to 30 potential FDIC-supervised PPSIs could be “small” entities. By adopting this conservative assumption, the FDIC aims to provide a comprehensive estimate of the potential economic impact on “small” entities.

Even assuming the unlikely scenario that all, *i.e.*, the upper-bound number of 30 entities, would be “small” and that all 30 entities would be significantly impacted by the proposed rule, the number of affected small entities would still make up less than 1.5 percent of all FDIC-supervised small entities. The FDIC does not consider 1.5 percent to be a substantial number of small entities.

In light of the foregoing, the FDIC certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities. Accordingly, an initial regulatory flexibility analysis is not required.

The FDIC invites comments on all aspects of the supporting information provided in this RFA section. The FDIC is particularly interested in comments on any significant effects on small entities that the agency has not identified.

B. Paperwork Reduction Act

This notice of proposed rulemaking has been reviewed for compliance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*). In accordance with the PRA, the FDIC may not conduct or sponsor, and an organization is not required to respond to, an information collection unless the information collection displays a currently valid Office of Management and Budget (OMB) control number. The FDIC has reviewed the notice of proposed rulemaking and determined that it would introduce new information collection requirements pursuant to the PRA. The FDIC is seeking a new control number for these information collection requirements and will submit them to OMB for review and approval.

Proposed Information Collection

Title: Requirements and Standards for FDIC-Supervised Permitted Payment Stablecoin Issuers and Insured Depository Institutions.

OMB Control No.: 3064–NEW.

Type of Review: Regular.

Affected Public: Businesses or other for-profit.

Description: The proposed rule would establish regulatory requirements for FDIC-supervised permitted payment stablecoins issuers as mandated by the GENIUS Act, as well as provide further clarity for FDIC-supervised custodians.

The information collection requirements in the proposed rule are as follows:

Reporting Requirements

Section 350.4(d) would require PPSIs to demonstrate the capability to access and monetize identifiable reserve assets.

Section 350.4(h)(2) would require the Chief Executive Officer and Chief Financial Officer of a PPSI to submit to the FDIC a certification as to the accuracy of the previous month-end report.

Section 350.4(i)(1) would require PPSIs to notify the FDIC in writing when identifiable reserves become less than the required amount.

Section 350.5(c)(1) would require PPSIs to provide notice to the FDIC when the PPSI is experiencing a significant redemption request.

Section 350.6(c) would require PPSIs to provide AML/CFT and sanctions program certification to the FDIC.

Section 350.7(g) would require PPSIs to provide a confidential weekly report to the FDIC.

Section 350.7(h) would require PPSIs to provide quarterly reports on financial condition to the FDIC.

Section 350.7(i) would require other reports to be submitted upon the FDIC’s request.

Section 350.7(j) would require large PPSIs to submit their annual financial statements to the FDIC.

Section 350.7(j)(2)(ii) would require PPSIs to submit a notice of late filing of all or any portion of the financial statement to the FDIC.

Section 350.9(c)(2) would require PPSIs to notify the FDIC if it fails to meet capital or backstop requirements at the end of a quarter.

Section 350.10(c)(2) would allow PPSIs to provide a response to the FDIC in writing regarding the FDIC’s determination that an additional capital or backstop is required.

Section 350.10(c)(4) would require PPSIs to submit a plan to reach additional capital or backstop requirements.

⁶⁴ See 12 U.S.C. 5903(a)(7).

⁶⁵ Call Reports, September 30, 2025.

Recordkeeping Requirements

Section 350.4(a)–(c) would require PPSIs to maintain records identifying separate reserves and calculate the fair value of reserve assets.

Section 350.4(j) would require PPSIs to maintain a written contingency plan to restore compliance after reserves fall below the required amount.

Section 350.4(k) would require PPSIs to notify the FDIC if the PPSI determines to take action that would result in the orderly redemptions of all outstanding payment stablecoins.

Section 350.5(a) and (b) would require PPSIs to establish a redemption policy.

Section 350.6(a)(1) and (2) requires PPSIs to maintain internal auditing systems.

Section 350.6(a)(6) would require PPSIs to require its service providers by contract to implement appropriate measures.

Section 350.6(c) would require PPSIs to certify their AML/CFT and sanctions programs.

Section 350.7(j) would require large PPSIs to audit their annual financial statements.

Section 350.103(b) would require PPSIs to maintain written policies, procedures, and internal controls that are adequate to comply with applicable law.

Disclosure Requirements

Section 350.4(g) would require PPSIs to publish a monthly report on its reserve composition on its website monthly.

Section 350.4(h)(1) would require PPSIs to publish a registered public accounting firm's examination report to their website monthly.

Section 350.5(a) and (b) would require PPSIs to publicly disclose a redemption policy.

Section 350.5(d) would require PPSIs to publicly disclose certain information relating to the PPSI, the payment stablecoin, and fees.

Section 350.6(b)(6) would require PPSIs to notify customers if there is an unauthorized access incident.

Section 350.6(b)(6) would require PPSIs to establish a program to notify customers if there is an unauthorized access incident. The program shall require the delay of customer notice if an appropriate law enforcement agency determines that notification will interfere with a criminal investigation and provides the permitted payment stablecoin issuer with a written request for the delay.

Section 350.7(j) would require large PPSIs to make their audited financial statements publicly available on the issuer's website.

TABLE 1—SUMMARY OF ESTIMATED ANNUAL BURDEN (OMB No. 3064—NEW)

Information Collection (IC) (obligation to respond)	Type of burden (frequency of response)	Number of respondents	Number of responses per respondent	Average time per response (HH:MM)	Annual burden (hours)
Implementation Burden Reporting Requirements					
1. Demonstrate the capability to access and monetize identifiable reserve assets—Section 350.4(d) (Mandatory).	Reporting	10	1	4:00	40
2. Require the CEO and CFO to submit to the FDIC a certification of accuracy—Section 350.4(h)(2) (Mandatory).	Reporting	10	1	4:00	40
3. Notify the FDIC in writing when identifiable reserves become less than the required amount—Section 350.4(i)(1) (Mandatory).	Reporting	10	1	1:00	10
4. Notify the FDIC if the PPSI determines to take action that would result in the orderly redemptions of all outstanding stablecoins—Section 350.4(k) (Mandatory).	Reporting	10	1	1:00	10
5. Provide notice to the FDIC when the PPSI is experiencing a significant redemption request—Section 350.5(c)(1) (Mandatory).	Reporting	10	1	0:30	5
6. Provide AML/CFT and sanctions program certification to the FDIC—Section 350.6(c) (Mandatory).	Reporting	10	1	20:00	200
7. Confidential weekly report to the FDIC—Section 350.7(g) (Mandatory).	Reporting	10	1	16:00	160
8. Provide quarterly reports of financial condition—Section 350.7(h) (Mandatory).	Reporting	10	1	80:00	800
9. Submit other reports upon request to the FDIC—Section 350.7(i) (Mandatory).	Reporting	10	1	16:00	160
10. Audits for large PPSIs, submission to the FDIC—Section 350.7(j) (Mandatory).	Reporting	*1	*1	4:00	4
11. Notify FDIC if PPSI fails to meet capital or backstop requirements at the end of a quarter—Section 350.9(c)(2) (Mandatory).	Reporting	10	1	4:00	40
12. Optional response to the FDIC in writing—Section 350.10(c)(2) (Voluntary).	Reporting	10	1	1:00	10
13. Submission of a plan to reach additional capital or backstop requirements—Section 350.10(c)(4) (Mandatory).	Reporting	10	1	1:00	10
14. Late filing of Audits—Section 350.7(j)(2)(ii) (Mandatory)	Reporting	*1	*1	8:00	8
Recordkeeping Requirements					
15. Maintain records identifying separate reserves and calculate the fair value of reserve assets—Section 350.4(a)–(c) (Mandatory).	Recordkeeping	10	1	40:00	400
16. Written contingency plan to restore compliance after reserves fall below required amount—Section 350.4(j) (Mandatory).	Recordkeeping	10	1	8:00	80
17. Establish a redemption policy—Section 350.5(a) and (b) (Mandatory).	Recordkeeping	10	1	8:00	80
18. Internal auditing system—Section 350.6(a)(1) and (2) (Mandatory) ..	Recordkeeping	10	1	80:00	800
19. Require service providers by contract to implement appropriate measures—Section 350.6(a)(6) (Mandatory).	Recordkeeping	10	1	4:00	40
20. Program to notify customers if there is an unauthorized access incident—Section 350.6(b)(6) (Mandatory).	Recordkeeping	10	1	4:00	40
21. Certify AML/CFT and sanctions programs program—Section 350.6(c) (Mandatory).	Recordkeeping	10	1	20:00	200
22. Audits for large PPSIs, annual financial statement—Section 350.7(j) (Mandatory).	Recordkeeping	*1	*1	480:00	480

TABLE 1—SUMMARY OF ESTIMATED ANNUAL BURDEN (OMB No. 3064–NEW)—Continued

Information Collection (IC) (obligation to respond)	Type of burden (frequency of response)	Number of respondents	Number of responses per respondent	Average time per response (HH:MM)	Annual burden (hours)
23. Implement written policies, procedures, and internal controls that are adequate to comply with applicable law—Section 350.103(b) (Mandatory).	Recordkeeping	30	1	8:00	240
Third-Party Disclosure Requirements					
24. Publish a monthly report on reserve composition monthly—Section 350.4(g) (Mandatory).	Third-Party Disclosure	10	1	40:00	400
25. Publish a registered public accounting firm's examination report to website monthly—Section 350.4(h)(1) (Mandatory).	Third-Party Disclosure	10	1	8:00	80
26. Publicly disclose a redemption policy—Section 350.5(a) and (b) (Mandatory).	Third-Party Disclosure	10	1	1:00	10
27. Publicly disclose certain information relating to the PPSI, the payment stablecoin, and fees—Section 350.5(d) (Mandatory).	Third-Party Disclosure	10	1	8:00	80
28. Program to notify customers if there is an unauthorized access incident—Section 350.6(b)(6) (Mandatory).	Third-Party Disclosure	10	1	4:00	40
29. Audits for large PPSIs, statements made publicly available—Section 350.7(j) (Mandatory).	Third-Party Disclosure	*1	*1	8:00	8
Ongoing Burden Reporting Requirements					
30. Demonstrate the capability to access and monetize the identifiable reserve assets—Section 350.4(d) (Mandatory).	Reporting (On Occasion)	20	1	12:00	240
31. Require the CEO and CFO to submit to the FDIC a certification of accuracy—Section 350.4(h)(2) (Mandatory).	Reporting (Monthly)	20	12	0:15	60
32. Notify the FDIC in writing when identifiable reserves become less than the required amount—Section 350.4(i)(1) (Mandatory).	Reporting (On Occasion)	*1	*1	4:00	4
33. Notify the FDIC if the PPSI determines to take action that would result in the orderly redemptions of all outstanding stablecoins—Section 350.4(k) (Mandatory).	Reporting (On Occasion)	*1	*1	4:00	4
34. Provide notice to the FDIC when the PPSI is experiencing a significant redemption request—Section 350.5(c)(1) (Mandatory).	Reporting (On Occasion)	*1	*1	0:30	1
35. Provide AML/CFT and sanctions programs certification to the FDIC—Section 350.6(c) (Mandatory).	Reporting (Annual)	20	2	1:00	40
36. Provide confidential weekly report to the FDIC—Section 350.7(g) (Mandatory).	Reporting (Weekly)	20	52	2:00	2,080
37. Provide quarterly reports of financial condition to the FDIC—Section 350.7(h) (Mandatory).	Reporting (Quarterly)	20	4	10:00	800
38. Other reports to be submitted upon FDIC request—Section 350.7(i) (Mandatory).	Reporting (On Occasion)	20	1	40:00	800
39. Audits for large PPSIs, submission to the FDIC—Section 350.7(j) (Mandatory).	Reporting (Annual)	*1	1	1:00	1
40. Late filing of Audits—Section 350.7(j)(2)(ii) (Mandatory)	Reporting (On Occasion)	*1	1	2:00	2
41. Notify FDIC if PPSI fails to meet capital or backstop requirements at the end of a quarter—Section 350.9(c)(2) (Mandatory).	Reporting (On Occasion)	*1	*1	1:00	1
42. Optional response to the FDIC in writing—Section 350.10(c)(2) (Voluntary).	Reporting (On Occasion)	*1	1	1:00	1
43. Submission of a plan to reach additional capital or backstop requirements—Section 350.10(c)(4) (Mandatory).	Reporting (On Occasion)	*1	*1	40:00	40
Recordkeeping Requirements					
44. Maintain records identifying separate reserves as and calculating the fair value of reserve assets—Section 350.4(a)–(c) (Mandatory).	Recordkeeping (Daily)	20	250	0:15	1,250
45. Maintain a written contingency plan to restore compliance after reserves sink below required amount—Section 350.4(j) (Mandatory).	Recordkeeping (On Occasion)	20	1	1:00	20
46. Establish a redemption policy—Section 350.5(a) and (b) (Mandatory).	Recordkeeping (On Occasion)	20	1	1:00	20
47. Internal auditing system—Section 350.6(a)(1) and (2) (Mandatory) ..	Recordkeeping (On Occasion)	20	1	480:00	9,600
48. Require service providers by contract to implement appropriate measures—Section 350.6(a)(6) (Mandatory).	Recordkeeping (On Occasion)	20	1	4:00	80
49. Certify AML/CFT and sanctions program—Section 350.6(c) (Mandatory).	Recordkeeping (Annual)	20	2	1:00	40
50. Audits for large PPSIs, annual financial statement—Section 350.7(j) (Mandatory).	Recordkeeping (Annual)	*1	1	40:00	40
51. Maintain written policies, procedures, and internal controls that are adequate to comply with applicable law—Section 350.103(b) (Mandatory).	Recordkeeping (Annual)	30	1	1:00	30
Third-Party Disclosure Requirements					
52. Publish a monthly report on reserve composition—Section 350.4(g) (Mandatory).	Third-Party Disclosure (Monthly)	20	12	9:00	2,160
53. Publish a registered public accounting firm's examination report to their website monthly—Section 350.4(h)(1) (Mandatory).	Third-Party Disclosure (Monthly)	20	12	1:00	240
54. Publicly disclose redemption policy—Section 350.5(a) and (b) (Mandatory).	Third-Party Disclosure (On Occasion)	20	1	1:00	20

TABLE 1—SUMMARY OF ESTIMATED ANNUAL BURDEN (OMB No. 3064–NEW)—Continued

Information Collection (IC) (obligation to respond)	Type of burden (frequency of response)	Number of respondents	Number of responses per respondent	Average time per response (HH:MM)	Annual burden (hours)
55. Publicly disclose certain information relating to the PPSI, the payment stablecoin, and fees—Section 350.5(d) (Mandatory).	Third-Party Disclosure (On Occasion).	20	1	1:00	20
56. Notify customers when there is an unauthorized access incident—Section 350.6(b)(6) (Mandatory).	Third-Party Disclosure (On Occasion).	20	1	1:00	20
57. Program to notify customers when there is an unauthorized access incident—Section 350.6(b)(6) (Mandatory).	Third-Party Disclosure (On Occasion).	20	1	1:00	20
58. Public Audits for large PPSIs, statements made publicly available—Section 350.7(j) (Mandatory).	Third-Party Disclosure (Annual).	*1	1	1:00	1
Total Annual Burden (Hours) .....	.....	.....	.....	.....	22,110

Source: FDIC.

Note: The estimated annual IC time burden is the product, rounded to the nearest hour, of the estimated annual number of responses and the estimated time per response for a given IC. The estimated annual number of responses is the product, rounded to the nearest whole number, of the estimated annual number of respondents and the estimated annual number of responses per respondent. This methodology ensures the estimated annual burdens in the table are consistent with the values recorded in OMB's consolidated information system.

* The FDIC does not expect that it will be common to have respondents or responses in this IC. The FDIC is using this placeholder to preserve the collection.

Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility;

(b) The accuracy of the estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

All comments will become a matter of public record. Comments on aspects of this proposed rule that may affect reporting, recordkeeping, or disclosure requirements and burden estimates should be sent to the address listed in the **ADDRESSES** section. Written comments and recommendations for this information collection also should be sent within 60 days of publication of this document to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 60-day Review—Open for Public Comments" or by using the search function.

C. Riegle Community Development and Regulatory Improvement Act

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (RCDRIA),⁶⁶ in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on IDIs, each Federal banking agency must consider, consistent with principles of safety and

soundness and the public interest, any administrative burdens that such regulations would place on affected depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations. In addition, section 302(b) of the RCDRIA requires new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on IDIs generally to take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form. The FDIC invites comments that further will inform its consideration of the RCDRIA.⁶⁷

D. Plain Language

Section 722 of the Gramm-Leach-Bliley Act⁶⁸ requires the Federal banking agencies to use plain language in all proposed and final rulemakings published in the **Federal Register** after January 1, 2000. The FDIC invites your comments on how to make this proposed rule easier to understand, including the following:

Questions on Plain Language

Question 140: Has the FDIC organized the material to suit your needs? If not, how could the proposed rule be more clearly stated?

Question 141: Are the requirements in the proposed rule clearly stated? If not, how could the proposed rule be more clearly stated?

Question 142: Does the proposed rule contain language or jargon that is not clear? If so, which language requires clarification?

Question 143: Would a different format (grouping and order of sections,

use of headings, paragraphing) make the proposed rule easier to understand? If so, what changes to the format would make the proposed rule easier to understand?

Question 144: What else could the FDIC do to make the proposed rule easier to understand?

E. Executive Orders 12866 and 14192

Executive Order 12866, as amended, directs agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This proposed rule was drafted and reviewed in accordance with Executive Order 12866. Within OMB, the Office of Information and Regulatory Affairs (OIRA) has determined that this rulemaking is a "significant regulatory action" under section 3(f) of Executive Order 12866. Accordingly, the draft rule was submitted to OIRA for review. As noted in other sections of the

SUPPLEMENTARY INFORMATION of this document, the FDIC has assessed the costs and benefits of this rulemaking and has made a reasoned determination that the benefits of this rulemaking justify its costs. Executive Order 14192, titled "Unleashing Prosperity Through Deregulation," was issued on January 31, 2025. Section 3(a) of Executive Order 14192 requires an agency, unless prohibited by law, to identify at least ten existing regulations to be repealed when the agency publicly proposes for notice and comment or otherwise promulgates a new regulation. In furtherance of this standard, section 3(c) of Executive Order 14192 requires that the new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least ten prior regulations. This

⁶⁶ 12 U.S.C. 4802(a).

⁶⁷ 12 U.S.C. 4802(b).

⁶⁸ Public Law 106–102, section 722, 113 Stat. 1338, 1471 (1999), 12 U.S.C. 4809.

proposed rule, if finalized as proposed, is not expected to be a regulatory action under Executive Order 14192.

List of Subjects

12 CFR Part 324

Banks, Banking, Capital.

12 CFR Part 330

Bank deposit insurance.

12 CFR Part 350

Custody, Insured state nonmember bank, Insured state savings association, Payment stablecoin, Permitted payment stablecoin issuer, Safekeeping.

Authority and Issuance

For the reasons stated in the preamble, the Federal Deposit Insurance Corporation proposes to amend 12 CFR parts 324, 330, and 350 as follows:

PART 324—CAPITAL ADEQUACY OF FDIC—SUPERVISED INSTITUTIONS

■ 1. Revise the authority citation for part 324 to read as follows:

Authority: 12 U.S.C. 1815(a), 1815(b), 1816, 1818(a), 1818(b), 1818(c), 1818(t), 1819(Tenth), 1828(c), 1828(d), 1828(i), 1828(n), 1828(o), 1831o, 1835, 3907, 3909, 4808; 5371; 5412, 5903(a)(4)(C); Pub. L. 102–233, 105 Stat. 1761, 1789, 1790 (12 U.S.C. 1831n note); Pub. L. 102–242, 105 Stat. 2236, 2355, as amended by Pub. L. 103–325, 108 Stat. 2160, 2233 (12 U.S.C. 1828 note); Pub. L. 102–242, 105 Stat. 2236, 2386, as amended by Pub. L. 102–550, 106 Stat. 3672, 4089 (12 U.S.C. 1828 note); Pub. L. 111–203, 124 Stat. 1376, 1887 (15 U.S.C. 78o–7 note), Pub. L. 115–174; section 4014 § 201, Pub. L. 116–136, 134 Stat. 281 (15 U.S.C. 9052).

■ 2. Amend § 324.22 by adding paragraph (i) to read as follows:

§ 324.22 Regulatory capital adjustments and deductions.

* * * * *

(i) *Permitted Payment Stablecoin Issuers.* Notwithstanding any other provision in this section, an FDIC-supervised institution that is consolidated with a permitted payment stablecoin issuer as defined in § 350.1 of this chapter must make the following adjustments when calculating its capital ratios under § 324.10:

(1) Deconsolidate any permitted payment stablecoin issuer from the FDIC-supervised institution's balance sheet;

(2) Deduct from common equity tier 1 capital any amount of positive retained earnings that originated from the permitted payment stablecoin issuer to the extent not paid out as dividends to the FDIC-supervised institution; and

(3) Exclude any investment in (to the extent not deducted under paragraph

(i)(2) of this section) and receivable from the permitted payment stablecoin issuer when calculating standardized total risk-weighted assets, advanced approaches risk-weighted assets, average total consolidated assets, and total leverage exposure, as applicable.

■ 3. Amend § 324.401(g) by, in the first sentence, removing “under in § 324.22(a), (c), and (d)” and adding “under § 324.22(a), (c), (d), and (i)” in its place.

PART 330—DEPOSIT INSURANCE COVERAGE

■ 4. Authority for part 330 continues to read as follows:

Authority: 12 U.S.C. 1813(l), 1813(m), 1817(i), 1818(q), 1819(a)(Tenth), 1820(f), 1820(g), 1821(a), 1821(d), 1822(c).

■ 5. Amend § 330.1 by revising and republishing paragraph (e) to read as follows:

* * * * *

(e) *Deposit account records* means account ledgers, signature cards, certificates of deposit, passbooks, corporate resolutions authorizing accounts in the possession of the insured depository institution and other books and records of the insured depository institution, regardless of the technology or type of recordkeeping utilized, which relate to the insured depository institution's deposit taking function, but does not mean account statements, deposit slips, items deposited or cancelled checks.

* * * * *

■ 6. Amend § 330.3 by adding a new paragraph (k) to read as follows:

* * * * *

(k) *Technology used to record deposits.* The technology or type of recordkeeping utilized by an insured depository institution to record deposit liabilities does not affect whether those liabilities constitute “deposits.”

* * * * *

■ 7. Amend § 330.11(a) by adding paragraph (3) to read as follows:

§ 330.11 Accounts of a corporation, partnership or unincorporated association.

(a) * * *

(3) Notwithstanding any other provision of this part, deposits at an insured depository institution held as reserves for a payment stablecoin, as defined in the Guiding and Establishing National Innovation for U.S. Stablecoins Act, are deposits of the permitted payment stablecoin issuer's and insured as corporate deposits for purposes of this part.

* * * * *

PART 350—PAYMENT STABLECOIN

■ 8. Amend part 350 to read as follows:

Authority: 12 U.S.C. 1819(Tenth); 12 U.S.C. 5901–5916.

Subpart A—Requirements and Standards for Permitted Payment Stablecoin Issuers

- 350.0 Purpose and scope.
- 350.1 Definitions.
- 350.2 Severability.
- 350.3 Activities.
- 350.4 Reserve assets.
- 350.5 Redemption.
- 350.6 Risk management.
- 350.7 Audits, reports, and supervision.
- 350.8 Capital elements.
- 350.9 Minimum capital and backstop.
- 350.10 Individual additional capital or backstop requirement.

Subpart B—Requirements for FDIC-Supervised Entities Engaged in the Custody or Safekeeping of Payment Stablecoin Reserves and Collateral

- 350.100 Purpose and Scope.
- 350.101 Definitions.
- 350.102 Severability.
- 350.103 Custodial and Safekeeping Requirements.
- 350.104 Commingling Prohibition and Limited Exceptions.

Subpart A—Requirements and Standards for Permitted Payment Stablecoin Issuers

§ 350.0 Purpose and scope.

(a) *Purpose.* Subpart A implements certain provisions of the Guiding and Establishing National Innovation for U.S. Stablecoins Act (12 U.S.C. 5901 *et seq.*) (GENIUS Act) authorizing the FDIC to issue regulations under the Act with respect to permitted payment stablecoin issuers that have been approved by the FDIC and for which the FDIC is the primary Federal payment stablecoin regulator.

(b) *Scope.* This subpart applies to all permitted payment stablecoin issuers for which the FDIC is the primary Federal payment stablecoin regulator.

§ 350.1 Definitions.

(a) To the extent not otherwise defined in this subpart, the terms used in this subpart have the same meaning given to them as in section 2 of the GENIUS Act (12 U.S.C. 5901).

(b) For purposes of this subpart, the following definitions apply:

(1) *Affiliate* means a person that controls, is controlled by, or is under common control with another person.

(2) *Bank Secrecy Act* means:

(i) Section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b);

(ii) Chapter 2 of title I of Public Law 91–508 (12 U.S.C. 1951 *et seq.*); and

(iii) Subchapter II of chapter 53 of title 31, United States Code and notes thereto (31 U.S.C. 5311 *et seq.*).

(3) *Customer* means a person that purchases (through any consideration) the products or services of a permitted payment stablecoin issuer directly from the permitted payment stablecoin issuer.

(4) *Demand deposit* has the meaning given that term at 12 CFR 204.2(b). The term includes demand deposits in tokenized form.

(5) *Deposit* means “deposit” as defined in section 3(l) of the Federal Deposit Insurance Act (12 U.S.C. 1813(l)). The term includes deposits in tokenized form.

(6) *Digital asset* means any digital representation of value that is recorded on a cryptographically secured distributed ledger.

(7) *Distributed ledger* means technology in which data is shared across a network that creates a public digital ledger of verified transactions or information among network participants and cryptography is used to link the data to maintain the integrity of the public ledger and execute other functions.

(8) *Distributed ledger protocol* means publicly available and accessible executable software deployed to a distributed ledger, including smart contracts or networks of smart contracts.

(9) *Eligible financial institution* means either:

- (i) A Federal Reserve Bank; or
- (ii) A person that is eligible to hold reserve assets in custody under section 10(a) of the GENIUS Act (12 U.S.C. 5909(a)) and that:

(A) Complies with the applicable requirements in section 10(b), (c), and (d) of the GENIUS Act, including with applicable implementing regulations issued by the relevant primary Federal payment stablecoin regulator, primary financial regulatory agency, State bank supervisor, or State credit union supervisor; and

(B) If applicable, enters into a custody agreement with a permitted payment stablecoin issuer documenting the person’s compliance with paragraph (ii)(A) of this section, and has implemented policies and procedures as to ensure compliance.

(10) *Fair value* means fair value as determined under GAAP.

(11) *GAAP* means generally accepted accounting principles as used in the United States.

(12) *Insured credit union* has the meaning given to that term in section 101 of the Federal Credit Union Act (12 U.S.C. 1752).

(13) *Insured depository institution* has the meaning given that term in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2)).

(14) *Monetary value* means a national currency or deposit (as defined in section 3(l) of the Federal Deposit Insurance Act (12 U.S.C. 1813(l))) denominated in a national currency.

(15) *National currency* means—

(i) A Federal Reserve note (as the term is used in the first undesignated paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 411));

(ii) Money standing to the credit of an account with a Federal Reserve Bank;

(iii) Money issued by a foreign central bank; or

(iv) Money issued by an intergovernmental organization pursuant to an agreement by two or more governments.

(16) *Outstanding issuance value* means the total consolidated par value of all of a permitted payment stablecoin issuer’s payment stablecoins issued.

(17) *Payment stablecoin means:*

(i) A digital asset—

(A) That is, or is designed to be, used as a means of payment or settlement; and

(B) The issuer of which—

(I) Is obligated to convert, redeem, or repurchase for a fixed amount of monetary value, not including a digital asset denominated in a fixed amount of monetary value; and

(II) Represents that such issuer will maintain, or creates the reasonable expectation that it will maintain, a stable value relative to the value of a fixed amount of monetary value; and

(ii) Does not include a digital asset that is a—

(A) National currency;

(B) a deposit (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813), including a tokenized deposit recorded using distributed ledger technology; or

(C) Security, as defined in section 2 of the Securities Act of 1933 (15 U.S.C. 77b), section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c), or section 2 of the Investment Company Act of 1940 (15 U.S.C. 80a–2).

(18) *Permitted payment stablecoin issuer* has the meaning given that term in section 2(23) of the GENIUS Act (12 U.S.C. 5901(23)).

(19) *Person* means an individual, partnership, company, corporation, association, trust, estate, cooperative organization, or other business entity, incorporated or unincorporated.

(20) *Primary financial regulatory agency* has the meaning given that term in 12 U.S.C. 5301(12)(B) or (C).

(21) *Private key* means the unique alphanumeric sequence that allows for a transfer of a particular unit of a digital asset using a distributed ledger.

(22) *Registered public accounting firm* has the meaning set forth in section 2 of

the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201(12)).

(23) *Reserve asset* means an asset maintained by a permitted payment stablecoin issuer of a type enumerated in § 350.4(e).

(24) *Significant redemption request* means a circumstance in which aggregate redemption requests exceed 10 percent of the outstanding issuance value within a single 24-hour period.

(25) *Subsidiary* has the meaning given that term in section 3(w)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(4)).

(26) *United States Coins and Currency* means U.S. coins and currency as described in 31 U.S.C. 5103.

§ 350.2 Severability.

The provisions of this subpart are separate and severable from one another. If any provision is stayed or determined to be invalid, it is the FDIC’s intention that the remaining provisions shall continue in effect.

§ 350.3 Activities.

(a) *Permitted activities.* A permitted payment stablecoin issuer may only:

- (1) Issue payment stablecoins;
- (2) Redeem payment stablecoins;
- (3) Manage reserves related to the issuance or redemption of payment stablecoins, including purchasing, selling, and holding reserve assets or providing custodial services for reserve assets, consistent with applicable State and Federal law;

(4) Provide custodial or safekeeping services for payment stablecoins, required reserves, or private keys of payment stablecoins, consistent with subpart B of this part;

(5) Undertake any other activities that directly support any of the activities described in paragraphs (a)(1) through (4) of this section;

(6) Undertake activities that are incidental to any of the activities described in paragraphs (a)(1) through (4) or that are digital asset service provider activities (as defined in section 2(7)(A) of the GENIUS Act to be exchanging digital assets for monetary value, exchanging digital assets for other digital assets, transferring digital assets to a third party, acting as a digital asset custodian, or participating in financial services relating to digital asset issuance) or are incidental thereto that are authorized by the FDIC;

(7) Assess fees associated with purchasing or redeeming payment stablecoins;

(8) Pay fees to facilitate customer transactions; and

(9) In undertaking any activity contemplated by the GENIUS Act (12

U.S.C. 5901 *et seq.*), act as principal or agent with respect to any payment stablecoin.

(b) *Prohibitions.* A permitted payment stablecoin issuer shall not:

(1) Use any combination of terms relating to the United States Government, including, but not limited to “United States,” “United States Government,” and “USG” in the name of a payment stablecoin;

(2) Market a payment stablecoin in a manner that a reasonable person would perceive the payment stablecoin to be legal tender, issued by the United States; or guaranteed or approved by the Government of the United States;

(3) Directly or through implication represent that payment stablecoins are backed by the full faith and credit of the United States, guaranteed by the United States Government, or subject to Federal deposit insurance;

(4) Pay the holder of any payment stablecoin any form of interest or yield (whether in cash, tokens, or other consideration) solely in connection with the holding, use, or retention of such payment stablecoin;

(i) The FDIC presumes that a permitted payment stablecoin issuer is paying interest or yield (whether in cash, tokens, or other consideration) to the holder of a payment stablecoin solely in connection with the holding, use, or retention of such payment stablecoin if:

(A) The permitted payment stablecoin issuer has a contract, agreement, or other arrangement with an affiliate of the issuer or related third party to pay interest or yield to the affiliate or related third party;

(B) The affiliate or related third party identified in paragraph (b)(4)(i)(A) of this section or, if the person is a related third party, an affiliate of such related third party has a contract, agreement, or other arrangement to pay interest or yield (whether in cash, tokens, or other consideration) to a holder of any payment stablecoin issued by the permitted payment stablecoin issuer solely in connection with the holding, use, or retention of such payment stablecoin; and

(C) To the extent the person, or an affiliate of the person, identified in paragraph (b)(4)(i)(A) is a related third party of the permitted payment stablecoin issuer because the permitted payment stablecoin issuer issues payment stablecoins on the related third party's behalf or under the related third party's branding, the arrangement identified in paragraph (b)(4)(i)(B) of this section considers the holder of the payment stablecoin to be the holder of a payment stablecoin issued by the

permitted payment stablecoin issuer on the related third party's behalf or under the related third party's branding.

(ii) For purposes of paragraph (b)(4)(i) of this section, a related third party means:

(A) A person offering to pay interest or yield to payment stablecoin holders as a service; and

(B) Any person that the issuer issues payment stablecoins on the person's behalf or under the person's branding.

(iii) A permitted payment stablecoin issuer may rebut the presumption in paragraph (b)(4)(i) of this section by submitting written materials that, in the FDIC's judgment, demonstrate that the contract, agreement, or other arrangement is not prohibited under this paragraph (b)(4) of this section and not an attempt to evade the prohibition;

(5) Pledge, rehypothecate, or reuse any reserve assets required under § 350.4(a) either directly or indirectly, including through a third-party custodian of the reserve assets, except for the purpose of:

(i) Satisfying margin obligations in connection with investments in permitted reserves under § 350.4(e)(5) or (6);

(ii) Satisfying obligations associated with the use, receipt, or provision of standard custodial services; or

(iii) Creating liquidity to meet reasonable expectations of requests to redeem payment stablecoins, such that reserves in the form of Treasury bills with a maturity of 93 days or less may be sold as purchased securities in repurchase agreements, provided that either:

(A) The repurchase agreements are cleared by a clearing agency registered with the Securities and Exchange Commission; or

(B) The permitted payment stablecoin issuer receives prior written approval from the FDIC. All repurchase agreements under this paragraph (b)(5) wherein the Treasury bills that are sold as purchased securities have a maturity of 93 days or less are approved by the FDIC;

(6) Engage in any activity that the FDIC determines is done in evasion of the requirements, standards, or prohibitions found in section 4 of the GENIUS Act (12 U.S.C. 5903) or this part 350;

(7) Market a product in the United States as a payment stablecoin, or issue a payment stablecoin, unless the product or payment stablecoin is issued in compliance with the GENIUS Act and part 350; or

(8) Provide a customer credit, directly or indirectly, to enable the customer to purchase or otherwise acquire payment

stablecoins from the permitted payment stablecoin issuer.

(c) *Pegged Payment Stablecoins.* The use of terms directly related to a national currency to which the value of the payment stablecoin is pegged shall not be considered a violation of paragraphs (b)(1) and (2).

§ 350.4 Reserve assets.

(a) *Reserve requirement.* A permitted payment stablecoin issuer shall:

(1) maintain identifiable reserves fully backing the outstanding payment stablecoins of the permitted payment stablecoin issuer, the reserve asset value of which will at all times meet or exceed the total outstanding issuance value of payment stablecoins issued by the permitted payment stablecoin issuer;

(2) monitor issuance and redemption of outstanding payment stablecoins to ensure compliance with this section; and

(3) either maintain reserves directly or keep reserves within the custody of eligible financial institutions.

(b) *Reserve Asset Value.* For purposes of calculating the reserve asset value of the reserve assets backing each outstanding payment stablecoin issued by the permitted payment stablecoin issuer, reserve assets shall be valued at fair value, with the exceptions of United States coins and currency which shall be valued at face value.

(c) *Identifiable Reserves.* The reserves maintained by a permitted payment stablecoin issuer shall be readily identified as backing outstanding payment stablecoins issued and differentiated from assets not backing payment stablecoins. If a permitted payment stablecoin issuer issues more than one publicly distinguishable brand of payment stablecoin, reserves shall be separately identifiable by each brand of payment stablecoin and each brand of payment stablecoin shall independently comply with § 350.4(a). The permitted payment stablecoin issuer shall maintain segregated pools of reserves for each brand of payment stablecoin, each of which shall be kept and recorded separately, unless prior written approval is received from the FDIC allowing for commingling.

(d) *Monetization Capability.* A permitted payment stablecoin issuer shall demonstrate the operational capability to access and monetize the identifiable reserve assets, commensurate with the permitted payment stablecoin issuer's risk profile and business model.

(e) *Reserve Composition.* The assets serving as identifiable reserves fully backing the outstanding payment stablecoins are limited to:

(1) United States coins and currency (including Federal Reserve notes);

(2) money standing to the credit of an account with a Federal Reserve Bank;

(3) funds held as demand deposits or other deposits that may be withdrawn upon request at any time at an insured depository institution or insured shares held by an insured credit union (including any foreign branches or agents, including correspondent banks, of an insured depository institution);

(4) Treasury bills, notes, or bonds with a remaining maturity of 93 days or less, or issued with a maturity of 93 days or less;

(5) money received under repurchase agreements with the permitted payment stablecoin issuer acting as a seller of securities and with an overnight maturity that are backed by Treasury bills with a maturity of 93 days or less provided the money is received consistent with one or more of the allowable exceptions to rehypothecation, reuse, or pledging as circumscribed in 12 U.S.C. 5903(a)(2);

(6) reverse repurchase agreements with the permitted payment stablecoin issuer acting as a purchaser of securities and with an overnight maturity that are collateralized by Treasury notes, bills, or bonds on an overnight basis, subject to overcollateralization in line with standard market terms, that are:

(i) tri-party;

(ii) centrally cleared through a clearing house registered with the Securities and Exchange Commission; or

(iii) bilateral with a counterparty that the issuer has determined to be adequately creditworthy even in the event of severe market stress; and

(7) securities issued by an investment company registered under section 8(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–8(a)), or other registered Government money market fund, and that are invested solely in underlying assets described in paragraphs (e)(1) through (6) of this section.

(f) *Asset diversification and concentration.* A permitted payment stablecoin issuer shall on each business

day limit its exposure to any one eligible financial institution, regardless of instrument type, to no more than 40 percent of its reserve assets.

(g) *Monthly Report on Reserve Composition.* A permitted payment stablecoin issuer, for each publicly distinguishable brand of payment stablecoin issued, shall by close of business on the last day of each month, prepare and publish on its website using a format substantially similar to the template provided in table 1 a report containing as of close of business on the last day of the previous month: the total number of outstanding payment stablecoins issued by the permitted payment stablecoin issuer and the value and composition of the identifiable reserves described in § 350.4(e), including the average tenor and geographic location of custody of each category of reserve assets. Monthly disclosures are not required to include specific information on the institutions, branches, or counterparties involved in the holding of reserve assets.

TABLE 1 TO § 350.4(g)—MONTHLY COMPOSITION TEMPLATE

As of YY/YY/YYYY In thousands of U.S. Dollars		Amount	Geographic location	Average tenor
Number of Outstanding payment stablecoins ⁶⁹				
1				
2				
3				
4	TOTAL OUTSTANDING PAYMENT STABLECOINS			
Value of Reserve Assets				
5	Deposits:			
6	Insured deposits			
7	Uninsured deposits			
8	Treasury bills, Treasury notes, or Treasury bonds			
9	Money received under repurchase agreements			
10	Reverse repurchase agreements			
11	Securities issued by an investment company solely invested in qualifying reserve assets			
12	Reserves in tokenized form. ⁷⁰			
13	Total Reserve Assets. ⁷¹			
14	Outstanding repurchase agreement liabilities			
15	Total Reserve Assets net of Outstanding Repurchase Agreement Liabilities			

⁶⁹ List different brands of payment stablecoin separately, if applicable. To the extent that different brands of payment stablecoins are secured by segregated reserve assets, permitted payment stablecoin issuers should publish a composition

table for each distinct payment stablecoin and describe the mechanism for how the assets are separately secured.

⁷⁰ Permitted payment stablecoin issuers must separately list any reserves in tokenized form by

category of reserve asset, using multiple rows if appropriate.

⁷¹ Do not double count any reserve assets that may be listed in more than one row for purposes of computing the total.

(h) *Monthly certification; examination of reports by registered public accounting firm.*

(1) By close of business on the last day of each month, a permitted payment stablecoin issuer shall have a registered public accounting firm examine the information disclosed in the previous month-end report required by this subsection and the registered public accounting firm will issue a written report with findings to the permitted payment stablecoin issuer's audit committee (or board of directors, if no audit committee). The registered public accounting firm's examination report must be published on the website of the permitted payment stablecoin issuer at the same time as the month-end report required under paragraph (g); and

(2) *Certification.* Each month, the Chief Executive Officer and Chief Financial Officer (or the persons performing the equivalent functions) of a permitted payment stablecoin issuer shall submit to the FDIC a certification as to the accuracy of the previous month-end report, including a copy of the written report prepared in § 350.4(h)(1).

(i) *Failure to meet minimum reserve assets requirement.*

(1) In the event that a permitted payment stablecoin issuer determines or has reasonable grounds to suspect that the aggregate reserve asset value of identifiable reserves backing outstanding payment stablecoins is less than the amount required under paragraph § 350.4(a), the permitted payment stablecoin issuer shall notify the FDIC in writing, with a description of measures to be taken pursuant to § 350.4(j), as appropriate. The FDIC in its sole discretion may determine whether the measures are viable and, if not, the FDIC may:

(i) direct the permitted payment stablecoin issuer to suspend or reduce issuance of payment stablecoins until the aggregate reserve asset value of identifiable reserves backing outstanding payment stablecoins exceeds the outstanding issuance value of payment stablecoins;

(ii) direct the permitted payment stablecoin issuer to take measures to restore the aggregate reserve asset value of identifiable reserves until the aggregate reserve asset value of identifiable reserves backing outstanding payment stablecoins exceeds the outstanding issuance value of the payment stablecoins; or

(iii) direct the permitted payment stablecoin issuer to execute an orderly redemption of all outstanding payment stablecoins.

(j) *Restoration Plan.* A permitted payment stablecoin issuer shall have a written contingency plan with measures to be taken by it to restore compliance with requirements in § 350.4(a)(1) or (e) or § 350.9 if the permitted payment stablecoin issuer falls below those requirements.

(k) *Orderly Redemptions in Exigent Circumstances.* If a permitted payment stablecoin issuer determines to take actions that would result in the orderly redemptions of all outstanding payment stablecoins, the permitted payment stablecoin issuer shall notify the FDIC.

§ 350.5 Redemption.

(a) *Redemption policy.* A permitted payment stablecoin issuer shall establish, implement, and publicly disclose its redemption policy. The redemption policy shall include, at a minimum, the following information:

(1) The timeframe in which the permitted payment stablecoin issuer will redeem payment stablecoins issued by the permitted payment stablecoin issuer for a fixed amount of monetary value and the timeframe under which the permitted payment stablecoin issuer is required to redeem payment stablecoin under paragraph (b)(1) of this section;

(2) A statement explaining the limitation in paragraph (b)(2) of this section;

(3) A statement explaining the scenarios under which the redemption period may be extended as described in paragraph (c) of this section;

(4) A statement with clear instructions on how a payment stablecoin holder can redeem a payment stablecoin, including a link to the website(s) where a payment stablecoin holder can redeem the payment stablecoin; and

(5) The minimum number of payment stablecoins, if any, that the permitted payment stablecoin issuer will redeem, provided that the permitted payment stablecoin issuer shall redeem any number greater than or equal to one payment stablecoin, subject to appropriate screening and onboarding.

(b) *Redemption policy requirements.* A permitted payment stablecoin issuer's redemption policy shall provide clear and conspicuous procedures for timely redemption of outstanding payment stablecoins:

(1) That timely redemption may not exceed two business days following the date of the requested redemption; and

(2) That any discretionary limitations on timely redemptions can only be imposed by the FDIC.

(c) *Timeliness extended in certain scenarios.*

(1) A permitted payment stablecoin issuer experiencing a significant redemption request shall provide immediate notice to the FDIC.

(2) A permitted payment stablecoin issuer that experiences a significant redemption request may request an extension to the timeframe provided in paragraph (b)(1), and the FDIC may, in its discretion, grant or deny the extension request.

(d) *Disclosures and fees associated with purchase and redemption.* A permitted payment stablecoin issuer shall:

(1) Publicly, clearly, and conspicuously disclose in plain language and in a format that is readily noticeable, readily understandable, and segregated from other information:

(i) The name of the permitted payment stablecoin issuer that issues the payment stablecoin;

(ii) That the permitted payment stablecoin issuer is the entity that is obligated to convert, redeem, or repurchase the payment stablecoin for a fixed amount of monetary value;

(iii) The link to the monthly composition report of the relevant permitted payment stablecoin issuer's reserves required under § 350.4(g); and

(iv) All fees associated with purchasing or redeeming payment stablecoins, if any.

(2) Update the disclosures in paragraph (d)(1)(iv) if there are any changes in fees associated with purchasing or redeeming payment stablecoins and provide at least seven calendar days' prior notice of the change, unless the change is a decrease in fees, including by securely delivering the notice to current customers for whom the permitted payment stablecoin issuer has contact information;

(3) Publish the disclosures in paragraph (d)(1) and any updates made in accordance with paragraph (d)(2) on the permitted payment stablecoin issuer's website; and

(4) Include the disclosures in paragraph (d)(1) and any updates made in accordance with paragraph (d)(2) in any customer agreements that it provides.

§ 350.6 Risk management.

(a) *General operational and managerial standards.*

(1) *Internal controls and information systems.* A permitted payment stablecoin issuer shall have internal controls and information systems to support effective risk management that are appropriate to the size and complexity of the permitted payment stablecoin issuer and the nature, scope,

and risk of its activities and that provide for:

(i) An organizational structure that establishes clear lines of authority and responsibility for monitoring adherence to established policies;

(ii) Effective risk assessment;

(iii) Timely and accurate financial, operational, and regulatory reporting, including with respect to the reports required under this part;

(iv) Adequate procedures to monitor, safeguard, manage, and control assets, including reserve assets; and

(v) Compliance with applicable laws and regulations.

(2) *Internal audit system.* A permitted payment stablecoin issuer shall have an internal audit system that is appropriate to the size and complexity of the permitted payment stablecoin issuer and the nature, scope, and risk of its activities and that provides for:

(i) Adequate monitoring of the system of internal controls through an internal audit function, or for a permitted payment stablecoin issuer whose size, complexity or scope of operations does not warrant a full-scale internal audit function, a system of independent reviews of key internal controls;

(ii) Independence and objectivity;

(iii) Qualified persons;

(iv) Adequate independent testing and review of internal controls and information systems;

(v) Adequate documentation of tests and findings and any corrective actions; and

(vi) Verification and review of management actions to address deficiencies.

(3) *Interest rate exposure.* A permitted payment stablecoin issuer shall manage interest rate risk in a manner that is appropriate to the size and complexity of the permitted payment stablecoin issuer and the complexity of its assets and liabilities.

(4) *Asset growth.* A permitted payment stablecoin issuer's asset growth shall be commensurate with risk management and operational capabilities.

(5) *Insider and affiliate transactions.* A permitted payment stablecoin issuer shall ensure that transactions between the permitted payment stablecoin issuer and insiders or affiliates (other than the insured depository institution of which it is a subsidiary):

(i) Do not pose significant risks of material financial loss; and

(ii)

(A) Are conducted on terms that are the same or at least as favorable to the permitted payment stablecoin issuer as those prevailing at the time for comparable transactions with or

involving non-insiders or non-affiliates; or

(B) In the absence of comparable transactions, are offered on terms and under circumstances that, in good faith would be offered to or would apply to non-affiliates or non-insiders.

(6) *Oversee service provider arrangements.* A permitted payment stablecoin issuer shall:

(i) Exercise appropriate due diligence in selecting its service providers;

(ii) Require its service providers by contract to implement appropriate measures designed to meet the applicable requirements of this part; and

(iii) As appropriate, monitor its service providers to confirm they have satisfied their obligations. As part of this monitoring, permitted payment stablecoin issuers should review audits, summaries of test results, or other equivalent evaluations of its service providers.

(7) *Liquidity.* A permitted payment stablecoin issuer shall:

(i) Appropriately monitor and validate compliance with the requirements of § 350.4; and

(ii) Manage liquidity risk in a manner that is appropriate to the business model and risk profile of the permitted payment stablecoin issuer.

(b) *Information technology and security.*

(1) *Information technology and security program.* A permitted payment stablecoin issuer shall implement a comprehensive framework for information technology and security risks, including a program that assesses and manages information technology and information security risks.

(2) *Required elements of program.* A permitted payment stablecoin issuer's information technology and security program shall include:

(i) An inventory and classification of information technology assets, processes, and sensitivity of data;

(ii) An assessment of the information technology and security risks associated with the issuance of stablecoins;

(iii) Controls supporting and safeguarding the confidentiality, integrity, and availability of information technology;

(iv) Controls for the development, maintenance, and changes to information technology, including controls for testing, storage, and deployment of the code base, including the smart contract code;

(v) Evaluation, validation, and reporting processes to ensure that information technology systems and controls, including smart contracts, are operating as intended;

(vi) Periodic independent testing of controls; and

(vii) A comprehensive and effective program for the identification, assessment, and response to operational and security incidents.

(3) *Safe handling of digital assets.* A permitted payment stablecoin issuer shall develop, implement, and maintain appropriate measures to ensure secure handling of digital assets, including private key management, backup, and recovery incorporating:

(i) Relevant technical, operational, strategic, market, legal, and compliance considerations relating to each digital asset and its underlying ledger; and

(ii) Material developments specifically related to supported digital assets and their underlying ledgers.

(4) *Adjust the program.* A permitted payment stablecoin issuer shall monitor, evaluate, and adjust, as appropriate, the information technology and security program in light of any relevant changes in technology, the sensitivity of its customer information, internal or external threats, and the permitted payment stablecoin issuer's own changing business arrangements, such as mergers and acquisitions, consortia and joint ventures, third-party arrangements, and changes to applicable information systems.

(5) *Notification of unauthorized access.* A permitted payment stablecoin issuer shall maintain an appropriate program to notify its customers if the permitted payment stablecoin issuer becomes aware of an incident of unauthorized access to sensitive customer information. The program shall require the delay of customer notice if an appropriate law enforcement agency determines that notification will interfere with a criminal investigation and provides the permitted payment stablecoin issuer with a written request for the delay.

(6) *Information technology resilience.* A permitted payment stablecoin issuer's information technology and security program shall include measures to ensure continuity of operations and recovery of critical functions in the face of disruptions, including by business impact analyses, testing of vulnerabilities, and testing with critical service providers.

(c) *Anti-money laundering and economic sanctions compliance programs required certification.* Not later than 180 days after the date of an approval of an application filed pursuant to section 5 of the GENIUS Act (12 U.S.C. 5904), and on or before April 1 of each year thereafter, a permitted payment stablecoin issuer shall certify that it has implemented anti-money laundering and economic sanctions compliance programs that are

reasonably designed to prevent the permitted payment stablecoin issuer from facilitating money laundering, in particular, facilitating money laundering for cartels and organizations designated as foreign terrorist organizations under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189) and the financing of terrorist activities, as required by the GENIUS Act. Such certification signed by authorized persons/individuals responsible for overseeing the programs AML/CFT shall be submitted to the appropriate FDIC regional office.

§ 350.7 Audits, reports, and supervision.

(a) *General.* The FDIC will conduct an exam in accordance with the timelines established for the parent insured depository institution outlined in § 337.12. Nothing in this provision precludes the FDIC from examining the permitted payment stablecoin issuer as part of an examination of the insured depository institution of which the permitted payment stablecoin issuer is a subsidiary and for which the FDIC is the primary Federal banking agency.

(b) *Access to books and records.* Upon request by the FDIC, permitted payment stablecoin issuers shall grant the FDIC prompt and complete access to all officers, directors, employees, agents, and to all relevant books, records, or documents of any type, including distributed ledgers.

(c) *Location of examinations.* The FDIC may conduct examinations of every permitted payment stablecoin issuer, as specified in paragraph (a) of this section, either on-site or remotely.

(d) *Authority to conduct more frequent examinations.* This section does not limit the authority of the FDIC to examine any permitted payment stablecoin issuer as frequently as the FDIC deems necessary, including examinations of a limited scope.

(e) *Recordkeeping requirements.* All permitted payment stablecoin issuers shall maintain a complete set of books and records.

(f) *Records retention policy.* All permitted payment stablecoin issuers shall develop and implement a records retention policy that ensures the permitted payment stablecoin issuer can demonstrate compliance with the GENIUS Act, this part, and all applicable laws and regulations.

(g) *Confidential weekly reporting.* All permitted payment stablecoin issuers must submit to the FDIC a confidential weekly report containing information specified by the FDIC in the form available at www.fdic.gov.

(h) *Reports of financial condition.* A permitted payment stablecoin issuer

shall submit to the FDIC a quarterly report on the financial condition of the permitted payment stablecoin issuer, including, but not limited to, income statement, expenses, balance sheet, reserves, changes in equity, investments, capital, outstanding issuance value, and assets under custody, in a standardized format as prescribed by the FDIC within 30 days of the end of the prior quarter. Forms and instructions are available at www.fdic.gov. Each report of financial condition shall contain a declaration by the permitted payment stablecoin issuer's chief financial officer, or the individual performing an equivalent function, that the report is true and correct to the best of that individual's knowledge and belief. The correctness of the report of financial condition shall be attested by the signatures of the directors and senior management of the permitted payment stablecoin issuer other than the officer, or the individual performing an equivalent function, making such declaration, with the attestation stating that the report has been examined by them and to the best of their knowledge and belief is true and correct.

(i) *Submission of other reports.* All permitted payment stablecoin issuers shall, upon request, submit to the FDIC a report on:

(1) The financial condition of the permitted payment stablecoin issuer;

(2) The systems of the permitted payment stablecoin issuer for monitoring and controlling financial and operational risks; and

(3) Compliance of the permitted payment stablecoin issuer and any subsidiary thereof with the GENIUS Act, and this part.

(j) *Audits.* A permitted payment stablecoin issuer with more than \$50,000,000,000 in total outstanding issuance value, that is not subject to the reporting requirements under section 13(a) or 15(d) of the Securities and Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)), shall prepare in accordance with GAAP, annual financial statements, which shall include the disclosure of any related party transactions, as defined by GAAP.

(1) A registered public accounting firm must perform an audit and report on the financial statements described in this paragraph (j). The audit shall be conducted in accordance with the Public Company Accounting Oversight Board's auditing standards, or for non-public entities, in accordance with generally accepted auditing standards or the Public Company Accounting Oversight Board's auditing standards.

(2) A permitted payment stablecoin issuer required to prepare an audited annual financial statement under this paragraph shall:

(i) Make the audited financial statements publicly available on the permitted payment stablecoin issuer's website and submit them to the FDIC within 120 days after the end of its fiscal year; and

(ii) If a permitted payment stablecoin issuer is unable to timely file all or any portion of the financial statement described in this paragraph (j)(2)(i), it shall submit a written notice of late filing to the FDIC on or before the deadline for filing the financial statement. The notice shall state the permitted payment stablecoin issuer's inability to timely file all, or specified portions, of its annual financial statement and the reasons for such inability to timely file, in reasonable detail. The late filing notice shall also state the date by which the financial statement will be filed.

§ 350.8 Capital elements.

(a) *Capital elements.* The minimum capital requirement shall consist of common equity tier 1 capital and additional tier 1 capital.

(b) *Common equity tier 1 capital.* Common equity tier 1 capital is the sum of the common equity tier 1 capital elements in this paragraph (b). The common equity tier 1 capital elements are:

(1) Any common stock instruments (plus any related surplus) issued by the permitted payment stablecoin issuer, net of treasury stock, that meet all the following criteria:

(i) The instrument is paid-in, issued directly by the permitted payment stablecoin issuer, and represents the most subordinated claim in a receivership, insolvency, liquidation, or similar proceeding of the permitted payment stablecoin issuer;

(ii) The holder of the instrument is entitled to a claim on the residual assets of the permitted payment stablecoin issuer that is proportional with the holder's share of the permitted payment stablecoin issuer's issued capital after all senior claims have been satisfied in a receivership, insolvency, liquidation, or similar proceeding;

(iii) The instrument has no maturity date, can only be redeemed via discretionary repurchases with the prior approval of the FDIC, and does not contain any term or feature that creates an incentive to redeem;

(iv) The permitted payment stablecoin issuer did not create at issuance of the instrument through any action or communication an expectation that it

will buy back, cancel, or redeem the instrument, and the instrument does not include any term or feature that might give rise to such an expectation;

(v) Any cash dividend payments on the instrument are paid out of the permitted payment stablecoin issuer's net income or retained earnings and are not subject to a limit imposed by the contractual terms governing the instrument;

(vi) The permitted payment stablecoin issuer has full discretion at all times to refrain from paying any dividends and making any other distributions on the instrument without triggering an event of default, a requirement to make a payment-in-kind, or an imposition of any other restrictions on the permitted payment stablecoin issuer;

(vii) Dividend payments and any other distributions on the instrument may be paid only after all legal and contractual obligations of the permitted payment stablecoin issuer have been satisfied, including payments due on more senior claims;

(viii) The holders of the instrument bear losses as they occur equally, proportionately, and simultaneously with the holders of all other common stock instruments before any losses are borne by holders of claims on the permitted payment stablecoin issuer with greater priority in a receivership, insolvency, liquidation, or similar proceeding;

(ix) The paid-in amount is classified as equity under GAAP;

(x) The permitted payment stablecoin issuer, or an entity that the permitted payment stablecoin issuer controls, did not purchase or directly or indirectly fund the purchase of the instrument;

(xi) The instrument is not secured, not covered by a guarantee of the permitted payment stablecoin issuer or of an affiliate, and is not subject to any other arrangement that legally or economically enhances the seniority of the instrument;

(xii) The instrument has been issued in accordance with applicable laws and regulations; and

(xiii) The instrument is reported on the permitted payment stablecoin issuer's financial statements separately from other capital instruments;

(2) Retained earnings;

(3) Accumulated other comprehensive income (AOCI) as reported under GAAP; and

(4) Notwithstanding the criteria for common stock instruments referenced in paragraph (b)(1) of this section, common stock issued by the permitted payment stablecoin issuer and held in trust for the benefit of its employees as part of an employee stock ownership

plan does not violate any of the criteria in paragraph (b)(1)(iii), (iv), or (xi) of this section, provided that any repurchase of the stock is required solely by virtue of the Employee Retirement Income Security Act of 1974 (ERISA) for an instrument of a permitted payment stablecoin issuer that is not publicly-traded. In addition, an instrument issued by a permitted payment stablecoin issuer to its employee stock ownership plan does not violate the criterion in paragraph (b)(1)(x) of this section.

(c) *Additional tier 1 capital.*

(1) Additional tier 1 capital is the sum of additional tier 1 capital elements and any related surplus. Additional tier 1 capital elements are instruments (plus any related surplus) that meet the following criteria:

(i) The instrument is issued and paid-in;

(ii) The instrument is subordinated to payment stablecoin holders, general creditors, and subordinated debt holders of the permitted payment stablecoin issuer in a receivership, insolvency, liquidation, or similar proceeding;

(iii) The instrument is not secured, not covered by a guarantee of the permitted payment stablecoin issuer or of an affiliate, and not subject to any other arrangement that legally or economically enhances the seniority of the instrument;

(iv) The instrument has no maturity date and does not contain a dividend step-up or any other term or feature that creates an incentive to redeem;

(v) If callable by its terms, the instrument may be called by the permitted payment stablecoin issuer only after a minimum of five years following issuance, except that the terms of the instrument may allow it to be called earlier than five years upon the occurrence of a regulatory event that precludes the instrument from being included in additional tier 1 capital or a tax event that impacts the taxation of the instrument subject to the additional requirements in 350.8(c)(2);

(vi) Redemption or repurchase of the instrument requires prior approval from the FDIC;

(vii) The permitted payment stablecoin issuer has full discretion at all times to cancel dividends or other distributions on the instrument without triggering an event of default, a requirement to make a payment-in-kind, or an imposition of other restrictions on the permitted payment stablecoin issuer except in relation to any distributions to holders of common stock or instruments that are *pari passu* with the instrument;

(viii) Any cash dividend payments on the instrument are paid out of the

permitted payment stablecoin issuer's net income or retained earnings;

(x) The instrument does not have a credit-sensitive feature, such as a dividend rate that is reset periodically based in whole or in part on the permitted payment stablecoin issuer's credit quality, but may have a dividend rate that is adjusted periodically independent of the permitted payment stablecoin issuer's credit quality, in relation to general market interest rates or similar adjustments;

(xi) The paid-in amount is classified as equity under GAAP;

(xii) The permitted payment stablecoin issuer, or an entity that the permitted payment stablecoin issuer controls, did not purchase or directly or indirectly fund the purchase of the instrument; and

(xiii) The instrument does not have any features that would limit or discourage additional issuance of capital by the permitted payment stablecoin issuer, such as provisions that require the permitted payment stablecoin issuer to compensate holders of the instrument if a new instrument is issued at a lower price during a specified time frame.

(2) For a callable instrument described in paragraph 350.8(c)(1)(v) to qualify as additional tier 1 capital, the permitted payment stablecoin issuer:

(i) Shall receive prior approval from the FDIC to exercise a call option on the instrument;

(ii) Does not create at issuance of the instrument, through any action or communication, an expectation that the call option will be exercised; and

(iii) Prior to or simultaneously with exercising the call option shall either:

(A) replace the instrument to be called with an equal amount of instruments that meet the criteria under paragraph (b) or paragraph (c); or

(B) demonstrate to the satisfaction of the FDIC that following redemption, the permitted payment stablecoin issuer will continue to hold capital commensurate with its risk.

§ 350.9 Minimum capital and operational backstop.

(a) *Minimum capital requirement.* A permitted payment stablecoin issuer shall hold minimum capital as follows:

(1) *De novo capital requirement.*

(i) A *de novo* permitted payment stablecoin issuer shall hold minimum capital equal to the greater of:

(A) the amount specified as part of its approval conditions; and

(B) \$5 million.

(ii) A *de novo* permitted payment stablecoin issuer means a permitted payment stablecoin issuer that has

received FDIC approval to issue a payment stablecoin within the prior 3 years.

(iii) A de novo permitted payment stablecoin issuer shall hold this minimum amount for 36 months, or for a shorter or longer period as specified as part of its approval conditions or as subsequently determined by the FDIC based on the experience of the permitted payment stablecoin issuer.

(2) *Ongoing capital requirement.*

(i) A permitted payment stablecoin issuer shall:

(A) determine a minimum capital amount commensurate with the level and nature of all risks to which the permitted payment stablecoin issuer is exposed, including risks from off-balance sheet activities; and

(B) maintain an amount of capital that is not less than the amount determined in subparagraph (A).

(ii) A permitted payment stablecoin issuer shall have a process for assessing its overall capital adequacy in relation to its business model and risk profile and a comprehensive strategy for sustaining an appropriate level of capital to maintain ongoing operations.

(iii) A permitted payment stablecoin issuer shall:

(A) as part of the examination process, confidentially disclose to the FDIC the minimum amount determined under subparagraph (a)(2)(i)(A) upon any change to the minimum amount or as otherwise requested by the FDIC; and

(B) on the quarterly financial condition report required under § 350.7(h), disclose the amount of capital maintained pursuant to subparagraph (a)(2)(i)(B) as of the applicable reporting date.

(b) *Operational backstop.* A permitted payment stablecoin issuer shall maintain assets:

(1) Equal to 12 months of total expenses.

(i) A permitted payment stablecoin issuer shall calculate the amount required under paragraph (b)(1) using:

(A) For any quarter over the prior four quarters during which the permitted payment stablecoin issuer has provided quarterly reports under § 350.7, the amount or amounts reported in such quarterly report or reports;

(B) For any quarter over the prior four quarters during which the permitted payment stablecoin issuer was in operation but in which it did not file a quarterly report under § 350.7, the actual expenses of the permitted payment stablecoin issuer for such quarter or quarters; and

(C) For any other quarter, not described in subparagraphs (A) and (B), reasonably determined expenses, which

may include annualizing expenses from other quarters;

(2) Consisting of:

(i) United States coins and currency (including Federal Reserve notes);

(ii) money standing to the credit of an account with a Federal Reserve Bank;

(iii) Demand deposits or shares at a U.S. insured depository institution or insured credit union, respectively; and

(iv) U.S. Treasury bills, notes, or bonds with a remaining maturity of 93 days or less, or issued with a maturity of 93 days or less; and

(3) Separately identified from any reserve assets required under § 350.4(a) or other assets of the permitted payment stablecoin issuer on the reports filed under § 350.4(g).

(c) *Failure to meet minimum capital or operational backstop requirements.*

(1) A permitted payment stablecoin issuer shall comply with its minimum capital and operational backstop requirements at the end of each quarter based on the amounts reported in the most recent report required under § 350.4(g).

(2) A permitted payment stablecoin issuer that fails to satisfy its minimum capital or operational backstop requirement at the end of a quarter shall notify the FDIC in writing, with a description of measures to be taken pursuant to § 350.4(j). The FDIC in its sole discretion may determine whether the measures are viable and, if not, the FDIC may—

(i) direct the permitted payment stablecoin issuer to issue additional common equity tier 1 capital or additional tier 1 capital instruments or acquire additional operational backstop assets;

(ii) direct the permitted payment stablecoin issuer to suspend or reduce issuance of payment stablecoins until the minimum capital or operational backstop requirement is met;

(iii) direct the permitted payment stablecoin issuer to take other measures to restore the minimum capital or operational backstop; or

(iv) execute an orderly redemption of all outstanding payment stablecoins.

§ 350.10 Individual additional capital or backstop requirement.

(a) *Applicability.* The FDIC may require an additional capital or backstop requirement for an individual permitted payment stablecoin issuer as a condition of a permitted activity authorized by the FDIC pursuant to § 350.3(a)(6) or in view of its circumstances. For example, an additional capital or backstop requirement may be appropriate for:

(1) Failure of management to assess an appropriate capital requirement to

support ongoing operations consistent with the permitted payment stablecoin issuer's business model and risk profile;

(2) A permitted payment stablecoin issuer that has, or is expected to have, losses resulting in capital inadequacy;

(3) A permitted payment stablecoin issuer that is experiencing significant volatility in payment stablecoin issuance or redemption;

(4) A permitted payment stablecoin issuer with significant exposure due to fiduciary or operational risk;

(5) The permitted activities of a permitted payment stablecoin issuer, including any significant off-balance sheet activities; or

(6) A permitted payment stablecoin issuer that may be adversely affected by the activities or condition of its affiliate(s), or other persons or institutions, with which it has significant business relationships.

(b) *Standards for determination.* The factors to be considered in the determination will vary in each case and may include, for example:

(1) The conditions or circumstances leading to the FDIC's determination that an additional capital or backstop requirement is appropriate or necessary for the permitted payment stablecoin issuer;

(2) The exigency of those circumstances or potential problems;

(3) The overall condition, management strength, and future prospects of the permitted payment stablecoin issuer and, if applicable, its affiliate(s);

(4) The permitted payment stablecoin issuer's liquidity, capital, and stablecoin reserve assets compared to its peer group; and

(5) The views of the permitted payment stablecoin issuer's owners and senior management in any response provided under paragraph (c)(2) of this section.

(c) *Procedures.*

(1) *Notice.* When the FDIC determines that an additional capital or backstop requirement as set forth in § 350.10(a) of this subpart may be warranted for a particular permitted payment stablecoin issuer, the FDIC will notify the permitted payment stablecoin issuer in writing of the proposed additional capital or backstop requirement and the date by which the requirement should be reached (if applicable) and will provide an explanation of why the requirement proposed is considered necessary or appropriate for the permitted payment stablecoin issuer.

(2) *Response.*

(i) The permitted payment stablecoin issuer may respond to the FDIC in writing to the notice as follows:

(A) The response should include any matters which the permitted payment stablecoin issuer would have the FDIC consider in deciding whether an individual additional capital or backstop requirement should be established for the permitted payment stablecoin issuer, what the capital or backstop requirement should be, and, if applicable, when it should be achieved;

(B) Any response shall be delivered to the designated FDIC official within 30 days after the date on which the permitted payment stablecoin issuer received the notice or such other time period as the FDIC determines appropriate based on the condition of the permitted payment stablecoin issuer;

(ii) Failure to respond within the time period specified by the FDIC constitutes a waiver of any objections to the proposed individual additional capital or backstop requirement or the deadline for its achievement.

(3) *Decision.* After the close of the permitted payment stablecoin issuer's response period, the FDIC will decide, based on a review of the permitted payment stablecoin issuer's response and other information concerning the permitted payment stablecoin issuer, whether the individual additional capital or backstop requirement should be established for the permitted payment stablecoin issuer and, if so, the requirement and the date the requirement will become effective. The permitted payment stablecoin issuer will be notified of the decision in writing. The notice will include an explanation of the decision, except for a decision not to establish an individual additional capital or backstop requirement for the permitted payment stablecoin issuer.

(4) *Submission of plan.* The decision may require the permitted payment stablecoin issuer to develop and submit to the FDIC, within a time period specified, an acceptable plan to reach the additional capital or backstop requirement established for the permitted payment stablecoin issuer by the date required.

(5) *Change in circumstances.* If, after the FDIC's decision in paragraph (c)(3) of this section, there is a significant change in the circumstances that materially affects the permitted payment stablecoin issuer's capital adequacy or its ability to reach the required additional capital or backstop requirement by the specified date, the permitted payment stablecoin issuer may request, or the FDIC may propose to the permitted payment stablecoin issuer, a change in the additional capital or backstop requirement for the

permitted payment stablecoin issuer, the date when the minimum shall be achieved, or the permitted payment stablecoin issuer's plan (if applicable). Pending a decision on reconsideration, the FDIC's original decision and any plan required under that decision continues in full force and effect.

Subpart B—Requirements for FDIC-Supervised Entities Engaged in the Custody or Safekeeping of Payment Stablecoin Reserves and Collateral

§ 350.100 Purpose and Scope.

This subpart B sets forth requirements applicable to persons subject to supervision and regulation by the FDIC, including insured State nonmember banks, insured State-licensed branches of foreign banks, insured State savings associations, and permitted payment stablecoin issuers, for which the FDIC is the primary Federal banking agency or primary Federal payment stablecoin regulator, that are engaged in the business of providing custodial or safekeeping services for payment stablecoin reserves, payment stablecoins used as collateral, or private keys used to issue payment stablecoins pursuant to section 4(a)(7)(A)(iv) (12 U.S.C. 5903(a)(7)(A)(iv)) and section 10 of the GENIUS Act (12 U.S.C. 5909). This subpart also applies to the custody and safekeeping of any other digital asset by a permitted payment stablecoin issuer authorized by the FDIC. The requirements in this subpart shall not apply solely on the basis of engaging in the business of providing hardware or software to facilitate a customer's self-custody or safekeeping of payment stablecoins or private keys. This subpart applies in addition to any other applicable law regarding the provision of custody and safekeeping services of payment stablecoin reserves, payment stablecoins used as collateral, or private keys, and any other digital asset.

§ 350.101 Definitions.

For purposes of this subpart:

(a) *Applicable law* means the law of a state or other jurisdiction governing a custodian's custody relationships, any applicable Federal law governing those relationships, and any applicable court order.

(b) *Custody agreement* means a legally binding contractual agreement between a customer, as the principal, and the custodian, as the agent, that establishes the custodian's duties and responsibilities in providing custody, safekeeping and ancillary services to the customer.

(c) *Customer* means a person for whom or on whose behalf a custodian

receives, acquires, or holds payment stablecoin reserves, payment stablecoins used as collateral, private keys, cash, and other property received in the course of the provision of custody services for such assets.

(d) *Custodian* means an FDIC-supervised person, including an insured State nonmember bank, insured State-licensed branch of a foreign bank, insured State savings associations, or a permitted payment stablecoin issuer.

(e) *Digital wallet* means a software program or hardware device that stores and manages the private keys associated with a particular unit of a digital asset.

(f) *Person* means an individual, partnership, company, corporation, association, trust, estate, cooperative organization, or other business entity, incorporated or unincorporated.

(g) *Permitted payment stablecoin issuer* means has the meaning given that term in section 2(23) of the GENIUS Act (12 U.S.C. 5901(23)).

(h) *Private keys* means the unique alphanumeric sequence that allows for a transfer of a particular unit of a digital asset using a distributed ledger.

(i) *Sub-custodian* means a person that provides custody and safekeeping services to a custodian, including through a digital wallet for which such person controls the associated private keys, with respect to assets of a customer, for which the custodian otherwise serves as an agent under this subpart.

§ 350.102 Severability.

The provisions of this subpart are separate and severable from one another. If any provision is stayed or determined to be invalid, it is the FDIC's intention that the remaining provisions shall continue in effect.

§ 350.103 Custodial and Safekeeping Requirements.

A custodian shall:

(a) Treat payment stablecoin reserves, payment stablecoins used as collateral, private keys, cash, and other property it receives, acquires, or holds on behalf of a customer as belonging to such customer and not as the property of the custodian;

(b) Take appropriate steps to protect the customer's payment stablecoin reserves, payment stablecoins used as collateral, private keys, cash, and other property from claims of creditors of the custodian and any sub-custodian, as applicable, that are commensurate with the custodian's size, complexity, and risk profile and with the nature of the applicable assets for which it provides custodial or safekeeping services including through adopting,

implementing, and maintaining written policies, procedures, and internal controls that are adequate to comply with applicable law; and

(c)

(1) Maintain possession or control of the customer's payment stablecoin reserves, payment stablecoins used as collateral, private keys, cash, and other property that is held directly, including in a digital wallet for which the custodian controls the associated private keys; however, a custodian may maintain the customer's property through the use of a sub-custodian if consistent with applicable law, provided the custodian maintains adequate safeguards and internal controls reasonably designed to provide the custodian with oversight of such sub-custodian's compliance with the requirements of this subpart;

(2) With regards to any payment stablecoin or payment stablecoin reserve in the form of an asset in tokenized form held in custody or safekeeping under this subpart, a custodian, or sub-custodian, as applicable, maintains control for purposes of paragraph (c)(1) of this section if it can reasonably demonstrate, consistent with the standard of care established by applicable law, that no other party, including the customer or any affiliate

of the custodian, can control or transfer the payment stablecoin or stablecoin reserve in the form of an asset in tokenized form using a distributed ledger without the affirmative consent of the custodian or sub-custodian, as applicable. The custodian must have technical safeguards to prevent unauthorized access by its own personnel.

§ 350.104 Commingling Prohibition and Limited Exceptions.

(a) *General prohibition.* A custodian shall not commingle and shall separately account for and segregate the payment stablecoin reserves, payment stablecoins, cash, and other property of a customer from the custodian's assets.

(b) *Exceptions.* The prohibition in paragraph (a) of this section shall not apply as follows:

(1) *Omnibus account.* An insured State nonmember bank, insured State-licensed branch of a foreign bank, and insured State savings association that provides custodial or safekeeping services may, for convenience, hold in an omnibus account the payment stablecoin reserves, payment stablecoins, cash, and other property of more than one customer so long as the payment stablecoin reserves remain identifiable as required under § 350.4(c);

(2) *Payment stablecoin reserves held as cash.* An insured State nonmember bank, insured State-licensed branch of a foreign bank, and insured State savings association that provides custodial or safekeeping services, including as a sub-custodian, for payment stablecoin reserves that are in the form of cash may hold such cash in the form of a deposit liability, provided such treatment is consistent with applicable law; or

(3) *Transfers and settlements.* Consistent with applicable law, a custodian may withdraw and apply the share necessary of the payment stablecoin reserves, payment stablecoins, cash, and other property of the customer to transfer, adjust, or settle a transaction, or transfer of assets may be withdrawn and applied to such purposes, including the payment of commission, taxes, storage, and other charges lawfully accruing in connection with the provision of services to the customer by the custodian.

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on April 8, 2026.

Debra A. Decker,

Executive Secretary.

[FR Doc. 2026-06974 Filed 4-9-26; 8:45 am]

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Part III

Department of the Treasury

Office of Foreign Assets Control

31 CFR Part 502

Financial Crimes Enforcement Network

31 CFR Parts 1010 and 1033

Permitted Payment Stablecoin Issuer Anti-Money Laundering/Countering the Financing of Terrorism Program and Sanctions Compliance Program Requirements; Proposed Rule

DEPARTMENT OF THE TREASURY**Office of Foreign Assets Control****31 CFR Part 502****Financial Crimes Enforcement Network****31 CFR Parts 1010 and 1033****[Docket No. FINCEN–2026–0100]****RIN 1506–AB73****Permitted Payment Stablecoin Issuer Anti-Money Laundering/Countering the Financing of Terrorism Program and Sanctions Compliance Program Requirements****AGENCY:** Financial Crimes Enforcement Network, Office of Foreign Assets Control, Treasury.**ACTION:** Joint proposed rule.

SUMMARY: The Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) and Office of Foreign Assets Control (OFAC) are jointly issuing this proposed rule to implement provisions of the Guiding and Establishing National Innovation for U.S. Stablecoins Act (GENIUS Act). Specifically, it implements the GENIUS Act's directive to treat permitted payment stablecoin issuers (PPSIs) as financial institutions for purposes of the Bank Secrecy Act, proposes anti-money laundering obligations for PPSIs, and proposes certain specific obligations required by the GENIUS Act for PPSIs. It also implements the GENIUS Act's directive to require PPSIs to maintain effective sanctions compliance programs.

DATES: Comments must be received by June 9, 2026.**ADDRESSES:** Comments must be submitted in one of the following two ways (please choose only one of the ways listed):

- Electronically at <https://www.regulations.gov>. Follow the "Submit a comment" instructions under Docket FINCEN–2026–0100. If you are reading this document on [federalregister.gov](https://www.federalregister.gov), you may use the green "SUBMIT A PUBLIC COMMENT" button beneath this rulemaking's title to submit a comment to the [regulations.gov](https://www.regulations.gov) docket.

- You may mail written comments to the following address: Regulatory and Strategic Affairs Division, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183. Mailed comments must be received by the close of the comment period.

Do not include any personally identifiable information (such as name,

address, or other contact information) or confidential business information that you do not want publicly disclosed. All comments are public records; they are publicly displayed exactly as received, and will not be deleted, modified, or redacted. Comments may be submitted anonymously. Follow the search instructions on <https://www.regulations.gov> to view public comments.

In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at <https://www.regulations.gov> under Docket FINCEN–2026–0100.

FOR FURTHER INFORMATION CONTACT:

FinCEN: The FinCEN Regulatory Support Section by submitting an inquiry at www.fincen.gov/contact.

OFAC: Assistant Director for Regulatory Affairs, 202–622–4855 or <https://ofac.treasury.gov/contact-ofac>.

SUPPLEMENTARY INFORMATION:**I. Executive Summary**

Payment stablecoins could revolutionize payment systems, but the U.S. financial system's strength, size, and reliability make its payment systems a notable target for misuse by illicit actors, which jeopardizes U.S. national security. To combat illicit finance risk, this notice of proposed rulemaking (NPRM) implements the GENIUS Act's directive to subject PPSIs to anti-money laundering (AML) requirements, including Bank Secrecy Act (BSA) requirements, and to require PPSIs to maintain an effective economic sanctions compliance program.

Although issued jointly by FinCEN and OFAC, the NPRM outlines independent changes to two different chapters of Title 31 of the Code of Federal Regulations. First, FinCEN is proposing changes to its existing regulations and creation of a new part of chapter X to effectuate the GENIUS Act's directive to apply BSA and AML obligations to PPSIs. Second, OFAC is proposing a new part to chapter V to effectuate the GENIUS Act's directive that PPSIs maintain an effective economic sanctions compliance program.

II. Statutory Authority**A. The Guiding and Establishing National Innovation for U.S. Stablecoins Act**

The GENIUS Act provides a comprehensive framework for the regulation of payment stablecoins.¹ The GENIUS Act outlines the reserve, capital, liquidity, and risk management

¹ GENIUS Act, Public Law 119–27, 139 Stat. 419 (2025) (codified at 12 U.S.C. 5901–5916).

requirements for PPSIs and tasks implementing those requirements to the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), and, as applicable, any State payment stablecoin regulators.² The OCC, Board, FDIC, and NCUA are responsible for establishing a process and framework for the licensing, regulation, examination, and supervision of PPSIs under their respective purviews.³ The GENIUS Act requires that a PPSI "be treated as a financial institution for purposes of the Bank Secrecy Act, and as such, shall be subject to all Federal laws applicable to a financial institution located in the United States relating to economic sanctions, prevention of money laundering, customer identification, and due diligence."⁴ The GENIUS Act directs the Secretary of the Treasury to issue regulations, tailored to the size and complexity of the PPSI, implementing this provision of the GENIUS Act.⁵

Regarding the BSA and AML, in addition to its clear, general directive that PPSIs be treated as financial institutions for purposes of the BSA and be subject to "all Federal laws" related to preventing money laundering, the GENIUS Act specifies that a PPSI's obligations include: (i) maintenance of an effective AML program, which includes appropriate risk assessments and designation of an officer to supervise the program; (ii) retention of appropriate records; (iii) monitoring and reporting any suspicious transaction relevant to a possible violation of law or regulation; (iv) maintenance of technical capabilities, policies, and procedures to

² See 12 U.S.C. 5901(25), (30); see also 12 U.S.C. 5903(a)(4)(A), 5906(d).

³ 12 U.S.C. 5901(25) (defining "primary Federal payment stablecoin regulator" and outlining jurisdiction regarding specific types of PPSIs), 5904 (directing the primary Federal payment stablecoin regulators to "establish a process and framework for the licensing, regulation, examination, and supervision" for PPSIs under their respective jurisdictions).

⁴ 12 U.S.C. 5903(a)(5)(A).

⁵ 12 U.S.C. 5903(a)(5)(B). In addition to rulemaking authority codified in the "Treatment Under the Bank Secrecy Act and Sanctions Law" section, the GENIUS Act also generally calls for the Secretary of the Treasury to promulgate regulations "to carry out [the GENIUS Act] through appropriate notice and comment rulemaking." 12 U.S.C. 5913(a). In accordance with Treasury Order 101–05 and 31 U.S.C. 321(b)(2), the authority vested in the Secretary under the GENIUS Act to issue regulations related to prevention of money laundering and countering the financing of terrorism and related to economic sanctions has been delegated to the Director of FinCEN and to the Director of OFAC, respectively.

block, freeze, and reject specific or impermissible transactions that violate Federal or State law, rules, or regulations; and (v) maintenance of an effective customer identification program,⁶ including identifying and verifying the PPSI's account holders, high-value transactions, and appropriate enhanced due diligence.⁷ The GENIUS Act contains other provisions that control illicit risk in the payment stablecoin ecosystem. One of these provisions is the requirement that PPSIs only issue payment stablecoins if the issuer has the technological capability to comply and will comply with the terms of any "lawful order," which the GENIUS Act defines, in part, as an order issued or promulgated by a Federal agency or court to seize, freeze, burn, or prevent the transfer of payment stablecoins.⁸

Regarding sanctions, the GENIUS Act expressly subjects PPSIs to "all Federal laws applicable to a financial institution located in the United States relating to economic sanctions"⁹ and requires PPSIs to maintain "an effective economic sanctions compliance program, including verification of sanctions lists, consistent with Federal law."¹⁰

This NPRM represents one piece of the comprehensive regulatory framework for PPSIs set out in the GENIUS Act.¹¹

B. The Bank Secrecy Act

The Bank Secrecy Act, or "BSA," is the common name for a collection of statutory authorities designed to safeguard the national security of the United States by combating money laundering, the financing of terrorism,

and other illicit finance activity.¹² Under the BSA, Congress authorized the Secretary to impose various obligations on financial institutions, including requiring risk-based programs to prevent money laundering and the financing of terrorism. The BSA also enables the Secretary to require financial institutions to file reports and keep records that "are highly useful" including "in criminal, tax, or regulatory investigations, risk assessments, or proceedings," or in the conduct of "intelligence or counterintelligence activities, including analysis, to protect against terrorism."¹³ In order to enable both the public and private sectors to identify and stop illicit actors, the BSA also directed the establishment of appropriate frameworks for information sharing among various actors, including financial institutions and law enforcement authorities.¹⁴ The Secretary has delegated the authority to implement, administer, and enforce the BSA and its associated regulations to the Director of FinCEN.¹⁵

Many of the obligations included in the BSA are explicitly included in the GENIUS Act as obligations imposed on PPSIs. For example, in both the BSA and the GENIUS Act, Congress authorized Treasury to impose obligations to maintain effective AML programs;¹⁶ retain records;¹⁷ monitor and report suspicious activity;¹⁸ maintain customer identification

programs;¹⁹ and conduct enhanced due diligence.²⁰

C. Office of Foreign Assets Control Statutory Authority

OFAC acts under Presidential national emergency powers, as well as various statutory authorities, and has been delegated responsibility by the Treasury Secretary for developing, administering, and enforcing U.S. economic sanctions. The International Emergency Economic Powers Act (IEEPA), enacted in 1977, is a key authority for imposing economic sanctions.²¹ IEEPA authorizes the President to declare a national emergency in response to an unusual or extraordinary threat to the United States that has its source in whole or substantial part outside the United States.²² Upon declaration of a national emergency, IEEPA authorizes the President to, among other actions, investigate, block, regulate, or prohibit transactions and dealings in property subject to U.S. jurisdiction when a foreign national or country has an interest.²³ IEEPA also provides the President with the authority to issue regulations as may be necessary to exercise the authorities granted in IEEPA.²⁴ The President typically delegates the authority to administer economic sanctions pursuant to IEEPA to the Secretary, who redelegates the implementation authority to OFAC.²⁵

Through the exercise of its delegated IEEPA authority and other authorities, OFAC administers and enforces economic sanctions to prohibit certain transactions and to block assets under U.S. jurisdiction, including by issuing civil money penalties. OFAC sanctions include sanctions that block the property or interests in property of, or prohibit certain transactions or dealings with, sanctioned individuals and entities, including foreign governments and officials, terrorists, international narcotics traffickers, and those engaged or who have engaged in activities such as serious human rights abuse, corruption, the proliferation of weapons of mass destruction, transnational organized crime, sanctions evasion, or the provision of material support to sanctioned individuals and entities. OFAC also administers comprehensive sanctions that broadly prohibit

⁶ The GENIUS Act's customer identification program requirement is expected to be the subject of a separate rulemaking.

⁷ 12 U.S.C. 5903(a)(5)(A)(i)–(v).

⁸ 12 U.S.C. 5903(a)(6)(B), 5901(16) (defining "lawful order").

⁹ 12 U.S.C. 5903(a)(5)(A).

¹⁰ 12 U.S.C. 5903(a)(5)(A)(vi).

¹¹ On September 19, 2025, the Department of the Treasury issued an advance notice of proposed rulemaking concerning the GENIUS Act. See Treasury, *GENIUS Act Implementation*, 90 FR 45159 (Sept. 19, 2025); see also FDIC, *Approval Requirements for Issuance of Payment Stablecoins by Subsidiaries of FDIC-Supervised Insured Depository Institutions*, 90 FR 59409 (Dec. 19, 2025); NCUA, *Investments in and Licensing of Permitted Payment Stablecoins Issuers*, 91 FR 6531 (Feb. 12, 2026); OCC, *Implementing the Guiding and Establishing National Innovation for U.S. Stablecoins Act for the Issuance of Stablecoins by Entities Subject to the Jurisdiction of the Office of the Comptroller of the Currency*, 91 FR 10202 (Mar. 2, 2026); Treasury, *GENIUS Act Broad-Based Principles for Determining Whether a State-Level Regulatory Regime Is Substantially Similar to the Federal Regulatory Framework*, 91 FR 16844 (Apr. 3, 2026).

¹² See 31 U.S.C. 5311. Certain parts of the Currency and Foreign Transactions Reporting Act, its amendments, and the other statutes relating to the subject matter of that Act, have come to be referred to as the BSA. These statutes are codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1960, and 31 U.S.C. 5311–5314 and 5316–5336 and notes thereto, with implementing regulations at 31 CFR chapter X. Consistent with that understood meaning, as codified, the GENIUS Act defines the "Bank Secrecy Act" to mean "(A) section 1829b of [title 12]; (B) chapter 2 of title I of Public Law 91–508 (12 U.S.C. 1951 *et seq.*); and (C) subchapter II of chapter 53 of title 31." 12 U.S.C. 5901(2).

¹³ See 31 U.S.C. 5311(1); see also 5313, 5318(g).

¹⁴ See 31 U.S.C. 5311(5), 5311 note ("Cooperation Among Financial Institutions, Regulatory Authorities, and Law Enforcement Authorities"); see also 31 U.S.C. 310.

¹⁵ See Treasury Order 180–01 (Jan. 14, 2020), para. 3, available at <https://home.treasury.gov/about/general-information/orders-and-directives/treasury-order-180-01>; see also 31 U.S.C. 310(b)(2)(I) (providing that the Director of FinCEN shall "[a]dminister the requirements of subchapter II of chapter 53 of this title, chapter 2 of title I of Public Law 91–508, and section 21 of the Federal Deposit Insurance Act, to the extent delegated such authority by the Secretary").

¹⁶ See 31 U.S.C. 5318(h); 12 U.S.C. 5903(a)(5)(A)(i).

¹⁷ See, e.g., 31 U.S.C. 5318(a)(2); 12 U.S.C. 1826b; 12 U.S.C. 1953; 12 U.S.C. 5903(a)(5)(A)(ii).

¹⁸ See 31 U.S.C. 5318(g); 12 U.S.C. 5903(a)(5)(A)(iii).

¹⁹ See 31 U.S.C. 5318(l); 12 U.S.C. 5903(a)(5)(A)(v).

²⁰ See 31 U.S.C. 5318(i); 12 U.S.C. 5903(a)(5)(A)(v).

²¹ See 50 U.S.C. 1701 *et seq.*

²² See 50 U.S.C. 1701.

²³ See 50 U.S.C. 1702.

²⁴ See 50 U.S.C. 1704.

²⁵ See, e.g., 31 CFR 525.106, 548.802, 591.802.

transactions and dealings involving an entire country or geographic region or a particular sector of a country's economy.

III. Advance Notice of Proposed Rulemaking

Treasury issued an advance notice of proposed rulemaking (ANPRM) in September 2025 seeking public comment on potential Treasury regulations implementing the GENIUS Act.²⁶ Pertinent to this proposal, the ANPRM asked questions related to definitions used in the GENIUS Act; the GENIUS Act's BSA, AML, and sanctions program provisions; and the potential costs and benefits associated with BSA and sanctions obligations.²⁷

In response to this ANPRM, Treasury received approximately 450 timely comments from a variety of stakeholders, including banks and credit unions, stablecoin issuers, digital asset exchanges, analytics companies, law firms, trade associations, non-governmental organizations, technology firms, academics, and members of the public. Treasury reviewed and considered the pertinent comments in crafting this proposal.

In general, commenters supported applying BSA and sanctions program obligations to PPSIs. For BSA obligations, some commenters advocated these requirements mirror existing obligations and risk-based frameworks. Some commenters generally asserted that different obligations should apply with regards to transactions on the primary market versus transactions on the secondary market.²⁸ On costs and benefits, some commenters acknowledged meaningful upfront costs associated with complying with the BSA, sanctions program obligations, and the GENIUS Act, particularly for new or unregulated entrants, but also stated that clearer rules would lower long-term compliance friction, reduce illicit

finance risks, improve supervisory efficiency, and ultimately strengthen market confidence and U.S. competitiveness.

IV. Stablecoin Ecosystem

The GENIUS Act only governs a subcategory of stablecoins, namely "payment stablecoins" as defined by the GENIUS Act, and a subcategory of actors in the payment stablecoin ecosystem, most critically for this rulemaking, PPSIs.²⁹ Thus, under the GENIUS Act, not all stablecoins are payment stablecoins and not all stablecoin issuers will be eligible to be PPSIs. Because the GENIUS Act framework is not yet in place, it is not yet determined which specific stablecoins will be payment stablecoins and which specific issuers will be PPSIs. An understanding of the stablecoin ecosystem, uses of stablecoins, and risks associated with stablecoins generally informs the parameters of the proposed rule, including the rationale behind certain proposed obligations.

A. Overview of Stablecoins and Stablecoin Issuers

Stablecoins are a blockchain-based³⁰ digital asset³¹ designed to maintain a stable value relative to an underlying asset, most often, but not always, a fiat currency.³² Many stablecoin issuers represent that their stablecoin can be redeemed at par upon request, although redemption terms and rights vary by stablecoin. The asserted redemption value of a stablecoin is generally tied to the value of the pool of reserve assets that "backs" the stablecoin.³³

²⁹ See, e.g., 12 U.S.C. 5902, 5903.

³⁰ A blockchain is "any technology where data is: (i) shared across a network to create a public ledger of verified transactions or information among network participants; (ii) linked using cryptography to maintain the integrity of the public ledger and to execute other functions; (iii) distributed among network participants in an automated fashion to concurrently update network participants on the state of the public ledger and any other functions; and (iv) composed of source code that is publicly available." See Executive Order (E.O.) 14178, *Strengthening American Leadership in Digital Financial Technology*, 90 FR 8647, sec. 2(b) (Jan. 31, 2025).

³¹ For this proposed rule, a "digital asset" is "any digital representation of value that is recorded on a cryptographically secured distributed ledger." See 12 U.S.C. 5901(6).

³² White House, *Strengthening American Leadership in Digital Financial Technology*, p. 88 (July 2025) [hereinafter *E.O. 14178 Report*], available at <https://www.whitehouse.gov/wp-content/uploads/2025/07/Digital-Assets-Report-EO14178.pdf>. This report was issued by the President's Working Group on Digital Asset Markets, of which the Secretary is a member, pursuant to E.O. 14178.

³³ See *id.* at p. 90. As discussed in the *E.O. 14178 Report*, as of July 2025, more than 99 percent of the outstanding value of stablecoins in circulation is pegged to the U.S. dollar. *Id.* Other types of assets

Most stablecoins backed by financial assets, including fiat currency, have centralized control, meaning that one company, or a group of companies, are responsible for governance functions, including defining and ensuring compliance with standards related to the issuance, purchase, redemption, custody, and transfer of the stablecoin. Generally, a stablecoin issuer will issue a stablecoin when a user provides the issuer funds denominated in the fiat currency of the stablecoin's peg. Similarly, a stablecoin is redeemed when a user exchanges stablecoins with the stablecoin issuer for funds valued at the corresponding amount of fiat currency.

Currently, many stablecoin issuers generally interact directly with a small number of larger companies, which are often institutional participants in the trading of digital assets (*i.e.*, digital asset exchanges).³⁴ Those companies, in turn, interact with a larger and more diverse group of users. Many stablecoin issuers predominantly offer issue and redemption services to financial institutions, including digital asset exchanges that may be regulated under the BSA as money services businesses (MSBs).³⁵ Generally, once an issuer issues stablecoins to such financial institutions, those institutions put the stablecoins into broader circulation to other users, such as individual, retail users. Similarly, individual users generally do not redeem stablecoins through a stablecoin issuer but rather interact with a digital asset exchange or platform.³⁶ However, in the future, issuers could more commonly interact directly with retail users, including issuing and redeeming payment stablecoins.

Most stablecoin issuers use smart contracts³⁷ to issue stablecoins, enable

that may back different forms of stablecoins include digital assets, precious metals, or corporate bonds with lower credit ratings. See *id.*

³⁴ See Watsky, Cy, et al., *Primary and Secondary Markets for Stablecoins*, FEDS Notes, Washington: Board of Governors of the Federal Reserve System (Feb. 23, 2024), available at <https://doi.org/10.17016/2380-7172.3447>.

³⁵ See *id.*; see also *E.O. 14178 Report*, *supra* note 32, pp. 104–05.

³⁶ See, e.g., *E.O. 14178 Report*, *supra* note 32, p. 18.

³⁷ A smart contract is a "collection of code and data . . . that is deployed using cryptographically signed transactions" on a blockchain network, which is executed by nodes on a blockchain to perform any given set of pre-determined functions or conditions that are recorded on a blockchain. See National Institute of Standards and Technology (NIST), NISTIR 8202, *Blockchain Technology Overview*, p. 32 (Oct. 2018), available at <https://nvlpubs.nist.gov/nistpubs/ir/2018/NIST.IR.8202.pdf> ("A smart contract can perform calculations, store information, expose properties to reflect a publicly exposed state and, if appropriate, automatically send funds to other accounts.").

²⁶ *GENIUS Act Implementation*, 90 FR 45159. The ANPRM solicited comment on a range of potential Treasury efforts related to the GENIUS Act and payment stablecoins that are outside the purview of this rulemaking. For example, the ANPRM included questions related to the GENIUS Act prohibition on digital asset service providers offering and selling a payment stablecoin to any person in the United States unless the payment stablecoin is issued by a PPSI or a foreign payment stablecoin issuer that meets certain requirements. *Id.* at 45160–61. It also included questions related to Treasury's role in determining whether a state-level regulatory regime is substantially similar to the Federal framework and whether a foreign country's regulatory and supervisory regime is comparable to the U.S. framework. *Id.* at 45162–63.

²⁷ *Id.* at 45161–63.

²⁸ See *infra* section IV.C discussing the meaning of primary and secondary market for purposes of this rulemaking.

or prohibit subsequent transactions in the stablecoin, and redeem stablecoins. The smart contracts underlying most stablecoins maintain a ledger of the number of stablecoins “owned by a set of accounts where each account is owned by a blockchain address” or wallet.³⁸ Smart contracts generally allow for programmability that can enable a stablecoin issuer to maintain control over and alter the use of its stablecoin.

In the current environment, control capabilities vary depending on how the stablecoin issuer designed the stablecoin, including the associated smart contract and the blockchain on which the smart contracts are deployed. For example, a stablecoin issuer may be able to prohibit specific wallet addresses from interacting with the stablecoin and its smart contract. Applying such controls to a particular wallet address would effectively prevent the holder of a stablecoin from transferring, redeeming, or otherwise moving the stablecoin. Additionally, some stablecoin issuers can send stablecoins in circulation to an unrecoverable wallet address, commonly referred to as “burning,” effectively removing the stablecoins from a given wallet and from circulation in general.³⁹ In some cases, including when required by a lawful order, stablecoin issuers reissue stablecoins equivalent to burned or frozen funds to different wallets as part of efforts to recover and return funds to victims of criminal activity.

B. Stablecoin Use Cases

Currently, most stablecoin users primarily rely on stablecoins to store value, facilitate trades in other digital assets, or to interact with smart contracts. Payment stablecoins could, however, become a more widely adopted form of payment.⁴⁰ U.S. consumers and businesses process

trillions of dollars of payments daily.⁴¹ Although innovations like real-time payment networks⁴² decrease settlement times, particularly for domestic transfers, cross-border payments through traditional payment mechanisms remain more costly and slower.⁴³ Innovation in cross-border payments could support economic growth, including by facilitating international trade. Payment stablecoins may be able to mitigate some of the challenges individuals and small businesses face in navigating cross-border payments by increasing speed, decreasing cost, and enabling transactions with fewer intermediaries.⁴⁴

C. Payment Stablecoin Activity

Due to the use of smart contracts underlying stablecoin transactions and how users interact with stablecoin issuers, the ecosystem can, broadly speaking, be divided into two components, the primary market and the secondary market. For the purposes of this rulemaking, FinCEN and OFAC use these terms to help describe categories of payment stablecoin activity and articulate the parameters of particular obligations.

FinCEN and OFAC will use the term “primary market” to generally describe a PPSI interacting directly with a user or holder of a payment stablecoin, such as when a PPSI engages in issuing, converting, redeeming, repurchasing, burning, and reissuing payment stablecoins, as well as providing associated services, such as providing custodial services.⁴⁵ Generally speaking, primary market activity will involve activity where a PPSI and a user have a relationship or direct interaction beyond the involvement of a PPSI’s smart contract (e.g., the PPSI’s maintenance of an account through which the transactions of such user or customer may be effectuated).

FinCEN and OFAC will use the term “secondary market” to describe payment stablecoin activity that does not directly involve the PPSI as a party

to the transaction other than via a smart contract. For example, secondary market activity could include an individual purchasing payment stablecoins from an intermediary, an individual sending payment stablecoins from a self-hosted wallet to a vendor to purchase goods, an individual exchanging payment stablecoins for another digital asset via a digital asset exchange, or person-to-person transactions in payment stablecoins.

D. Illicit Finance Risks Associated With Stablecoins

The liquidity and stability of stablecoins relative to other digital assets and rapid settlement of stablecoins make them appealing to illicit actors as well as legitimate users.⁴⁶ As a result, in general, illicit actors have increasingly used stablecoins to facilitate transactions and store proceeds.⁴⁷ The illicit finance risks discussed below related to stablecoins are likely to generally also apply to payment stablecoins, particularly because the most prolific stablecoins carry indicators they could be payment stablecoins.

The U.S. government has linked stablecoins to a range of illicit activities and bad actors, including scammers and fraudsters;⁴⁸ Democratic People’s Republic of Korea (DPRK) information technology (IT) workers, cybercriminal groups and related money laundering networks;⁴⁹ drug traffickers;⁵⁰ terrorist

⁴⁶ See Treasury, 2026 National Money Laundering Risk Assessment, p. 50 (Mar. 2026) [hereinafter 2026 NMLRA], available at <https://home.treasury.gov/system/files/246/2026-NMLRA.pdf>; E.O. 14178 Report, *supra* note 32, p. 94.

⁴⁷ See 2026 NMLRA, *supra* note 46, p. 50.

⁴⁸ See, e.g., Compl., *United States v.* Approximately 225,364,961 USDT, No. 25–cv–1907 (D.D.C. June 18, 2025) (civil forfeiture action against more than \$225.3 million in stablecoins allegedly involved in concealing proceeds of digital assets investment fraud); *United States v. Su*, No. 25–cr–362 (C.D. Cal. Jan. 27, 2026) (defendant sentenced to 46 months in prison for role in digital investment scam involving \$36.9 million where victim funds were converted to stablecoins).

⁴⁹ See, e.g., Indictment, *United States v. Sop*, No. 23–cr–128 (D.D.C. Mar. 18, 2023) (indictment alleging defendant laundered proceeds of DPRK IT workers in violation of sanctions, including through use of stablecoins); DOJ, Press Release, *Department Files Civil Forfeiture Complaint Against Over \$7.74M Laundered on Behalf of the North Korean Government* (June 5, 2025), available at <https://www.justice.gov/opa/pr/departments-files-civil-forfeiture-complaint-against-over-774m-laundered-behalf-north-korean>; *United States of America v.* Approximately 1,159,834.52 USDT, No. 25–cv–3771 (D.D.C. Oct. 24, 2025) (civil forfeiture complaint of stablecoins related to virtual currency heists perpetrated by DPRK hacking groups).

⁵⁰ See, e.g., *United States v. Zhang et al.*, No. 22–cr–10279 (Aug. 15, 2025) (defendants sentenced to prison in connection with drug trafficking scheme

Continued

³⁸ NIST, NISTIR 8408, *Understanding Stablecoin Technology and Security Considerations*, p. 6 (Sept. 2023), available at <https://nvlpubs.nist.gov/nistpubs/ir/2023/NIST.IR.8408.pdf>. The lynchpin of a blockchain is asymmetric (public key) cryptography, which is used to secure and send transactions on a blockchain. See *Blockchain Technology Overview*, *supra* note 37, p. 11. First, a user generates a private key (a string of characters that function like a password) and uses that private key to generate a public key (an account number on a blockchain known as an address). Without the private key associated with an address or public key, a user cannot access the digital assets contained within. Developers have created software or hardware wallets to enable users to manage their public and private keys. See E.O. 14178 Report, *supra* note 32, pp. 9–10.

³⁹ *Understanding Stablecoin Technology and Security Considerations*, *supra* note 38, p. 8.

⁴⁰ See E.O. 14178 Report, *supra* note 32, p. 91.

⁴¹ *Id.* at p. 88.

⁴² See *id.* at p. 89; see, e.g., Fed. Reserve, About the FedNow Service (n.d.), available at <https://www.frb-services.org/financial-services/fednow/about.html>.

⁴³ See E.O. 14178 Report, *supra* note 32, p. 88.

⁴⁴ See *id.* at pp. 90–91.

⁴⁵ If consistent with the law and authorized by a primary Federal payment stablecoin regulator or the State payment stablecoin regulator, as applicable, PPSIs can also engage in activities as a “digital asset service provider,” as defined by the GENIUS Act, and activities incidental thereto. Such activities include exchanging and transferring digital assets. See 12 U.S.C. 5903(a)(7)(B), 5901(7). Such activity would also constitute primary market activity.

groups;⁵¹ and sanctions evasion and money laundering networks;⁵² among others. Between January 1, 2015, and November 21, 2025, FinCEN received approximately 55,000 suspicious activity reports (SARs) that referenced one or more specific stablecoins in the narrative, as well as an additional approximately 8,400 reports that included a general reference to the term “stablecoin.” Also, between January 1, 2015, and November 21, 2025, OFAC received approximately 5,800 reports on blocked property and 3,000 reports on rejected transactions that referenced one or more specific stablecoins in the narrative, as well as approximately six reports that included a general reference to the term “stablecoin.” Furthermore, the Financial Action Task Force noted in 2025 that “[e]stimates suggest that a majority of all on-chain illicit activity is now transacted in stablecoins,” aligning with the trend of overall growth in stablecoin adoption.⁵³

Some illicit transactions leveraging stablecoins involve one or more financial institutions, such as a digital asset exchange, that are subject to U.S. anti-money laundering and countering the financing of terrorism (AML/CFT) obligations. In other instances, however, stablecoin holders conduct transactions on the secondary market without an intermediary (i.e., person-to-person) or through foreign digital asset exchanges in jurisdictions with inadequate or no AML/CFT obligations for such actors.⁵⁴ BSA data indicates that financial services providers in jurisdictions with lax AML/CFT standards use accounts

involving conversion of proceeds to stablecoins); see also, DOJ, Press Release, *Two Men Sentenced for Role in International Money Laundering and Drug Trafficking Conspiracy* (Aug. 15, 2025), available at <https://www.justice.gov/usao-ma/pr/two-men-sentenced-role-international-money-laundering-and-drug-trafficking-conspiracy>.

⁵¹ See, e.g., DOJ, Press Release, *Justice Department Disrupts Hamas Terrorist Financing Scheme Through Seizure of Cryptocurrency* (Mar. 27, 2025), available at <https://www.justice.gov/opa/pr/justice-department-disrupts-hamas-terrorist-financing-scheme-through-seizure-cryptocurrency>; *United States of America v. Nine Cryptocurrency Wallets Held by Tether Ltd. and Seven Cryptocurrency Wallets Held by Binance Holdings Ltd.*, No. 24–cv–01251 (D.D.C. Nov. 13, 2025) (involving a civil forfeiture of approximately \$2 million dollars in digital currency connected to a Gaza-based money transfer business that was involved in financially supporting Hamas).

⁵² Treasury, Press Release, *Treasury Exposes Money Laundering Network Using Digital Assets to Evade Sanctions* (Dec. 4, 2024), available at <https://home.treasury.gov/news/press-releases/jy2735>.

⁵³ Financial Action Task Force (FATF), *Targeted Update on Implementation of the FATF Standards on Virtual Assets and Virtual Assets Service Providers*, ¶ 35 (June 2025), available at <https://www.fatf-gafi.org/content/dam/fatf-gafi/recommendations/2025-Targeted-Update-VA-VASPs.pdf.coredownload.pdf>.

⁵⁴ *Id.*

with stablecoin issuers to convert funds on behalf of their customers from local currencies into stablecoins, which can then be laundered and ultimately exchanged for U.S. dollars.

1. Laundering of Illicit Proceeds

Illicit actors have turned to stablecoins to launder illicit proceeds in part because, relative to other digital assets, they are more stable and have better liquidity.⁵⁵ Some facilitators involved in exchanging illicit proceeds in digital assets for fiat currency request stablecoins instead of other digital assets.⁵⁶

At times, stablecoins are one element of a complex money laundering process that may include the use of digital asset exchanges, conversion between stablecoins and other digital assets, and transfers between wallets not hosted by a financial institution.⁵⁷ For example, in June 2025, DOJ filed a civil forfeiture complaint against more than \$225.3 million in stablecoins, alleging that the addresses holding those stablecoins were part of a sophisticated money laundering network that executed hundreds of thousands of transactions and were used to conceal the nature, source, control, and ownership of proceeds derived from digital asset investment fraud.⁵⁸

Stablecoins may also appeal to illicit laundering networks because they enable actors to rapidly move large amounts of value around the globe.⁵⁹ Chinese money laundering networks, which serve as the dominant professional money laundering networks for drug trafficking and transnational criminal organizations, are also increasingly exchanging illicit proceeds in the form of U.S. dollars for digital assets, particularly stablecoins, in part to avoid large intra-China bank transfers that may raise capital flight suspicions.⁶⁰

2. Illicit Uses of Payment Stablecoins

i. Scams and Fraud

Perpetrators of scams and other fraud schemes—most notably digital asset investment scams—use digital assets, including stablecoins, to generate and

launder illicit proceeds.⁶¹ The United States government has sought seizure of substantial amounts of stablecoin, including the \$225 million forfeiture pursued by the Department of Justice as discussed above⁶² and a \$61 million seizure,⁶³ in connection with investigations into such schemes. Perpetrators and facilitators of such scams may solicit and receive victim funds in financial accounts under their control, convert those funds to stablecoins, and then distribute those stablecoins to co-conspirator-controlled digital asset wallets.⁶⁴

ii. Terrorist Financing and Weapons Proliferation

Certain terrorist groups, such as the Islamic State of Iraq and Syria-Khorasan (ISIS-K) and Hamas, use various types of digital assets, including stablecoins.⁶⁵ In some instances, terrorist organizations generate revenue in digital assets, including stablecoins, through online donation drives.⁶⁶ One long-running online ISIS-K fundraiser, for example, collected \$2 million in stablecoins in 2022.⁶⁷ Terrorist groups

⁶¹ *Id.* at p. 5, 52.

⁶² See *Largest Ever Seizure of Funds Related to Crypto Confidence Scams*, *supra* note 58.

⁶³ See, e.g., DOJ, Press Release, *U.S. Attorney's Office EDNC Announces Seizure of \$61 Million Dollars' Worth of Cryptocurrency*, (Feb. 24, 2026), available at <https://www.justice.gov/usao-ednc/pr/us-attorneys-office-ednc-announces-seizure-61-million-dollars-worth-cryptocurrency>; see also DOJ, Press Release, *Ohio Woman Loses Life Savings in Cryptocurrency Investment Scam* (Feb. 28, 2025), available at <https://www.justice.gov/usao-ndoh/pr/ohio-woman-loses-life-savings-cryptocurrency-investment-scam> (discussing seizure of \$8.2 million in stablecoins); see also DOJ, Press Release, *Cyber Scam Organization Disrupted Through Seizure of Nearly \$9M in Crypto* (Nov. 21, 2023), available at <https://www.justice.gov/usao-ndca/pr/cyber-scam-organization-disrupted-through-seizure-nearly-9m-crypto>.

⁶⁴ See, e.g., Judgment, *United States v. Li*, 2:23–cr–596 (C.D. Cal. Feb. 10, 2026) (defendant sentenced to 240 months); see also DOJ, Press Release, *Man Sentenced to 20 Years in Prison for role in \$73 Million Global Cryptocurrency Investment Scam* (Feb. 9, 2026), available at <https://www.justice.gov/archives/opa/pr/foreign-national-pleads-guilty-laundering-millions-proceeds-cryptocurrency-investment-scams>. See Plea, *United States v. He*, 2:25–cr–175 (C.D. Cal. Apr. 7, 2025); see also DOJ, Press Release, *California Man Sentenced for Role in Global Digital Asset Investment Scam Conspiracy Resulting in Theft of More than \$36.9M from Victims* (Sept. 8, 2025), available at <https://www.justice.gov/opa/pr/california-man-sentenced-role-global-digital-asset-investment-scam-conspiracy-resulting>.

⁶⁵ Treasury, *2026 National Terrorist Financing Risk Assessment*, p. 19 (Mar. 2026) [hereinafter 2026 NTFRA], available at <https://home.treasury.gov/system/files/246/2026-NTFRA.pdf>.

⁶⁶ See, e.g., *Justice Department Disrupts Hamas Terrorist Financing Scheme Through Seizure of Cryptocurrency*, *supra* note 51.

⁶⁷ United Nations Security Council Counter Terrorism Committee Executive Directorate,

⁵⁵ 2026 NMLRA, *supra* note 46, p. 52.

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ DOJ, Press Release, *Largest Ever Seizure of Funds Related to Crypto Confidence Scams* (June 18, 2025), available at <https://www.justice.gov/usao-dc/pr/largest-ever-seizure-funds-related-crypto-confidence-scams>.

⁵⁹ International Monetary Fund, *Understanding Stablecoins*, p. 30 (2025), available at <https://www.imf.org/-/media/files/publications/dp/2025/english/usa.pdf>.

⁶⁰ 2026 NMLRA, *supra* note 46, p. 26.

soliciting donations of digital assets turn to stablecoins to avoid the volatility and price fluctuations that impact other digital assets and to facilitate more seamless conversion to fiat currency.⁶⁸

Terrorist organizations have also utilized stablecoins as a means of transferring funds. For example, DOJ unsealed a civil forfeiture action in July 2025 against approximately \$2 million worth of digital assets connected with a Gaza-based money transfer business that was involved in financially supporting Hamas. The complaint describes a detailed scheme whereby users utilized the money transfer business to fund accounts at a digital asset exchange and to fund wallet addresses containing stablecoins to obfuscate their financial support of international terrorist organizations, including Hamas.⁶⁹

Iran has increasingly turned to digital assets to conduct illicit financial activity, obtain drone components and other high-tech equipment, accept payments for weapons, and transfer funds to sanctioned actors in the region. Iranian illicit actors often prefer stablecoins over other digital assets for these transactions due to stablecoins' superior ability to finance international trade.⁷⁰

iii. Narcotics Production and Trafficking

Transnational criminal organizations (TCOs) also use stablecoins to procure components for the manufacturing of illegal drugs and to launder the proceeds of illegal drug sales. For example, Mexico-based drug cartels are increasingly purchasing fentanyl precursor chemicals and manufacturing equipment from People's Republic of China-based suppliers using digital assets, including stablecoins.⁷¹ Additionally, prosecutors have charged that, in some cases, TCOs use money brokers to pick up bulk cash derived

from drug sales in the United States; exchange the cash for digital assets, including stablecoins; and send the digital assets to wallets controlled by brokers or co-conspirators.⁷² According to DOJ, in some instances, the digital assets are then converted into cash and delivered to cartel leaders in Mexico and Colombia.⁷³ In November 2024 for instance, DOJ filed a civil forfeiture complaint against more than \$5.5 million in stablecoins allegedly involved in a money laundering operation related to drug trafficking.⁷⁴

3. Sanctions Evasion

Sanctions evasion and money laundering networks have leveraged stablecoins to move funds on behalf of numerous sanctioned actors, including Russian elites, sanctioned digital asset exchanges, the DPRK government, Iranian actors, foreign terrorist organizations, and global terrorists. For example, in December 2024, OFAC designated as Specially Designated Nationals (SDNs) five individuals and four entities that are associated with or leverage the TGR Group, a sprawling international network of businesses and employees that works to obfuscate the illicit activities of its clients, which include sanctioned Russian elites, including by facilitating exchanges of bulk cash for stablecoins.⁷⁵

Additionally, in August 2025, OFAC redesignated as an SDN Garantex Europe OU (Garantex), a virtual currency exchange that directly facilitated notorious ransomware actors and other cybercriminals by processing over \$100 million in transactions linked to illicit activities since 2019.⁷⁶ Garantex was originally designated as an SDN in April 2022.⁷⁷ According to an

indictment against two Garantex operators, Garantex, beginning in and around early 2023, maintained at least some of its operational accounts in stablecoins.⁷⁸ The operators allegedly moved the exchange's operational wallets storing stablecoins to a new digital asset wallet on a daily basis to evade detection by blockchain analytics services.⁷⁹

The U.S. government has pursued cases involving DPRK IT workers and co-conspirators involved in money laundering alleged to have leveraged stablecoins as part of schemes to evade sanctions and generate revenue for the DPRK regime, in part because they found stablecoins susceptible to laundering. For example, in June 2025, a forfeiture complaint alleged that the DPRK government generated digital assets, in part, through remote work done by DPRK IT workers deployed around the globe.⁸⁰ The complaint also alleges that DPRK IT workers requested to be paid in stablecoins because they (and their alleged money laundering co-conspirators) retain a consistent value and can more easily trade stablecoins for fiat currency.⁸¹

The U.S. government has identified the use of stablecoin connected to Iranian actors' provision of material support to the Iranian Revolutionary Guard Corps (IRGC). For example, in September 2025, DOJ filed a civil forfeiture action to recover approximately \$584,741 in stablecoins alleged to be the property of Mohammad Abedinajafabadi or of his company,⁸² who was charged with conspiring to export sophisticated electronic components from the United States to Iran in violation of U.S. export control and sanctions laws.⁸³ Additionally, in sanctions actions targeting Iran's IRGC-Quds Force-backed Ansarallah (Houthi) operatives, OFAC has identified digital asset wallet addresses that have been used by the Houthis to transfer funds

Evolving Trends in the Financing of Foreign Terrorist Fighters' Activity, 2014–2024, p. 11 (Nov. 2024), available at https://www.un.org/securitycouncil/ctc/sites/www.un.org/securitycouncil.ctc/files/cted_trends_tracker_evolution_trends_in_the_financing_of_foreign_terrorist_fighters_activity_2014_-_2024.

⁶⁸ 2026 NTFRA, *supra* note 65, p. 26.

⁶⁹ See Justice Department Disrupts Hamas Terrorist Financing Scheme Through Seizure of Cryptocurrency, *supra* note 51.

⁷⁰ FATF, *Targeted Report on Stablecoins and Unhosted Wallets: Peer-to-Peer Transactions*, ¶ 36 (Mar. 2025), available at <https://www.fatf-gafi.org/content/dam/fatf-gafi/publications/targeted-report-on-stablecoins-and-unhosted-wallets.pdf.coredownload.inline.pdf>.

⁷¹ FinCEN, *Supplemental Advisory on the Procurement of Precursor Chemicals and Manufacturing Equipment Used for the Synthesis of Illicit Fentanyl and Other Synthetic Opioids*, p. 9 (June 20, 2024), available at <https://www.fincen.gov/system/files/advisory/2024-06-20/FinCEN-Supplemental-Advisory-on-Fentanyl-508C.pdf>.

⁷² See, e.g., *Superseding Indictment, United States v. Duarte et al.*, No. 24–cr–20367 (S.D. Fla. Nov. 19, 2024).

⁷³ *Id.*

⁷⁴ Compl. *United States v. Approximately 114,366.044785 Tether (USDT) Cryptocurrency from Binance Account User ID Ending in 7382*, No. 24–cv–01503, (E.D. Wisc. Nov. 20, 2024); see also Decision and Order, *United States v. Approximately 114,366.044785 Tether (USDT) Cryptocurrency from Binance Account User ID Ending in 7382*, No. 24–cv–01503, (E.D. Wisc. Feb. 6, 2026) (default judgment ordering assets to be forfeited).

⁷⁵ Treasury, Press Release, *Treasury Exposes Money Laundering Network Using Digital Assets to Evade Sanctions* (Dec. 4, 2024), available at <https://home.treasury.gov/news/press-releases/jy2735>.

⁷⁶ Treasury, Press Release, *Treasury Sanctions Cryptocurrency Exchange and Network Enabling Sanctions Evasion and Cyber Criminals* (Aug. 14, 2025), available at <https://home.treasury.gov/news/press-releases/sb0225>.

⁷⁷ Treasury, Press Release, *Treasury Sanctions Russia-Based Hydra, World's Largest Darknet Market, and Ransomware-Enabling Virtual Currency Exchange Garantex* (Apr. 05, 2022), available at <https://home.treasury.gov/news/press-releases/jy0701>.

⁷⁸ Indictment ¶ 29, *United States v. Besciokov and Mira Serda*, No. 25–cr–39, (E.D. Va. Feb. 27, 2025), <https://www.justice.gov/opa/media/1392316/dl>.

⁷⁹ *Id.*

⁸⁰ Compl. ¶¶ 48–49, *United States v. Virtual Currency Associated with North Korean IT Worker Money Laundering and Sanctions Evasion Conspiracies*, No. 25–cv–1769, (D.D.C. June 5, 2025).

⁸¹ *Id.* at ¶¶ 50, 59.

⁸² DOJ, Press Release, *United States Seeks Civil Forfeiture of Cryptocurrency Associated with Iranian National Mohammad Abedini* (Sept. 11, 2025), available at <https://www.justice.gov/usao-ma/pr/united-states-seeks-civil-forfeiture-cryptocurrency-associated-iranian-national-mohammad>.

⁸³ Compl., *United States v. Sadeghi and Abedinajafabadi*, No. 24–cr–10391 (D. Mass. Dec. 13, 2024).

associated with their activities. Many of the identified wallet addresses have been used to transact stablecoins.⁸⁴ Furthermore, on January 30, 2026, OFAC designated as SDNs two UK-based exchanges with connections to notorious Iranian financier Babak Zanjani.⁸⁵ These exchanges processed approximately \$1 billion in funds linked to the IRGC. One of the designated exchanges, Zedxion Exchange, Ltd., issued a stablecoin.⁸⁶

V. Existing Regulatory Framework for Stablecoin Issuers

A. Existing Bank Secrecy Act Obligations

Currently, stablecoin issuers generally are subject to BSA obligations as financial institutions, specifically money transmitters, which are a type of MSB. The BSA statutory definition of “financial institution” includes a “person who engages as a business in the transmission of currency, funds, or value that substitutes for currency.”⁸⁷

⁸⁴ See, e.g., Treasury, Press Release, *Treasury Sanctions Houthi Network Procuring Weapons and Commodities from Russia* (Apr. 2, 2025), available at <https://home.treasury.gov/news/press-releases/sb0068>; Treasury, *Counter Terrorism Designations and Designation Update: Russia-related Designation Removal; Reports for Licensing Activities Undertaken Pursuant to the Trade Sanctions Reform and Export Enhancement Act (TSRA)* (Apr. 2, 2024), available at <https://ofac.treasury.gov/recent-actions/20250402>.

⁸⁵ Treasury, Press Release, *Treasury Sanctions Iranian Regime Officials for Violent Repression and Corruption* (Jan. 30, 2026), available at <https://home.treasury.gov/news/press-releases/sb0375>.

⁸⁶ See TRM Labs, *How Two UK-registered Companies Moved Over a Billion in Stablecoins for the IRGC* (Jan. 9, 2026), available at <https://www.trmlabs.com/resources/blog/how-two-uk-registered-companies-moved-over-a-billion-in-stablecoins-for-the-ircg>.

⁸⁷ 31 U.S.C. 5312(a)(2)(J), 5312(a)(2)(R) (defining, in part, a “financial institution” a “business engaged in the exchange of currency, funds, or value that substitutes for currency or funds,” or “a licensed sender of money or any other person who engages as a business in the transmission of currency, funds, or value that substitutes for currency”). As part of the AML Act, Congress amended 31 U.S.C. 5312 to add this “value that substitutes for currency” language. See Public Law 116–283, sec. 6102(d), 134 Stat. 4547 (2021). In the AML Act, Congress also reaffirmed FinCEN’s existing regulatory framework applying MSB obligations to persons engaged in certain activities related to “value that substitutes for currency,” including the issuing and redeeming of virtual currencies. See FinCEN, *Bank Secrecy Act Regulations; Definitions and Other Regulations Relating to Money Services Businesses*, 76 FR 43585, 43586 (July 21, 2011); see also FinCEN Guidance, FIN–2013–G001, *Application of FinCEN’s Regulations to Persons Administering, Exchanging, or Using Virtual Currencies* (Mar. 18, 2013) [hereinafter 2013 CVC Guidance], available at <https://www.fincen.gov/resources/statutes-regulations/guidance/application-fincens-regulations-persons-administering>; FinCEN, FIN–2019–G001, *Application of FinCEN’s Regulations to Certain Business Models Involving Convertible Virtual Currencies* (May 9, 2019) [hereinafter 2019

FinCEN’s regulations define “money services business,” one category of which is a “money transmitter” that “provides money transmission services.”⁸⁸ “Money transmission services” is in turn defined as “the acceptance of currency, funds, or other value that substitutes for currency from one person and the transmission of currency, funds or other value that substitutes for currency to another location or person by any means.”⁸⁹ “Value that substitutes for currency” includes “virtual” currencies (also called convertible virtual currencies or “CVCs”), such as stablecoins, that either have an equivalent value in real currency or act as a substitute for real currency.⁹⁰ FinCEN has further clarified that, unless a limitation or exception applies, persons engaged in issuing and redeeming a virtual currency (*i.e.*, “administrators”) are money transmitters and thus subject to BSA obligations as MSBs.⁹¹ Stablecoin issuers are, thus, money transmitters because they, for example, issue and redeem virtual currencies and accept and transmit value that substitutes for currency when issuing and converting, redeeming, or repurchasing stablecoins.

As MSBs, stablecoin issuers are currently subject to a range of BSA obligations. MSBs are required to, for instance: (i) establish written AML programs;⁹² (ii) file currency transaction reports (CTRs)⁹³ and SARs;⁹⁴ and (iii) maintain certain records, including those relating to certain transmittals of funds.⁹⁵ MSBs are subject to examination for BSA compliance by the Internal Revenue Service (IRS) under a delegation of authority by FinCEN.⁹⁶

As required by the GENIUS Act, FinCEN is proposing certain obligations that differ in some material respects from current obligations that stablecoin issuers are subject to as MSBs, as well as some PPSI-specific obligations required by the GENIUS Act. However,

CVC Guidance], available at <https://www.fincen.gov/resources/statutes-regulations/guidance/application-fincens-regulations-certain-business-models>.

⁸⁸ 31 CFR 1010.100(ff)(5).

⁸⁹ 31 CFR 1010.100(ff)(5)(i)(A) (emphasis in original).

⁹⁰ 2013 CVC Guidance, *supra* note 87, p. 3.

⁹¹ See *id.* at p. 2 (concluding administrators are generally MSBs and stating that “An administrator is a person engaged as a business in issuing (putting into circulation) a virtual currency, and who has the authority to redeem (to withdraw from circulation) such virtual currency”); see also 2019 CVC Guidance, *supra* note 87, p. 13.

⁹² See 31 CFR 1022.210.

⁹³ See 31 CFR 1022.310.

⁹⁴ See 31 CFR 1022.320.

⁹⁵ See 31 CFR 1022.400, 1010.410(e)–(f).

⁹⁶ See 31 CFR 1010.810(b)(8).

in many respects, FinCEN expects that the proposed requirements for PPSIs would be comparable to stablecoin issuers’ existing requirements as MSBs.

B. Existing Sanctions Obligations

The GENIUS Act provides that PPSIs are persons⁹⁷ formed in the United States⁹⁸ and that PPSIs shall be subject to “all Federal laws applicable to a financial institution located in the United States relating to economic sanctions.”⁹⁹ Because the GENIUS Act requires PPSIs to be formed in the United States, PPSIs will be “U.S. persons” under existing OFAC regulations¹⁰⁰ once the Act takes effect.¹⁰¹ Therefore, stablecoin issuers qualifying as PPSIs will be subject to the same U.S. sanctions obligations that currently apply to all other U.S. persons, including those that are stablecoin issuers.

As discussed in section II.C, U.S. sanctions require U.S. persons, including U.S. person stablecoin issuers, to block the property and interests in property of blocked persons that are in their possession or control and report them to OFAC. This blocking prohibition requires U.S. persons, including those that are stablecoin issuers, to ensure that property and interests in property of such blocked persons, including stablecoins, that are in their possession or control are not transferred, withdrawn, or otherwise dealt in, unless authorized by OFAC or exempt. More broadly, U.S. persons, including those that are stablecoin issuers, are also generally prohibited from engaging in most transactions with blocked persons, including making any contribution or provision of funds, goods, or services to or for the benefit of blocked persons or receiving any contribution or funds, goods, or services from blocked persons, unless authorized by OFAC or exempt. Blocked persons subject to these restrictions include individuals and entities listed on OFAC’s Specially Designated Nationals and Blocked Persons List (“SDN

⁹⁷ 12 U.S.C. 5901(24) (defining a “person” as “an individual, partnership, company, corporation, association, trust, estate, cooperative organization, or other business entity, incorporated or unincorporated”).

⁹⁸ 12 U.S.C. 5901(23) (defining a “permitted payment stablecoin issuer” as “a person formed in the United States that is—(A) a subsidiary of an insured depository institution that has been approved to issue payment stablecoins under 12 U.S.C. 5904; (B) a Federal qualified payment stablecoin issuer; or (C) a State qualified payment stablecoin issuer”).

⁹⁹ See 12 U.S.C. 5903(a)(5)(A).

¹⁰⁰ See, e.g., 31 CFR 510.326, 555.313, 583.314.

¹⁰¹ See 12 U.S.C. 5901(23).

List”).¹⁰² In addition, any entities that are owned, directly or indirectly, individually or in the aggregate, 50 percent or more by one or more blocked persons are also blocked and subject to the above restrictions, even if they are not specifically named on OFAC’s SDN List.¹⁰³

There are a variety of scenarios where these prohibitions apply to U.S. person stablecoin issuers. For example, U.S. person stablecoin issuers are generally prohibited from engaging in primary market activities with blocked persons, such as issuing stablecoins to blocked persons or redeeming stablecoins belonging to blocked persons; such transactions, if consummated, would constitute a prohibited dealing in blocked property, unless authorized or exempt. In such instances, a stablecoin issuer is required to block these stablecoins because the blocked person has a property interest in the stablecoin and such stablecoins are in the possession or control of the stablecoin issuer, a U.S. person, at the time of the transaction. To effectively block such stablecoins, the stablecoin issuer must ensure that it has denied all parties access to the stablecoins, ensure that it complies with OFAC regulations related to the holding and reporting of blocked assets (discussed further below), and implement controls that align with a risk-based approach.¹⁰⁴

U.S. person stablecoin issuers are also prohibited from engaging in secondary market activities with blocked persons. For example, a U.S. person stablecoin issuer would engage in a prohibited provision of services to a blocked person if it allowed the blocked person to engage with the stablecoin issuer’s smart contract to facilitate trades of stablecoins on the secondary market. In this instance, the stablecoin issuer would also be required to block such stablecoins because the blocked person has an interest in the stablecoins, which the issuer controls via its smart contract.

OFAC sanctions prohibitions may also take other forms that do not require blocking but prohibit U.S. persons, including stablecoin issuers, from engaging in trade or financial transactions or other dealings with certain persons or geographic regions or countries, such as North Korea, Cuba,

Iran, and Crimea, unless authorized by OFAC or exempt.¹⁰⁵ In cases where an underlying transaction is prohibited but there is no blockable interest, all U.S. persons, including those that are stablecoin issuers, are required to reject such transactions and report them to OFAC. For example, U.S. sanctions against Iran generally prohibit U.S. persons from directly or indirectly providing services to persons in Iran, unless otherwise authorized or exempt.¹⁰⁶ Accordingly, U.S. person stablecoin issuers are generally prohibited from engaging in primary or secondary market activities with persons in Iran, including issuing stablecoins to persons in Iran, redeeming stablecoins of persons in Iran, or allowing persons in Iran to engage with the issuer’s smart contracts to facilitate trades of stablecoins, as any of these activities would constitute a provision of financial services to Iran. However, unlike when a blocked person is directly or indirectly involved in a transaction, a stablecoin issuer would only be required to reject such transactions and report them to OFAC.

OFAC’s regulations also require U.S. persons, including stablecoin issuers, to comply with certain reporting and recordkeeping requirements, pursuant to OFAC’s Reporting, Procedures and Penalties Regulations (RPPR).¹⁰⁷ Among other requirements, the RPPR require U.S. persons, including stablecoin issuers, to submit reports of blocked property and rejected transactions to OFAC within 10 business days and annual reports of blocked property by September 30 each year.¹⁰⁸ Persons engaging in transactions subject to the provisions of OFAC’s regulations are also required to preserve such records for at least 10 years.¹⁰⁹

OFAC’s basic regulatory requirement for all U.S. persons, including those that are stablecoin issuers, is that they do not violate the sanctions that OFAC administers. The ramifications of non-compliance, inadvertent or otherwise, can jeopardize critical foreign policy and national security goals. Violations of OFAC sanctions may result in the imposition of civil or criminal penalties. OFAC may impose civil penalties for sanctions violations on a strict liability basis, meaning that U.S. persons, including those that are stablecoin issuers, may be held civilly liable for sanctions violations even if such person

did not know or have reason to know that it was engaging in a prohibited transaction.

As a general matter, however, OFAC also takes into consideration the totality of facts and circumstances surrounding an apparent violation to determine the appropriate enforcement response. OFAC’s Economic Sanctions Enforcement Guidelines, 31 CFR part 501, Appendix A (“Enforcement Guidelines”), lay out a set of 11 factors that OFAC will generally consider in determining the appropriate administrative action in response to an apparent violation of U.S. sanctions, including the amount of the penalty, to the extent that a civil monetary penalty is appropriate.¹¹⁰ Any of the 11 factors may be considered aggravating or mitigating and may therefore result in adjustments to the proposed penalty. One of those factors includes the existence, nature, and adequacy of a subject person’s risk-based sanctions compliance program at the time of the apparent violation. Accordingly, when applying the Enforcement Guidelines to a given factual situation, OFAC considers favorably the presence of an effective sanctions compliance program at the time of an apparent violation.

VI. Proposed AML/CFT Regulation

This proposed rule implements the GENIUS Act’s requirement that PPSIs be treated as financial institutions under the BSA. In doing so, it applies the BSA obligations currently applicable to existing financial institutions that are specifically enumerated in the GENIUS Act,¹¹¹ other quintessential BSA obligations, and GENIUS Act obligations specific to PPSIs. It also proposes regulatory infrastructure, including definitions, to effectuate the obligations.

In crafting this proposed rule, FinCEN is mindful that some entities may transition from the current MSB framework to the new PPSI framework. FinCEN is also cognizant that some PPSIs will be closely affiliated with or part of institutions with existing BSA obligations. To promote regulatory clarity and efficiency, FinCEN used its well-established regulatory obligations for banks, MSBs, and other financial institutions as points of reference for its proposed PPSI obligations.

A. Permitted Payment Stablecoin Issuers

Before turning to the specifics of the proposed regulation, FinCEN first outlines several broader considerations

¹⁰² See OFAC, *Specially Designated Nationals List*, available at <https://sanctionslist.ofac.treas.gov/Home/SdnList>.

¹⁰³ See OFAC, *Revised Guidance on Entities Owned by Persons Whose Property and Interests in Property Are Blocked* (Aug. 13, 2014), available at <https://ofac.treasury.gov/media/6186/download?inline>.

¹⁰⁴ See OFAC, *Frequently Asked Question 646*, available at <https://ofac.treasury.gov/faqs/646>.

¹⁰⁵ See 31 CFR part 510, part 515, part 560, part 589.

¹⁰⁶ See 31 CFR 560.204, 560.410, 560.427.

¹⁰⁷ See 31 CFR part 501.

¹⁰⁸ See 31 CFR 501.603, 501.604.

¹⁰⁹ See 31 CFR 501.601.

¹¹⁰ 31 CFR part 501, Appendix A.

¹¹¹ Although specifically enumerated in the GENIUS Act, this proposed rule does not impose a customer identification program obligation, which is the subject of a separate rulemaking.

that impact how FinCEN proposes to regulate PPSIs and how it expects PPSIs will operationalize the proposed obligations. FinCEN first explains its assessment of how PPSI activities compare to those of other types of financial institutions defined in the BSA and proposes using its authority under 31 U.S.C. 5312(a)(2)(Y). It then describes how entities that are PPSIs may relate to other categories of BSA-defined financial institutions. Finally, FinCEN briefly discusses how it is proposing to apply obligations with regards to different types of market activity.

1. Defining PPSI as a Type of Financial Institution

The GENIUS Act directs that a “permitted payment stablecoin issuer shall be treated as a financial institution for purposes of the Bank Secrecy Act” and “shall be subject to all Federal laws applicable to a financial institution located in the United States relating to . . . prevention of money laundering.”¹¹² However, the GENIUS Act does not specify how PPSIs should be mechanically codified into the existing BSA framework.

The BSA defines “financial institution” as a range of entities, all of which could be subject to statutory obligations and FinCEN’s regulations.¹¹³ These institutions include insured banks; commercial banks and trust companies; businesses engaged in the exchange of currency, funds, or value that substitutes for currency or funds; and any person who engages as a business in the transmission of currency, funds, or value that substitutes for currency.¹¹⁴ Notably, designation as a “financial institution” under 31 U.S.C. 5312(a)(2) affects treatment not only under the BSA but also under other statutes that address money laundering or predicate crimes that can underpin money laundering. These laws include those relating to federal third-party subpoenas¹¹⁵ to access to financial records by U.S. law enforcement,¹¹⁶ criminal money laundering¹¹⁷ and terrorist financing offenses,¹¹⁸ as well as other provisions of federal and state law.¹¹⁹

In the BSA, Congress provided authority for FinCEN to, through regulation, expand the categories of financial institutions enumerated in 31 U.S.C. 5312(a)(2) to include a business engaging in activities “similar to, related to, or a substitute for” the activities of an enumerated financial institution.¹²⁰ FinCEN has determined that PPSIs provide services that are similar to or related to services authorized to be provided by BSA-defined financial institutions, and is accordingly, proposing to exercise its authority under 31 U.S.C. 5312(a)(2)(Y). Doing so fulfills Congress’s directive that PPSIs be subject to “all Federal laws” applicable to financial institutions related to money laundering; promotes consistent treatment of PPSIs under federal and state laws that reference the BSA definition of “financial institution;” and reduces uncertainty for PPSIs, their prudential regulators, law enforcement, and other market participants.

As discussed in this proposal, stablecoin issuers are currently regulated under the BSA and FinCEN’s implementing regulations as money transmitters, a type of MSB, and MSBs fall under the definition of a financial institution.¹²¹ In that capacity, issuers engage in the transmission of currency, funds, or value that substitutes for currency. Under the GENIUS Act’s regime, PPSIs will continue to perform these kinds of activities when issuing or redeeming a payment stablecoin. Additionally, the GENIUS Act explicitly preserves the ability of PPSIs to engage in MSB-like activities, including exchanging digital assets for monetary value, exchanging digital assets for other digital assets, and transferring digital assets to a third party, so long as the activity is authorized by the PPSI’s primary Federal payment stablecoin regulator or State payment stablecoin regulator and consistent with all other federal and state laws.¹²²

The activities of MSBs can overlap substantially with those of other types of financial institutions, particularly banks. Indeed, so significantly can the activities of these two types of financial

institutions overlap that FinCEN carved out MSBs from its regulatory definition of “bank” (and vice versa), making them mutually exclusive.¹²³ Just as the business activities of MSBs overlap substantially with those of banks, the business activities of PPSIs can overlap with those of banks. Notably, at least some PPSIs may have bank charters,¹²⁴ and PPSIs’ activities have similarities to the business activities of more “conventional” or “traditional” banks. For example, the GENIUS Act authorizes PPSIs to custody payment stablecoins and, thus, like some banks, PPSIs will hold assets for customers.¹²⁵ Accordingly, in critical respects, PPSIs may offer services that are similar to some services provided by some banks.

In addition, it is expected PPSIs will often operate in close coordination with other financial institutions, *i.e.*, they will engage in activities related to the activities of BSA-defined financial institutions. For example, some PPSIs may partner with digital asset exchanges (*i.e.*, MSBs) and other financial institutions to distribute payment stablecoins or facilitate their use in payments. It is expected that some PPSIs may also rely on banks and other financial institutions to perform key fiat on- and off-ramp functions, such as accepting fiat currency from a bank account when payment stablecoins are issued or transmitting fiat currency to a bank account when payment stablecoins are redeemed. PPSIs often may maintain their own bank accounts, with bank deposits comprising permissible reserve assets backing outstanding stablecoins.¹²⁶ These interconnections reinforce certain functional similarities between PPSIs and other BSA-regulated financial institutions.

In light of the GENIUS Act’s directive, the existing treatment of many stablecoin issuers as MSBs, the functional similarities between PPSIs and BSA-defined financial institutions, and, the interconnectedness between PPSIs and BSA-defined financial institutions, FinCEN has determined that PPSIs engage in activities that are “similar to” as well as “related to” financial services in which other

¹²⁰ 31 U.S.C. 5312(a)(2)(Y).

¹²¹ See 31 U.S.C. 5312(a)(2)(R); 31 CFR 1010.100(t)(3), (ff)(5).

¹²² See 12 U.S.C. 5903(a)(7)(B) (including as a rule of construction that “Nothing in [12 U.S.C. 5903(a)(7)(A)] shall limit a permitted payment stablecoin issuer from engaging in payment stablecoin activities or digital asset service provider activities . . . that are authorized by the primary Federal payment stablecoin regulator or the State payment stablecoin regulator, as applicable, consistent with all other Federal and State laws, provided that the claims of payment stablecoin holders rank senior to any potential claims of non-stablecoin creditors with respect to the reserve assets. . . .”).

¹²³ See 31 CFR 1010.100(d)(7) (defining a bank, in part, as “Any other organization (except a money services business) chartered under the banking laws of any state and subject to the supervision of the bank supervisory authorities of a State”), 1010.100(ff)(8)(i) (definition of money services business “shall not include . . . a bank or foreign bank”).

¹²⁴ See 12 U.S.C. 5901(11)(B) (including uninsured national banks within the definition of “Federal qualified payment stablecoin issuer,” a type of PPSI under 12 U.S.C. 5901(23)(B)).

¹²⁵ See 12 U.S.C. 5903(a)(7)(A)(iii)–(v).

¹²⁶ See 12 U.S.C. 5903(a)(1)(A)(ii).

¹¹² 12 U.S.C. 5903(a)(5)(A).

¹¹³ See 31 U.S.C. 5312(a)(2); *see also, e.g.*, 31 U.S.C. 5318.

¹¹⁴ 31 U.S.C. 5312(a)(2)(A), (B), (J), (R).

¹¹⁵ 18 U.S.C. 986(a).

¹¹⁶ 12 U.S.C. 3414.

¹¹⁷ 18 U.S.C. 1956.

¹¹⁸ 18 U.S.C. 2339B.

¹¹⁹ See, *e.g.*, 50 U.S.C. 3164(5) (defining financial institution for purposes of subchapter); *Ariz. Rev. Stat. Ann.* 6–1241(3) (defining money transmitter under Arizona law by referencing “financial institution” as defined under 31 U.S.C. 5312).

financial institutions identified in 31 U.S.C. 5312(a)(2) are authorized to engage, and thus proposes exercising its 31 U.S.C. 5312(a)(2)(Y) authority to expressly define PPSIs as financial institutions under the BSA.

2. PPSIs' Relationship to Other Types of Financial Institutions

PPSIs will be uniquely positioned relative to other kinds of financial institutions. In some cases, PPSIs may be subsidiaries of depository institutions. In other cases, a single institution may be subject to BSA obligations as both a bank and a PPSI. Stablecoin issuers that may become PPSIs are currently regulated as MSBs. FinCEN seeks to promote a clear and efficient BSA regulatory regime and, accordingly, outlines its current thinking regarding how a PPSI's obligations will interact with the obligations of other BSA-regulated institutions. FinCEN seeks comment on its proposed approaches.

i. Subsidiaries of Insured Depository Institutions

Under the GENIUS Act, one of the three subcategories of PPSIs is a "subsidiary of an insured depository institution," which includes insured depository institutions (as defined by 12 U.S.C. 1813) and insured credit unions.¹²⁷ Because all insured depository institutions in the United States are subject to regulation under the BSA, at least some PPSIs will likely be the subsidiaries of parents that are subject to their own AML/CFT obligations under FinCEN's regulations.¹²⁸ PPSIs that are subsidiaries of insured depository institutions in the United States may be required by certain Federal functional regulators to generally comply with a parent entity's AML/CFT obligations. The question naturally arises whether, and if so how, the parent's AML/CFT program obligation affects that of the subsidiary PPSI and, conversely, how the subsidiary PPSI's obligations under this proposed rule could affect that of the parent. Overall, FinCEN expects that the similarities among its regulations will facilitate coordination between subsidiary and parent, and conversely, how the subsidiary PPSI's program

under this proposed rule affects that of the parent.

Under this proposed rule and FinCEN's existing regulations, FinCEN expects its regulations that are applicable to a parent insured depository institution and its subsidiary PPSI could be similar to one another. If so, a PPSI and its parent would be able to coordinate compliance practices and share compliance resources, and the PPSI, as part of the insured depository institution as a whole, can leverage the parent's program. For example, FinCEN is proposing to impose an AML/CFT program on PPSIs that largely mirrors its proposed programs for banks.¹²⁹ FinCEN recognizes the value of enterprise-wide compliance efforts, but also that such efforts must account for obligations unique to a particular entity. For example, where a PPSI is a subsidiary of an insured depository institution, FinCEN anticipates that the enterprise may elect to extend a single AML/CFT program to both entities. FinCEN assesses that doing so would be permissible so long as a comprehensive AML/CFT program is reasonably designed to identify and mitigate the risks posed by the different aspects of each entity's business and activities and satisfies each of the AML/CFT program and other BSA requirements to which the PPSI and parent are subject.

Where a PPSI is subject to obligations that differ from those of its parent, a PPSI must comply with the PPSI-specific provision. For instance, as the GENIUS Act directs and this proposed rule would require, a PPSI must have the "technical capabilities, policies, and procedures to block, freeze, and reject specific or impermissible transactions that violate Federal or State laws, rules, or regulations."¹³⁰ That statutory requirement will necessarily mean a PPSI must have internal policies, procedures, and controls to comply with the obligation to block, freeze, and reject applicable transactions, which could be part of enterprise-wide policies and procedures or unique in the corporate structure to PPSIs.¹³¹

It is also possible that a subsidiary PPSI may be subject to an obligation parallel to that of its parent in a situation where a Federal functional regulator requires a subsidiary to comply with its parent's regulatory obligations. FinCEN addressed such a situation in a 2012 administrative

ruling.¹³² When FinCEN issued that ruling, loan and finance companies had just been added to the list of financial institutions under the BSA, and FinCEN had just issued regulations requiring loan and finance companies to develop and implement written AML programs.¹³³ FinCEN's ruling stated that when a loan or finance company subsidiary and a parent financial institution are subject to the same rule and are examined by the same regulator, the subsidiary is "deemed to comply with FinCEN's regulations[.]"¹³⁴ FinCEN requests comment on whether it would be appropriate to apply the logic of this administrative ruling to PPSIs that are subsidiaries of insured depository institutions, or conversely whether the holding of the administrative ruling should be broadened to apply to subsidiaries and parents that are subject to similar rules but not the same rule. FinCEN also requests comment on whether it is proposing any obligations on PPSIs that would conflict with existing obligations of an insured depository institution such that complying with both would be legally or practically impossible.

ii. Uninsured National Banks

The GENIUS Act also permits certain uninsured national banks to be PPSIs.¹³⁵ Such an institution would potentially be subject to BSA obligations both as a bank and as a PPSI. Much like with PPSIs that are a subsidiary of an insured depository institution, FinCEN expects that its efforts to harmonize obligations for various types of financial institutions will facilitate such an entity's ability to efficiently comply with both bank and PPSI obligations. Moreover, as explained below, some of the obligations proposed in this rule are similar to those currently imposed on banks. Where obligations differ, an institution that is both a bank and a PPSI, however, will be required to comply with both sets of obligations. FinCEN requests comment on whether it is proposing any obligations that would

¹³² FinCEN, FIN-2012-R005, *Compliance Obligations of Certain Loan or Finance Company Subsidiaries of Federally Regulated Banks and Other Financial Institutions* (Aug. 13, 2012) available at https://www.fincen.gov/system/files/administrative_ruling/FIN-2012-R005.pdf.

¹³³ See FinCEN, *Anti-Money Laundering Program and Suspicious Activity Report Filing Requirements for Residential Mortgage Lenders and Originators*, 77 FR 8157 (Feb. 14, 2012).

¹³⁴ FinCEN, FIN-2012-R005, *supra* note 132, p. 2.

¹³⁵ See 12 U.S.C. 5901(11)(B); *see also* *Implementing the Guiding and Establishing National Innovation for U.S. Stablecoins Act for the Issuance of Stablecoins by Entities Subject to the Jurisdiction of the Office of the Comptroller of the Currency*, 91 FR 10202, 10232, 10296 (Mar. 2, 2026).

¹²⁷ See 12 U.S.C. 5901(23)(A); 12 U.S.C. 5901(15) (defining "insured depository institution" as "(A) an insured depository institution, as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813); and (B) an insured credit union"); *see infra* section VI.C.1.ix (discussing proposed definition of permitted payment stablecoin issuer).

¹²⁸ See 12 U.S.C. 5901(23)(A); 31 CFR part 1020.

¹²⁹ See *infra* section VI.C.3.

¹³⁰ 12 U.S.C. 5903(a)(5)(A)(iv).

¹³¹ *Id.*; *see also infra* section VI.C.6 for a discussion of additional technical capabilities, policies, and procedure requirements specific to PPSIs.

conflict with existing obligations such that complying with both would be legally or practically impossible. FinCEN also requests comment on whether it can take steps to promote efficiencies where a single entity is subject to two obligations.

iii. Money Services Businesses

Finally, the activities in which PPSIs will engage constitute money transmission, the logic under which stablecoin issuers are currently regulated as MSBs. To limit overlapping obligations and confusion, FinCEN proposes affirmatively carving out PPSIs from the definition of MSB.¹³⁶ FinCEN requests comment on whether this carve out is appropriate and results in any ambiguity.

This carve out only applies to PPSIs, and not to other persons engaged in activities involving the issuance of stablecoins that are not payment stablecoins. In general, FinCEN is not changing the regulatory framework that currently applies to activities involving CVCs and to entities other than PPSIs engaging in those activities. For example, stablecoin issuers that issue tokens that are not payment stablecoins, *i.e.*, value that substitutes for currency, will remain subject to the MSB framework. Other than changes specific to PPSIs, FinCEN does not intend for this proposal to change any aspect of FinCEN's framework relating to value that substitutes for currency or entities that engage in activity related to the same.

B. Obligations for Primary and Secondary Market Activity

FinCEN is proposing that some PPSI obligations will apply to the secondary market, while others will not. In doing so, FinCEN has attempted to balance what it currently assesses is the burden of secondary market obligations against the prospective benefit. FinCEN is proposing applying secondary market obligation where PPSIs can most directly mitigate illicit finance in the U.S. financial system. Notably both obligations where FinCEN is proposing secondary market obligations are imposed on PPSIs directly by the GENIUS Act. FinCEN is proposing PPSIs have obligations with regards to the secondary market as part of technical capabilities and policies and procedures to block, freeze, and reject impermissible transactions and technical capabilities to comply, and complying, with the terms of lawful orders. In some cases, stablecoin issuers already have such capabilities and

leverage them to comply with existing law.

In contrast, FinCEN is not proposing to require a PPSI as part of an AML/CFT program to monitor secondary market activity, although a PPSI will be required to understand the risk its customers pose as part of its due diligence, as well as its distribution channels, including the blockchains on which its payment stablecoins are deployed. FinCEN is also not proposing to require PPSIs to file SARs on secondary market transactions as FinCEN has preliminarily assessed that the burden of requiring PPSIs to file SARs concerning secondary market activity could potentially outweigh the potential benefits. FinCEN requests comment on its proposed approach.

C. Section-by-Section Analysis

FinCEN is proposing changes to its existing regulations, as well as creation of a new part applicable to PPSIs, proposed part 1033.¹³⁷ Section VI.C.1 describes changes proposed to FinCEN's existing definitions as well as proposes new definitions. Section VI.C.2 describes FinCEN's proposed delegation of its examination authority. Section VI.C.3 describes FinCEN's proposed requirement for PPSIs to establish AML/CFT programs, to include risk-based procedures for conducting ongoing customer due diligence (CDD). Section VI.C.4 describes FinCEN's proposal related to supervision and enforcement. Section VI.C.5 describes FinCEN's proposal relating to collection of beneficial ownership information for legal entity customers. Section VI.C.6 describes FinCEN's proposals for additional technical capabilities, policies, and procedure requirements specific to PPSIs, as mandated by the GENIUS Act. Section VI.C.7 describes FinCEN's proposal related to PPSIs currency transaction reporting requirements. Section VI.C.8 describes FinCEN's proposal for PPSI suspicious activity reporting requirements. Section VI.C.9 describes FinCEN's proposal relating to records PPSIs will be

¹³⁷ As part of proposed part 1033, FinCEN proposes that if one portion of the proposed regulation, if finalized, is found to be invalid, the invalidated portion of the regulation should be severed with the remaining portions of the regulation remaining in full force and effect. FinCEN's position is that invalidation of any one provision, or application thereof to any one person or circumstance, does not, and should not, affect any other provision in this proposed regulation. Each provision serves an important, related, but distinct purpose and application, designed to benefit the public by protecting the U.S. financial system from illicit financial activity. FinCEN accordingly has proposed each provision such that invalidity to one provision would not undermine the operability or usefulness of the other provisions.

required to maintain, including under the Recordkeeping and Travel Rules. Section VI.C.10 describes FinCEN's proposals relating to information sharing authorities. Finally, section VI.C.11 describes FinCEN's proposals relating to enhanced due diligence PPSIs will be required to undertake, as well as application of special measures.

1. Definitions

FinCEN is proposing to amend four existing definitions and add nine new terms to the general definitions section of its regulations, 31 CFR 1010.100. Where it is adding new terms, in large part, FinCEN is proposing promulgating the same language as the GENIUS Act. In a few instances, however, FinCEN's proposed language diverges from the statutory text in order to reconcile differences between how the GENIUS Act defines a term and how the same term is defined in FinCEN's existing regulations or to avoid confusion when similar terms are defined both by the GENIUS Act and FinCEN's existing regulations. FinCEN is also proposing modifications to improve readability, including not adopting GENIUS Act language where it is unnecessary for purposes of this proposed rule.

Relatedly, FinCEN is not proposing to promulgate regulatory definitions for the GENIUS Act definitions for some words even though FinCEN is proposing rule text for terms that reference those words. For instance, both the GENIUS Act and FinCEN's proposed definition of "permitted payment stablecoin issuer" use the term "subsidiary," which is in turn defined by the GENIUS Act by reference to section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).¹³⁸ With limited exceptions, FinCEN assesses that while these additional definitions may be essential for other regulatory authorities to discharge their regulatory obligations relating to approving issuers, they are not necessary to understand the scope of FinCEN's proposed obligations or the population on which those obligations will be imposed.

None of these proposed changes to the GENIUS Act's language are intended to substantively alter the GENIUS Act's requirements as implemented through this proposed rule. FinCEN seeks comment on the clarity of these definitions, including whether any deviation that FinCEN is proposing from the GENIUS Act's language could be read as changing the intended effect of

¹³⁸ See 12 U.S.C. 5901(32) (defining "subsidiary"); see also 12 U.S.C. 5901(23) (defining "permitted payment stablecoin issuer").

¹³⁶ See *infra* section VI.C.1.ii.

the Act, and whether any additional terms should be defined.

FinCEN is reserving two subparagraphs, (nnn) and (ooo), expecting they will contain definitions proposed in a previously issued FinCEN rulemaking related to AML/CFT programs for the 11 types of existing financial institutions.

i. Proposed Amendment to 31 CFR 1010.100(t)—Financial Institution

The GENIUS Act directs that a “permitted payment stablecoin issuer shall be treated as a financial institution for purposes of the” BSA.¹³⁹ To implement this directive and ensure that PPSIs are subject to the appropriate BSA obligations in a clear and consistent manner—and because, as discussed above in section VI.A.1, FinCEN proposes exercising its 31 U.S.C. 5312(a)(2)(Y) authority to define PPSIs as financial institutions under the BSA—FinCEN is proposing to amend the definition of “financial institution” at 31 CFR 1010.100(t) to expressly include “permitted payment stablecoin issuer.” Consistent with other financial institutions, “permitted payment stablecoin issuer” will be defined separately in a new paragraph.

ii. Proposed Amendment to 31 CFR 1010.100(ff)—Money Services Business

FinCEN is proposing to amend the definition of “money services business,” 31 CFR 1010.100(ff), to add PPSIs to the list of financial institutions that the term “money services business” shall not include. The amendment makes clear that PPSIs are subject to obligations as a PPSI and not as a money services business.

iii. Proposed Amendment to 31 CFR 1010.100(bbb)—Transaction

FinCEN is proposing to amend the definition of “transaction,” 31 CFR 1010.100(bbb), to add the issuance or redemption of a payment stablecoin as a type of transaction. This amendment clarifies that these activities qualify as transactions. It should not be construed, including by negative inference, that issuance and redemption of other kinds of value that substitute for currency are not a transaction.¹⁴⁰ Moreover, it should not be construed, including by negative inference, that issuing and redeeming payment stablecoins are the only kinds of transactions in which a PPSI will engage.

iv. Proposed Amendment to 31 CFR 1010.100(eee)—Transmittal Order

FinCEN is proposing to amend the definition of “transmittal order,” 31 CFR 1010.100(eee), to add a payment stablecoin as a subject of an order. As discussed in greater detail below, this amendment is intended to clarify that a transmittal order to pay payment stablecoins is a transmittal order like an order to pay traditional money. It should not be construed, including by negative inference, that orders to pay other kinds of value that substitute for currency are not transmittal orders.¹⁴¹

v. Proposed 31 CFR 1010.100(ppp)—Digital Asset

FinCEN is proposing to define the term “digital asset” as provided in the GENIUS Act, 12 U.S.C. 5901(6). Under the proposed rule, the term “digital asset” would mean any digital representation of value that is recorded on a cryptographically secured distributed ledger. FinCEN considers it useful to define this term explicitly in its regulations in order to enhance the clarity and conciseness of its regulations. Many of the regulatory obligations that FinCEN is proposing to impose on PPSIs take into account, in one way or another, the concept of digital assets. Most notably, the term “digital assets” is used in “payment stablecoin.”

FinCEN’s use of the term “digital asset” is limited currently to proposed obligations to be imposed on PPSIs. FinCEN is aware that the addition of “digital asset” adds a term related to other terms used in the BSA, its own regulations and its guidance—most notably “value that substitutes for currency” and “convertible virtual currency.” FinCEN’s defining and use of the term “digital asset” in proposed obligations to be imposed on PPSIs should not be construed, including by negative inference, to alter or displace anything about FinCEN’s regulatory infrastructure related to value that substitutes for currency or CVC. Digital assets may be value that substitutes for currency, and vice versa, but the two are not synonymous, and the regulatory requirements that may be associated with one must be evaluated independently of the requirements that may be associated with the other.

vi. Proposed 31 CFR 1010.100(qqq)—Distributed Ledger

FinCEN is proposing to define the term “distributed ledger” as provided in the GENIUS Act, 12 U.S.C. 5901(8).

Under the proposed rule, the term “distributed ledger” would mean a technology in which data is shared across a network that creates a public digital ledger of verified transactions or information among network participants and cryptography is used to link the data to maintain the integrity of the public ledger and execute other functions. The term distributed ledger is used both in the term digital asset and payment stablecoin.

vii. Proposed 31 CFR 1010.100(rrr)—Lawful Order

FinCEN is proposing to define the term “lawful order” as provided in the GENIUS Act, 12 U.S.C. 5901(16), with certain modifications in light of a preexisting FinCEN regulatory definition. Under the proposed rule the term “lawful order” would mean any final and valid writ, process, order, rule, decree, command, or other requirement issued or promulgated under Federal law, issued by a court of competent jurisdiction or by an authorized Federal agency pursuant to its statutory authority, that (1) requires an individual, partnership, company, corporation, association, trust, estate, cooperative organization, or other business entity, incorporated or unincorporated, to seize, freeze, burn, or prevent the transfer of payment stablecoins that the individual or entity issued; (2) specifies the payment stablecoins or accounts subject to blocking with reasonable particularity; and (3) is subject to judicial or administrative review or appeal as provided by law.

The proposed definition modifies the GENIUS Act definition of lawful order by replacing the statutory term “person” with language used in the GENIUS Act definition of “person,” as provided in 12 U.S.C. 5901(24).¹⁴² The term “person” is already defined in FinCEN regulations at 31 CFR 1010.100(mm)¹⁴³ and differs from the GENIUS Act definition of “person.” In particular, FinCEN’s regulatory definition of “person” includes Indian Tribes as defined in the Indian Gaming Regulatory Act, which the GENIUS Act definition of person does not include.

¹⁴² See 12 U.S.C. 5901(24) (defining “person” as “an individual, partnership, company, corporation, association, trust, estate, cooperative organization, or other business entity, incorporated or unincorporated”).

¹⁴³ See 31 CFR 1010.100(mm) (defining “Person” as “An individual, a corporation, a partnership, a trust or estate, a joint stock company, an association, a syndicate, joint venture, or other unincorporated organization or group, an Indian Tribe (as that term is defined in the Indian Gaming Regulatory Act), and all entities cognizable as legal personalities.”).

¹³⁹ See 12 U.S.C. 5903(a)(5)(A).

¹⁴⁰ See 2019 CVC Guidance, *supra* note 87, p. 13 (discussing that an “administrator” engages in issuing and redeeming a virtual currency and is generally a money transmitter).

¹⁴¹ See *infra* section VI.C.9.ii.a; see also 2019 CVC Guidance, *supra* note 87, p. 11.

Further, FinCEN's regulatory definition also does not characterize the entities that comprise the category as "business" entities, as the GENIUS Act definition does. To ensure the definition of "lawful order" for PPSIs accurately applies to the "persons" that Congress intended, as evidenced by the GENIUS Act definition of the term, FinCEN accordingly proposes to, instead of using the term person, incorporate the language the GENIUS Act uses to define person into the regulatory definition of "lawful order." FinCEN solicits comments on whether the incorporation of the specific GENIUS Act language is necessary, or whether, if FinCEN reverts to the use of the term "person" as currently defined in its regulations, this will change the intended meaning or effect of the GENIUS Act.

Additionally, the GENIUS Act uses the term "account" in the definition of lawful order and FinCEN proposes to do the same.¹⁴⁴ A number of other terms currently codified in FinCEN's general definition section, 31 CFR 1010.100 also use the term "account" without defining the term.¹⁴⁵ As discussed in greater detail below, and consistent with that approach, FinCEN proposes not further elaborating on the meaning of account within the definition of lawful order and requests comment on this approach.¹⁴⁶

viii. Proposed 31 CFR 1010.100(sss)—Payment Stablecoin

FinCEN is proposing to define the term "payment stablecoin" as provided in the GENIUS Act, 12 U.S.C. 5901(22), with certain modifications in light of preexisting FinCEN regulatory definitions and technical changes. Additionally, FinCEN proposes embedding within the definition of payment stablecoin two other terms defined in the GENIUS Act.

Under the proposed rule, the term "payment stablecoin" would mean a digital asset (i) that is, or is designed to

be, used as a means of payment or settlement and (ii) the issuer of which: (A) is obligated to convert, redeem, or repurchase for a fixed amount of monetary value, but not for a digital asset denominated in a fixed amount of a monetary value; and (B) represents that such issuer will maintain, or create the reasonable expectation that it will maintain, the digital asset at a stable value relative to the value of a fixed amount of monetary value. The proposed definition also provides that a "payment stablecoin" does not include a digital asset that is: (i) a national currency; (ii) a deposit (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) including a deposit recorded using distributed ledger technology; or (iii) a security, as defined in section 2 of the Securities Act of 1933 (15 U.S.C. 77b), section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c), or section 2 of the Investment Company Act of 1940 (15 U.S.C. 80a–2). For purposes of the definition of "payment stablecoin," FinCEN intends for the definition of "security" provided in paragraph (iii) of the proposed definition to apply and not the preexisting regulatory definition of "security" at 31 CFR 1010.100(ss).

The GENIUS Act's definition of "payment stablecoin" contains language clarifying that "no bond, note, evidence of indebtedness, or investment contract that was issued by a permitted payment stablecoin issuer shall qualify as a security solely [because the issuer satisfies] the conditions in [paragraph (1) of the proposed "payment stablecoin" definition], consistent with section 17 of the Act." FinCEN has determined that this "for avoidance of doubt" language is unnecessary for its regulatory definition of payment stablecoin. The GENIUS Act includes amendments to the cited statutes covered in proposed paragraph (iii) that clarify that payment stablecoins are not securities.¹⁴⁷ Accordingly, while this clarification may have been necessary to understand the intent of the GENIUS Act at the time it was passed, the Act's amendments of security-related statutory provisions obviate the need to include this language in FinCEN's regulations.

The proposed definition of "payment stablecoin" also includes definitions of the terms "national currency" and "monetary value" within the definition of "payment stablecoin" consistent with the definition of the terms in the GENIUS Act, 12 U.S.C. 5901(19) and (17), with certain modifications.

Although the GENIUS Act defines both terms independently from payment stablecoin, neither term is used outside of payment stablecoin as pertinent to this rulemaking. Moreover, adding the GENIUS Act definitions of "national currency" or "monetary value" as separately defined terms in 31 CFR 1010.100 could have an unintended impact on other FinCEN regulations that already use similar terms to mean different things, and could therefore have unintended impact on the regulatory obligations of other types of financial institutions or create unnecessary confusion about those regulatory obligations. Relatedly, within the definition of "national currency," FinCEN proposes replacing the statutory term "money" with the GENIUS Act's definition of "money." This should avoid confusion as "money" appears elsewhere in FinCEN's regulations.

FinCEN proposes that for purposes of the definition of "payment stablecoin" the term—(i) *National currency* means each of the following—(A) A Federal Reserve note (as the term is used in the first undesignated paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 411)); or (B) A medium of exchange currently authorized or adopted by a domestic or foreign government including a monetary unit of account established by an intergovernmental organization or by agreement between two or more countries that is: (1) standing to the credit of an account with a Federal Reserve Bank; (2) issued by a foreign central bank; or (3) issued by an intergovernmental organization pursuant to an agreement by two or more governments; and (ii) *Monetary value* means national currency or deposit (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) denominated in a national currency. The proposed definition of "national currency" reformats and modifies the definition in the GENIUS Act, 12 U.S.C. 5901(19), by including the GENIUS Act definition of "money," 12 U.S.C. 5901(18) within the definition, in paragraph (B), and making statutory paragraphs (B), (C), and (D) into proposed paragraphs (1), (2), and (3) for grammatical consistency. The proposed definition of "monetary value" within the definition of "payment stablecoin" is consistent with the definition of the term in the GENIUS Act, 12 U.S.C. 5901(17).

ix. Proposed 31 CFR 1010.100(ttt)—Permitted Payment Stablecoin Issuer

FinCEN is proposing to define the term "permitted payment stablecoin issuer" as provided in the GENIUS Act, 12 U.S.C. 5901(23), with certain

¹⁴⁴ See 12 U.S.C. 5901(16) (defining, in part, "lawful order" as one that "specifies the payment stablecoins or accounts subject to blocking with reasonable particularity" (emphasis added)).

¹⁴⁵ See, e.g., 31 CFR 1010.100(p) (defining "established customer"); 1010.100(bbb) (defining "transaction"). For financial institutions with customer identification program (CIP) obligations, those institution's subparts often include a definition of "account." However, those definitions are limited to CIP obligations unless expressly noted elsewhere. See 31 CFR 1020.100(a) (defining "account" for CIP purposes in bank subpart); 1023.100(a) (defining "account" for CIP purposes in brokers or dealers in securities subpart); see also 1010.230 (defining "account" in obligation related to legal entity customers by explicit reference to CIP definitions of "account").

¹⁴⁶ See *infra* section VI.C.6.ii discussing proposed obligations related to lawful order compliance and technical capabilities.

¹⁴⁷ See section 17 of the GENIUS Act, Public Law 119–27.

modifications in light of preexisting FinCEN regulatory definitions. Under the proposed rule, the term permitted payment stablecoin issuer would mean an individual, partnership, company, corporation, association, trust, estate, cooperative organization, or other business entity, incorporated or unincorporated formed in the United States that is: (1)(A) a subsidiary of an insured depository institution that has been approved to issue payment stablecoins by a primary Federal payment stablecoin regulator; or (B) a subsidiary of an insured credit union that has been approved to issue payment stablecoins by a primary Federal payment stablecoin regulator; (2) a Federal qualified payment stablecoin issuer; or (3) a State qualified payment stablecoin issuer. The proposed definition modifies the definition of permitted payment stablecoin issuer provided in the GENIUS Act by replacing the statutory term “person” with the language the GENIUS Act uses to define “person” as provided in 12 U.S.C. 5901(24).¹⁴⁸ As described above, the term “person” is already defined in FinCEN regulations at 31 CFR 1010.100(mm)¹⁴⁹ and differs from the GENIUS Act definition of person. To ensure the definition of “permitted payment stablecoin issuer” accurately applies only to “persons” as defined in the GENIUS Act, FinCEN proposes adding the GENIUS Act definition of “person” within the “permitted payment stablecoin issuer” definition.

Additionally, the proposed definition modifies statutory paragraph (A) by replacing the term “insured depository institution” with the GENIUS Act definition of “insured depository institution,” in 12 U.S.C. 5901(15), which includes two subparagraphs one applying to insured depository institutions as defined in section 3 of the Federal Deposit Insurance Act and a second for insured credit unions. FinCEN is also omitting from the GENIUS Act’s definition “insured depository institution” the phrase “as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).” While this language may be essential for regulators responsible for

approving issuers, FinCEN does not believe it is necessary to understand the scope of the obligations it proposes to impose or the population on which those obligations are imposed. Finally, the definition also replaces the statutory reference “has been approved to issue payment stablecoins under section 5” with “has been approved to issued payment stablecoins by a primary Federal payment stablecoin regulator” in both proposed paragraph (1)(A) and (1)(B).

x. Proposed 31 CFR 1010.100(uuu)—Primary Federal Payment Stablecoin Regulator

FinCEN is proposing to define the term “primary Federal payment stablecoin regulator” as provided in the GENIUS Act, 12 U.S.C. 5901(25), with certain modifications. Under the proposed rule, the term “primary Federal payment stablecoin regulator” would mean (1) for a subsidiary of an insured depository institution, as described in paragraph (ttt)(1)(A) of this section, the appropriate Federal banking agency of such insured depository institution; (2) for a subsidiary of an insured credit union, as described in paragraph (ttt)(1)(B), the NCUA; (3) for a State chartered depository institution not covered in subparagraph (1), the FDIC, the OCC, or the Board; or (4) for a Federal qualified payment stablecoin issuer, the OCC.

The proposed definition modifies the statutory definition by including cross references to the proposed definition of “permitted payment stablecoin issuer” to describe a subsidiary of an insured depository institution and a subsidiary of an insured credit union. The definition also uses the full agency names for each Federal banking agency named in the definition for stylistic consistency with other FinCEN regulations.

xi. Proposed 31 CFR 1010.100(vvv)—Federal Qualified Payment Stablecoin Issuer

FinCEN is proposing to define the term “Federal qualified payment stablecoin issuer” as provided in the GENIUS Act, 12 U.S.C. 5901(11), with certain technical modifications for conciseness and in deference to another agency’s authority. Under the proposed rule, the term “Federal qualified payment stablecoin issuer” would mean an entity that is approved by the OCC under 12 U.S.C. 5903 to issue payment stablecoins and is either—(1) a nonbank entity; (2) an uninsured national bank; or (3) a Federal branch.

The GENIUS Act definition of Federal qualified payment stablecoin issuer

contains for the three subtypes of institutions—nonbank entities, uninsured national banks, and foreign bank branches—references to OCC approval and in one case OCC’s statutory authority. FinCEN proposes to consolidate references to OCC approval and remove reference to the OCC’s statutory authority. FinCEN considers this approach appropriate in light of the fact that the OCC, not FinCEN, has the authority to determine how, using what terms and establishing what categories, to discharge the OCC’s regulatory obligations in connection with Federal qualified payment stablecoin issuers as required by the GENIUS Act. FinCEN conceives of its responsibility in this connection as establishing a smooth interface between its own regulations on the subject and those of the OCC, and it regards the proposed language as the best way to do so. In addition, the proposed language has the benefit of conciseness.

xii. Proposed 31 CFR 1010.100(www)—State Payment Stablecoin Regulator

FinCEN is proposing to define the term “State payment stablecoin regulator” as provided in the GENIUS Act, 12 U.S.C. 5901(30), with certain modifications in light of preexisting FinCEN regulatory definitions. Under the proposed rule, the term “State payment stablecoin regulator” would mean a state agency that has the primary regulatory and supervisory authority in such state over entities that issue payment stablecoins. Under the GENIUS Act, the term “State” includes “each of the several States of the United States, the District of Columbia, and each territory of the United States.”¹⁵⁰ FinCEN proposes modifying the GENIUS Act’s definition of “State payment stablecoin regulator” to account for FinCEN’s existing definition of “State,”¹⁵¹ which does not include any U.S. territories. FinCEN is thus adding its existing regulatory phrase “Territory and Insular Possession” to make clear that for purposes of this definition “State” includes territories.¹⁵²

¹⁵⁰ See 12 U.S.C. 5901(28).

¹⁵¹ See 31 CFR 1010.100(vv) (defining “State” as “The States of the United States and, wherever necessary to carry out the provisions of this chapter, the District of Columbia.”).

¹⁵² See 31 CFR 1010.100(zz) (defining “Territories and Insular Possessions” as “The Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and all other territories and possessions of the United States other than the Indian lands and the District of Columbia.”).

¹⁴⁸ See 12 U.S.C. 5901(24) (defining the term “person” to mean “an individual, partnership, company, corporation, association, trust, estate, cooperative organization, or other business entity, incorporated or unincorporated”).

¹⁴⁹ See 31 CFR 1010.100(mm) (stating “Person. An individual, a corporation, a partnership, a trust or estate, a joint stock company, an association, a syndicate, joint venture, or other unincorporated organization or group, an Indian Tribe (as that term is defined in the Indian Gaming Regulatory Act), and all entities cognizable as legal personalities.”).

xiii. Proposed 31 CFR 1010.100(xxx)—State Qualified Payment Stablecoin Issuer

FinCEN is proposing to define the term “State qualified payment stablecoin issuer” as provided in the GENIUS Act, 12 U.S.C. 5901(31), with certain modifications in light of preexisting FinCEN regulatory definitions. Under the proposed rule, the term “State qualified payment stablecoin issuer” would mean an entity that is: (1) legally established under the laws of a State or Territory and Insular Possession and approved to issue payment stablecoins by a State payment stablecoin regulator; and (2) not an uninsured national bank chartered by the OCC pursuant to title LXII of the Revised Statutes; a Federal branch or an insured depository institution, or a subsidiary, of such national bank, Federal branch, or insured depository institution. For meaning of “insured depository institution” this definition would reference the proposed definition of “permitted payment stablecoin issuer” at proposed 1010.100(ttt), clarifying that, consistent with the GENIUS Act, “insured depository institution,” includes insured depository institutions and insured credit unions.¹⁵³

As with the definition of “State qualified payment stablecoin issuer,” FinCEN is adding “Territorial and Insular Possessions” to clarify that, consistent with the GENIUS Act, issuers legally established under the laws of a Territory and Insular Possession can qualify as a State qualified payment stablecoin issuer.

2. Proposed Amendment to 31 CFR 1010.810—Delegation of Examination Authority

As administrator of the BSA, FinCEN has overall authority for enforcement and compliance with the BSA and its implementing regulations.¹⁵⁴ FinCEN, however, may delegate examination authority to appropriate agencies while retaining authority for the coordination and direction of procedures and activities of these agencies.¹⁵⁵ FinCEN has delegated examination authority for various financial institutions, as reflected at § 1010.810(b), and is proposing the same approach with regards to examination authority for PPSIs.

Broadly speaking, the GENIUS Act divides PPSIs into two categories: PPSIs that are regulated for safety and soundness by a primary Federal payment stablecoin regulator (which includes the OCC, Board, FDIC, and NCUA) and PPSIs that are regulated for safety and soundness by a State payment stablecoin regulator.¹⁵⁶ FinCEN proposes delegating examination authority over PPSIs to federal agencies responsible for examining the same entities for safety and soundness and, where no such federal agency exists, to the IRS.¹⁵⁷

i. State Qualified Payment Stablecoin Issuers

Under the GENIUS Act, generally, a State qualified payment stablecoin issuer with a consolidated total outstanding issuance of not more than \$10 billion payment stablecoins may opt for regulation under a State-level regulatory regime, provided that the State-level regulatory regime is substantially similar to the Federal regulatory framework under the GENIUS Act.¹⁵⁸ State qualified payment stablecoin issuers that exceed the \$10 billion in outstanding issuance of payment stablecoins must either transition to the regulatory framework of the primary Federal payment stablecoin regulator, which is then jointly administered by the State payment stablecoin regulator and the primary Federal payment stablecoin regulator, or obtain a waiver permitting the State qualified payment stablecoin issuer to remain solely supervised by a State payment stablecoin regulator.¹⁵⁹

Where a financial institution is not examined for compliance with the BSA and FinCEN’s regulations by the OCC, Board, FDIC, or NCUA, and is not otherwise supervised by a Federal functional regulator, FinCEN has delegated its examination authority to the IRS in § 1010.810(b)(8). Likewise, here FinCEN proposes delegating its examination authority to the IRS for PPSIs not examined by the OCC, Board, FDIC, and NCUA—*i.e.*, a primary Federal payment stablecoin regulator—for safety and soundness. This population will include State qualified payment stablecoin issuers not supervised by a primary Federal payment stablecoin regulator, either because the State qualified payment

stablecoin issuer’s outstanding issuance is not more than \$10 billion or because the primary Federal payment stablecoin regulator has granted the PPSI a waiver to allow the PPSI to remain supervised by a State payment stablecoin regulator. FinCEN believes the IRS is well positioned to conduct BSA examinations for PPSIs not examined by a primary Federal payment stablecoin regulator. As the BSA examiner for a range of institutions not otherwise examined by another agency, the IRS has staff trained in BSA examinations and a strong relationship with FinCEN and various state regulators. Relatedly, the IRS currently examines money transmitters, including stablecoin issuers, for BSA compliance and is, thus, well positioned to assess PPSI compliance with the BSA and ensure consistent application of BSA provisions across PPSIs based in various states.

To effectuate this delegation of BSA examination, FinCEN believes that no changes are necessary to § 1010.810(b)(8), which already states that such authority is delegated with respect to “financial institutions . . . not currently examined by Federal bank supervisory agencies for soundness and safety.” FinCEN believes the proposed text ensures that each PPSI not examined by a primary Federal payment stablecoin regulator for safety and soundness is examined by the IRS. This delegation will not grant authority to the IRS where a State qualified payment stablecoin issuer is subject to a primary Federal payment stablecoin regulator’s framework that is jointly administered by the federal and state regulator and results in a primary Federal payment stablecoin regulator examining for safety and soundness.

ii. Proposed 31 CFR 1010.810(b)(8)—Federal Qualified Payment Stablecoin Issuers

Under the GENIUS Act, the OCC, Board, FDIC, and NCUA are the primary Federal payment stablecoin regulators and responsible for, among other things, assessing a PPSI’s safety and soundness.¹⁶⁰ Additionally, the GENIUS Act requires the primary Federal payment stablecoin regulators to issue regulations relating to, among other things, risk management principles-based requirements and standards, including relating to the BSA.¹⁶¹

With regards to banks, FinCEN has delegated its authority to examine financial institutions for chapter X compliance to the agency that examines

¹⁵⁶ See, e.g., 12 U.S.C. 5905 (outlining supervision by primary Federal payment stablecoin regulators); 12 U.S.C. 5906 (outlining supervision by State payment stablecoin regulators).

¹⁵⁷ Compare 31 CFR 1010.810(b)(1)–(6) with 31 CFR 1010.810(b)(8).

¹⁵⁸ See 12 U.S.C. 5903(c), 5906.

¹⁵⁹ 12 U.S.C. 5903(d).

¹⁶⁰ 12 U.S.C. 5905(a)(3); 12 U.S.C. 5901(25).

¹⁶¹ 12 U.S.C. 5903(a)(4)(A)(iv).

¹⁵³ 12 U.S.C. 5901(15).

¹⁵⁴ See Treasury Order 180–01, *supra* note 15, para. 3; see also 31 CFR 1010.810(a).

¹⁵⁵ 31 U.S.C. 5318(a)(1); 31 CFR 1010.810(a); Treasury Order 180–1, *supra* note 15, paras. 3(b), 4(b).

the institution for safety and soundness.¹⁶² Consistent with that approach, FinCEN's proposal adds a new paragraph to § 1010.810(b) to delegate examination authority to the primary Federal payment stablecoin regulators responsible for assessing a PPSI's safety and soundness. FinCEN believes the primary Federal payment stablecoin regulator responsible for promulgating standards related to BSA and examining particular PPSIs for safety and soundness is best positioned to carry out effective and efficient BSA exams. As the definition of primary Federal payment stablecoin regulator outlines the agency responsible for oversight of various categories of PPSIs, FinCEN is not proposing to detail in § 1010.810(b)(11) which agency is responsible for which subcategory of PPSIs.¹⁶³

3. Proposed 31 CFR 1033.210—AML/CFT Program Requirements for PPSIs

The GENIUS Act directs that PPSIs be subject to “maintenance of an effective anti-money laundering program, which shall include appropriate risk assessments and designation of an officer to supervise the program.”¹⁶⁴ Effective AML/CFT programs safeguard national security and generate significant public benefits by preventing the flow of illicit funds in the financial system and by assisting law enforcement and national security agencies with the identification and prosecution of persons attempting to launder money and undertake other illicit activity through the financial system.¹⁶⁵

FinCEN has separately issued a notice of proposed rulemaking that would amend FinCEN's regulations that prescribe AML/CFT program requirements for current financial institutions program rules under the BSA. Updating the AML/CFT program requirements across financial institution types is part of FinCEN's efforts to reform and modernize the BSA, as well as implement the Anti-Money Laundering Act of 2020 (AML Act).¹⁶⁶ That proposed rule is designed to help ensure that financial institutions' AML/CFT programs are appropriately risk-based, such that compliance with their program obligations is focused on the goals of the BSA, including combatting and preventing money laundering, the

financing of terrorism, and other illicit finance activity risks (collectively, ML/TF risks), rather than mere technical compliance. Furthermore, that proposed rule for banks would help ensure that supervisory and enforcement actions related to AML/CFT programs are focused on significant or systemic failures to implement an effective AML/CFT program (*i.e.*, deficiencies or issues that arise from failing to implement, in all material respects, a properly established AML/CFT program).

In this proposed rule FinCEN proposes to impose on PPSIs an AML/CFT program obligation consistent with the program being proposed for the 11 types of financial institutions currently covered by BSA program requirements, with some modifications due to the GENIUS Act's specific provisions. FinCEN assesses that such consistency across the types of financial institutions promotes clarity, creates efficiencies, and best protects the U.S. financial system from illicit actors. As described below, under FinCEN's proposal, an AML/CFT program is inherently tailored to the risk and operations of a PPSI, meeting the GENIUS Act's directive that rules are tailored to an issuer's size and complexity.¹⁶⁷

i. AML/CFT Program Overview

A central objective of Treasury and FinCEN's BSA modernization efforts is to create an AML/CFT supervisory and regulatory regime that is more effective in achieving the purposes of the BSA and promoting better outcomes for law enforcement and national security agencies.¹⁶⁸ This proposed rule would further that objective by explicitly defining the requirements for a PPSI to establish and maintain an effective AML/CFT program. Consistent with the changes that the AML Act made for other types of financial institutions, it would also adopt into regulation the AML Act's expectation that AML/CFT programs should be risk-based, including ensuring that PPSIs direct more attention and resources toward higher-risk customers and activities, consistent with the risk profile of the PPSI, rather than toward lower-risk customers and activities.¹⁶⁹

Under proposed § 1033.210 PPSIs would have an effective AML/CFT program and comply with the requirements of 31 U.S.C. 5318(h)(1) and § 1033.210 if the PPSI: (1) establishes an AML/CFT program in accordance with paragraph (b) of § 1033.210; and (2) maintains an AML/

CFT program by implementing the AML/CFT program in accordance with paragraph (c) of § 1033.210. As part of the program, and consistent with the mandate in the GENIUS Act, PPSIs would be required to conduct ongoing customer due diligence.

a. Factors That FinCEN Considered

The AML Act requires FinCEN to take into account certain factors when prescribing minimum AML/CFT program standards. FinCEN has considered all these factors in developing this proposed rule.¹⁷⁰

As stated in 31 U.S.C. 5318(h)(2)(B)(iii), effective AML/CFT programs safeguard national security and generate significant public benefits by preventing the flow of illicit funds in the financial system and by assisting law enforcement and national security agencies with the identification and prosecution of persons attempting to launder money or undertake other illicit activity through the financial system. The proposed rule would advance the BSA modernization and reform goals of the AML Act by providing PPSIs and their regulators with clarity about the requirements to have effective AML/CFT programs.

Likewise, 31 U.S.C. 5318(h)(2)(B)(iv)(I) provides that AML/CFT programs should be “reasonably designed to assure and monitor compliance” with the BSA and its implementing regulations and be risk-based. The proposed rule advances these objectives by explicitly requiring PPSIs to have effective AML/CFT programs and by describing the

¹⁷⁰ See 31 U.S.C. 5318(h)(2)(B). Per the BSA, the factors FinCEN considered include, “(i) Financial institutions are spending private compliance funds for a public and private benefit, including protecting the United States financial system from illicit finance risks. (ii) The extension of financial services to the underbanked and the facilitation of financial transactions, including remittances, coming from the United States and abroad in ways that simultaneously prevent criminal persons from abusing formal or informal financial services networks are key policy goals of the United States. (iii) Effective anti-money laundering and countering the financing of terrorism programs safeguard national security and generate significant public benefits by preventing the flow of illicit funds in the financial system and by assisting law enforcement and national security agencies with the identification and prosecution of persons attempting to launder money and undertake other illicit activity through the financial system. (iv) Anti-money laundering and countering the financing of terrorism programs [. . .] should be— (I) reasonably designed to assure and monitor compliance with the requirements of this subchapter and regulations promulgated under this subchapter; and (II) risk-based, including ensuring that more attention and resources of financial institutions should be directed toward higher-risk customers and activities, consistent with the risk profile of a financial institution, rather than toward lower-risk customers and activities.”

¹⁶² See 31 CFR 1010.810(b)(1)–(3), (5).

¹⁶³ See *infra* section VI.C.1.x.

¹⁶⁴ See 12 U.S.C. 5903(a)(5)(A)(i); see also 31 U.S.C. 5318(h).

¹⁶⁵ 31 U.S.C. 5318(h)(2)(B)(iii).

¹⁶⁶ Anti-Money Laundering Act of 2020, Public Law 116–283, Div. F, sections 6001–6511, 134 Stat. 3388, 4547–4633 (Jan. 1, 2021).

¹⁶⁷ See 12 U.S.C. 5903(a)(5)(B).

¹⁶⁸ 31 U.S.C. 5311.

¹⁶⁹ 31 U.S.C. 5318(h)(2)(B)(iv)(II).

minimum components for an AML/CFT program to be effective. Specifically, as part of an effective AML/CFT program, the proposed rule requires that a PPSI establish and maintain a risk-based set of internal policies, procedures, and controls that are reasonably designed to ensure compliance with the BSA and FinCEN's regulations.

The internal policies, procedures, and controls requirement in the proposed rule also demonstrates FinCEN's consideration of 31 U.S.C. 5318(h)(2)(B)(iv)(II), which states that AML/CFT programs should be risk-based, including ensuring that more attention and resources of a PPSI should be directed toward higher-risk customers and activities, consistent with a PPSI's risk profile, rather than toward lower-risk customers and activities. The proposed rule incorporates this directive by explicitly requiring, as part of a PPSI's risk-based internal policies, procedures, and controls, that a PPSI identify, assess, and document its ML/TF risks through risk assessment processes. These risk assessment processes require a PPSI to evaluate ML/TF risks and review and incorporate the AML/CFT Priorities, as appropriate, with updates to risk assessment processes promptly upon any change that the PPSI knows or has reason to know significantly changes the PPSI's ML/TF risks. These risk assessment processes are designed to help PPSIs mitigate ML/TF risks and ensure that they are allocating resources commensurate with their documented ML/TF risks, directing more attention and resources toward higher-risk customers rather than toward lower-risk customers and activities.

Finally, 31 U.S.C. 5318(h)(2)(B)(ii) requires FinCEN to consider the extension of financial services to the underbanked and the facilitation of financial transactions, including remittances, while preventing criminal persons from abusing formal or informal financial services networks. Through its emphasis on risk-based AML/CFT programs, the proposed rule seeks to provide PPSIs with the flexibility to serve a broad range of customers and avoid one-size-fits-all approaches to customer risk that can lead to PPSIs declining to provide financial services to entire categories of customers. The proposed rule would help ensure that decisions taken by PPSIs with respect to closing customer accounts are based on legitimate ML/TF risks and informed by relevant facts and circumstances. The proposed rule is intended to mitigate the risks of PPSIs potentially being inappropriately pressured into closing customer accounts by emphasizing the

risk-based nature of AML/CFT programs. In doing so, the proposed rule also furthers the objectives of E.O. 14331, *Guaranteeing Fair Banking for All Americans*, which seeks to combat "politicized or unlawful debanking."¹⁷¹

b. Program Overview

The proposed rule would require a PPSI to *establish* an AML/CFT program and then *maintain* the AML/CFT program by implementing, in all material respects, the established AML/CFT program. In prescribing the minimum standards for an AML/CFT program and in supervising and examining compliance with those standards, the AML Act requires the Secretary and the appropriate Federal functional regulator to take into account that effective AML/CFT programs safeguard national security and help law enforcement prevent the flow of illicit funds in the financial system.¹⁷² An AML/CFT program can be effective without preventing every minor instance of a financial institution falling prey to illicit finance misuse. Accordingly, the proposed rule would set out that an AML/CFT program is "effective" and complies with the requirements of 31 U.S.C. 5318(h)(1) so long as it is established and maintained in accordance with applicable requirements.

A PPSI would be required to establish a risk-based set of internal policies, procedures, and controls that are reasonably designed to ensure compliance with the BSA and 31 CFR chapter X. The risk-based internal policies, procedures, and controls must also be reasonably designed to: (1) identify, assess, and document the PPSI's ML/TF risks through risk assessment processes that evaluate the risks of the PPSI's business activities, review and, as appropriate, incorporate the AML/CFT Priorities, and are updated promptly upon any change that the PPSI knows or has reason to know significant changes in the PPSI's ML/TF risks; (2) mitigate the PPSI's ML/TF risks, consistent with the PPSI's risk assessment processes; and, (3) conduct ongoing customer due diligence.

The proposed rule would also require a PPSI to establish an ongoing employee training program and independent AML/CFT program testing as part of its AML/CFT program.

Finally, the proposed rule would require a PPSI to designate an individual responsible for establishing and implementing the AML/CFT

program and coordinating and monitoring day-to-day compliance; that individual would be required to be located in the United States and accessible to, and subject to oversight and supervision by, FinCEN and its designee, including the appropriate primary Federal payment stablecoin regulator. That individual also could not have been convicted of a felony offense involving certain kinds of activity, as required by the GENIUS Act.¹⁷³

Under the proposed rule, having an effective AML/CFT program would be more than a one-time adoption of a risk-based set of internal policies, procedures, and controls. Rather, a PPSI would be required to keep its risk-based set of internal policies, procedures, and controls—and the risk assessment processes that inform them—current as the PPSI's risk profile changes. Similarly, an AML/CFT program would involve more than a one-time creation of an employee training program or initiation of an independent testing mechanism: the PPSI would also be required to keep such aspects of the AML/CFT program current as the PPSI's risk profile changes. Thus, even where a PPSI has previously established an AML/CFT program in accordance with the proposed rule, a failure to update the program to reflect significant changes to the PPSI's risk profile may result in the program no longer meeting the program establishment requirements, and the PPSI may accordingly be subject to supervisory or enforcement action for failure to establish an effective AML/CFT program.

Once a PPSI has properly "established" an AML/CFT program, the PPSI must "maintain" the program by implementing it, in all material respects. Minor deficiencies of an AML/CFT program would not necessarily mean that a PPSI has failed to implement the program.

ii. Proposed 31 CFR 1033.210(b)—Program Establishment

The AML/CFT program requirements for PPSI's must have certain minimum elements comprised of: (1) internal policies, procedures, and controls; (2) an independent audit function to test programs; (3) a designated compliance officer; and (4) an ongoing employee training program.

a. Proposed 31 CFR 1033.210(b)(1)—Internal Policies, Procedures, and Controls

The BSA requires financial institutions to develop "internal

¹⁷¹ E.O. 14331, *Guaranteeing Fair Banking for All Americans*, 90 FR 38925 (Aug. 12, 2025).

¹⁷² See 31 U.S.C. 5318(h)(2)(B)(iii).

¹⁷³ See 12 U.S.C. 5903(f).

policies, procedures, and controls” as part of their AML/CFT programs.¹⁷⁴ Proposed § 1033.210(b)(1) provides that a PPSI’s risk-based set of internal policies, procedures, and controls must be reasonably designed to: (1) identify, assess, and document ML/TF risks through risk assessment processes; (2) mitigate ML/TF risks consistent with the risk assessment processes, including by allocating more attention and resources toward higher-risk customers and activities rather than toward lower-risk customers and activities; and (3) conduct ongoing CDD.

Under this proposal, a PPSI’s risk-based set of internal policies, procedures, and controls should be based upon, informed by, and consistent with a PPSI’s risk assessment processes. The level of sophistication of the internal policies, procedures, and controls should be commensurate with the size, structure, risk profile, and complexity of the PPSI.

The requirement that a PPSI’s risk-based set of internal policies, procedures, and controls be “reasonably designed” gives PPSIs flexibility in how they achieve compliance with the BSA and the proposed rule’s other requirements. As part of having risk-based set of internal policies, procedures, and controls reasonably designed to ensure compliance with the BSA and FinCEN’s regulations, PPSIs may choose to responsibly adopt new technologies or innovative approaches to comply with BSA requirements.

1. Proposed 31 CFR 1033.210(b)(1)(i)—Risk Assessment Processes

FinCEN is proposing in § 1033.210(b)(1)(i) that, as part of a PPSI’s risk-based set of internal policies, procedures, and controls, the PPSI establish and maintain risk assessment processes to: (1) evaluate the ML/TF risks of the PPSI’s business activities, including products, services, distribution channels, customers, and geographic locations; (2) review and, as appropriate, incorporate the AML/CFT Priorities; and (3) be updated promptly upon any change that the PPSI knows or has reason to know significantly changes the PPSI’s ML/TF risks. This provision implements the GENIUS Act’s directive that PPSI AML/CFT programs include appropriate risk assessments.¹⁷⁵

The proposed rule requires, as part of a PPSI’s risk-based internal policies, procedures and controls, that it identify, assess, and document its ML/TF risks using risk assessment processes. This risk assessment process, generally

conducted on an annual basis, results in a documented ML/TF risk assessment.

FinCEN believes PPSIs are best positioned to identify and evaluate their ML/TF risk and is therefore not prescribing any particular risk assessment processes or methodologies other than the critical elements described in this proposed rule. Under the proposed rule, PPSIs will be examined for whether they have established and implemented, in all material respects, reasonably designed risk assessment processes—which need not be in the form of a singular risk assessment process. Furthermore, FinCEN is not prescribing any particular timeframe for PPSIs to update their risk assessment processes.

i. Proposed 31 CFR 1033.210(b)(1)(i)(A)—ML/TF Risks

Proposed § 1033.210(b)(1)(i)(A) would require a PPSI’s risk assessment processes to evaluate the ML/TF risks its business activities, including products, services, distribution channels, customers, and geographic locations. These factors are generally well known and often incorporated into current risk assessment processes of some stablecoin issuers and banks. For clarity’s sake, FinCEN considers “distribution channels” to refer to the methods and tools through which a PPSI opens accounts and provides products or services (including payment stablecoins), including, for example through remote or other non-face-to-face means. Thus, for example, PPSIs should consider how accounts are opened, as well as the blockchains to which its payment stablecoins are issued.

PPSIs may use a variety of sources to inform their risk assessment processes. Such sources may include information obtained from other financial institutions, such as emerging risks and typologies identified through 314(b) information sharing or payment transactions that other financial institutions returned or flagged due to ML/TF risks.¹⁷⁶ Information a PPSI generates or maintains could be another source, including information acquired from blockchain analytics. Such internal information may include, for example, customer internet protocol (IP) addresses or device logins and related geolocation information.

Feedback from FinCEN, law enforcement, and financial regulators may also inform risk assessment processes. For example, if a PPSI receives feedback from law enforcement

about a report it has filed or potential risks at the PPSI, the PPSI may incorporate that information into its risk assessment processes. Similarly, PPSIs may consider information identified from responding to section 314(a) requests. Certain FinCEN advisories or guidance may also be particularly relevant to the PPSI’s business activities, thereby warranting consideration when evaluating ML/TF risks. Regardless of the source, PPSIs should take measures in their risk assessment processes to ensure this information is reasonably current, complete, and accurate.

ii. Proposed 31 CFR 1033.210(b)(1)(i)(B)—AML/CFT Priorities

Proposed § 1033.210(b)(1)(i)(B) would require PPSIs to review and incorporate the AML/CFT Priorities. The AML/CFT Priorities set out the priorities for the U.S. government’s AML/CFT policy as required by the AML Act and are designed to ensure that PPSIs’ AML/CFT programs are aligned with those priorities. Recognizing the diverse nature of ML/TF threats facing the U.S. financial system and national security, and that PPSI AML/CFT programs will benefit U.S. national security by safeguarding the financial system from ML/TF risk, the AML/CFT Priorities are intended to ensure that PPSIs are focusing on the greatest threats to U.S. national security, as defined by Treasury.

FinCEN understands that the AML/CFT Priorities may not always be applicable to a PPSI’s risk profile and activities. Therefore, FinCEN requires the incorporation of the AML/CFT Priorities in PPSI’s risk assessment processes, *as appropriate*. This means that, having reviewed the AML/CFT Priorities, a PPSI may determine the extent to which a particular priority is applicable and whether and how a particular AML/CFT Priority should be incorporated into its risk assessment processes.

Further, a PPSI may use its judgment and apply a reasonable, risk-based determination on whether to focus on a specific aspect of an AML/CFT Priority (e.g., cyber-enabled fraud), rather than addressing all aspects of an AML/CFT Priority that may either not be applicable or pose lower risks to the PPSI. However, FinCEN cautions that a surface-level, perfunctory review of an AML/CFT Priority by a PPSI and the foreseeable ways in which it may manifest itself within the PPSI’s customers, products and services, geographies, and distribution channels would not satisfy this requirement.

¹⁷⁴ 31 U.S.C. 5318(h)(1)(A).

¹⁷⁵ See 12 U.S.C. 5903(a)(5)(A)(i).

¹⁷⁶ See FinCEN, *Section 314(b) Fact Sheet*, (Dec. 2020), available at <https://www.fincen.gov/system/files/shared/314factsheet.pdf>.

FinCEN anticipates that some PPSIs may ultimately determine that their business models and risk profiles have limited exposure to some of the threats addressed in the AML/CFT Priorities but instead have greater exposure to other ML/TF risks not addressed in the AML/CFT Priorities. Additionally, some PPSIs' risk assessment processes may determine that their AML/CFT programs already sufficiently take into account some, or all, of the AML/CFT Priorities. In either case, any changes to PPSIs' AML/CFT program, such as internal policies, procedures, or controls, would be based on the results of risk assessment processes and their impact on the AML/CFT program, including how to review and, as appropriate, incorporate the AML/CFT Priorities before making these determinations.

iii. Proposed 31 CFR

1033.210(b)(1)(i)(C)—Update Risk Assessment Processes

Proposed § 1033.210(b)(1)(i)(C) would require PPSIs to update their risk assessment processes promptly upon any change that the PPSI knows or has reason to know significantly changes its ML/TF risk profile. For example, a PPSI may need to update its risk assessment when new products, services, and customer types are introduced; or existing products, services, and customer types undergo significant changes; or when the PPSI adopts new risk mitigation technology; or if the PPSI as a whole expands or contracts through mergers, acquisitions, divestitures, dissolutions, and liquidations. This would include, for example, when a payment stablecoin is deployed on a new blockchain or new features are coded into the smart contract. A PPSI may also need to update its risk assessment process based on factors external to its operations that it knows or has reason to know significantly changes its ML/TF risk profile.

2. Proposed 31 CFR 1033.210(b)(1)(ii)—Mitigate ML/TF Risks

Under the proposed rule, a PPSI's efforts to mitigate its ML/TF risks would involve directing more attention and resources toward higher-risk customers and activities, consistent with the risk profile of the PPSI, rather than toward lower risk customers and activities.¹⁷⁷ The goal of risk-based allocation is for PPSIs to spend less time, energy, and resources on lower priority activities that may result in fewer resources devoted to, and potentially distract from, more serious threats. The proposed rule would thus enable PPSIs

to focus more on higher risk customers and activities, which FinCEN has determined should result in PPSIs being more effective at detecting, reporting, and preventing the flow of illicit funds and providing law enforcement with more valuable BSA reporting.

As noted above, FinCEN believes that PPSIs are best positioned to identify and evaluate their ML/TF risk and to make decisions related to risk identification and resource allocation in accordance with risk identification. The proposed rule, therefore, does not contemplate regulatory second-guessing of a PPSI's reasonable determinations regarding appropriate resource allocation or conclusions regarding specific risks. However, while FinCEN does not believe that an examiner should substitute his or her own subjective judgment in place of the PPSIs, examiners will be expected to assess whether: (1) a PPSI's resource allocation decisions are informed by, and consistent with, reasonably designed risk assessment processes; and (2) with respect to implementation, specifically, whether the PPSI knows or should know of resource-related issues involving its internal policies, procedures, and controls and other mandatory elements that may result in the PPSI failing to implement its AML/CFT program in all material respects and failing to address such issues.

3. Proposed 31 CFR 1033.210(b)(1)(iii)—Conduct Ongoing Customer Due Diligence

The GENIUS Act specifies that PPSIs should be subject to all Federal laws applicable to a financial institution located in the United States relating to "due diligence."¹⁷⁸ The existing program rules for certain financial institutions contain CDD requirements that have commonly been referred to as the "fifth pillar" of AML program rules for those types of financial institutions.¹⁷⁹ Under these requirements, covered financial institutions must establish and maintain

a written AML/CFT program that includes: "appropriate risk-based procedures for conducting ongoing customer due diligence, to include, but not be limited to: understanding the nature and purpose of customer relationships for the purpose of developing a customer risk profile; and conducting ongoing monitoring to identify and report suspicious transactions and, on a risk basis, to maintain and update customer information."¹⁸⁰

Proposed § 1033.210(b)(1)(iii) would require PPSIs to conduct ongoing CDD as part of their AML/CFT program obligations. To effectively mitigate the illicit finance risks in customer relationships, PPSIs need to obtain and maintain information sufficient to develop an understanding of normal and expected customer activity. This in turn requires development of an understanding of the "nature and purpose," or in other words the intent, of the customer in initiating and maintaining the relationship. The PPSI can draw conclusions about the type of activity and transactions the customer can be expected to engage in, setting a "baseline against which aberrant, suspicious transactions are identified."¹⁸¹ These are core elements and fundamental expectations of FinCEN's regulations implementing the BSA.

For PPSIs, some considerations of the nature and purpose of customer relationships will be similar to existing practices for other regulated financial institutions. However, some factors may also be new or unique due to the characteristics of the products and services being offered. PPSIs may need to consider, among other factors, the type of entity seeking to establish a customer relationship, the jurisdiction in which they are domiciled, the AML/CFT obligations they are subject to (and potentially the rigor of supervisory oversight of those obligations), the customer's operating history, the services the customer offers to its users, the markets that the customer serves, and the agents or intermediaries through which the customer may provide its services. Such business, product,

¹⁷⁸ See 12 U.S.C. 5903(a)(5)(A).

¹⁷⁹ See applicable program rules with CDD requirements for covered financial institutions are located at 31 CFR 1020.210(a)(2)(v) and (b)(2)(v) (banks), 1023.210(b)(5) (broker-dealers), 1024.210(b)(5) (mutual funds), and 1026.210(b)(5) (futures commission merchants and introducing brokers in commodities). FinCEN in February 2026 issued an order granting exceptive relief to covered financial institutions from the requirements in 31 CFR 1010.230(b) to identify and verify the identities of beneficial owners of legal entity customers at each new account opening. See FinCEN, *Exceptive Relief from Requirement to Identify and Verify Beneficial Owners at Each Account Opening* (Feb. 13, 2026), available at <https://www.fincen.gov/system/files/2026-02/FinCEN-Order-CCDExceptiveRelief.pdf>.

¹⁸⁰ See 31 CFR 1020.210(a)(2)(v) and (b)(2)(v) (banks); 1023.210(b)(5) (broker-dealers); 1024.210(b)(5) (mutual funds); 1026.210(b)(5) (futures commission merchants and introducing brokers in commodities).

¹⁸¹ See FinCEN, *Customer Due Diligence Requirements for Financial Institutions*, 81 FR 29398, 29419 (May 11, 2016); FinCEN, *Frequently Asked Questions Regarding Customer Due Diligence Requirements for Financial Institutions*, Question 36 (Apr. 3, 2018), available at https://www.fincen.gov/system/files/2018-04/FinCEN_Guidance_CDD_FAQ_FINAL_508_2.pdf.

¹⁷⁷ 31 U.S.C. 5318(h)(2)(B)(iv)(III).

service, and geographic risk considerations are well established components of existing BSA programs. PPSIs may also need to consider information more narrowly tailored to the stablecoin market, including both information available from public blockchains and relevant off-chain considerations. Notably, as stated above, FinCEN assesses that the majority of illicit activity involving stablecoins occurs on the secondary market.¹⁸² Although the proposed rule would not impose a standalone, independent obligation on a PPSI to monitor secondary market transactions, consideration of such activity may be appropriate in the PPSI's development and maintenance of a customer risk profile (e.g., public blockchains may indicate that a digital assets exchange that is a PPSI customer is engaged in deposits or withdrawal activity of the PPSI's stablecoin with addresses attributed to illicit actors).

b. Proposed 31 CFR 1033.210(b)(2)—Independent Testing

The purpose of independent testing is to assess the PPSI's compliance with AML/CFT statutory and regulatory requirements, relative to its risk profile. This evaluation helps to inform the PPSI of weaknesses or areas in need of enhancement or stronger controls. Typically, this evaluation includes a conclusion about the PPSI's overall compliance with AML/CFT statutory and regulatory requirements and sufficient information for the reviewer (e.g., board of directors, senior management, AML/CFT officer, outside auditor, or an examiner) to reach a conclusion about whether the risk-based set of internal policies, procedures, and controls are reasonably designed and resources are well-allocated consistent with the PPSI's risk assessment processes.

Additionally, while PPSIs retain some flexibility regarding who conducts the audit or testing, the proposed rule would require that testing be independent. PPSIs that do not employ outside auditors or consultants or that do not have internal audit departments may comply with this requirement by using internal staff who are not involved in the function being tested. For these PPSIs and PPSIs with other types of arrangements for independent testing, the AML/CFT officer or any party who directly, and in some cases, indirectly reports to the AML/CFT officer, or an equivalent role, would generally not be considered sufficiently independent. Any individual conducting the testing,

whether internal or external, would be required to be independent of other parts of the PPSI's AML/CFT program, including its oversight. For PPSIs that engage outside auditors or consultants, the PPSI would be required to ensure that the outside parties conducting the independent testing are not involved in functions related to the AML/CFT program at the PPSI that may present a conflict of interest or lack of independence, such as AML/CFT training or the development or enhancement of internal policies, procedures, and controls. Additionally, for the purposes of the independent testing component, outside parties would not include government agencies, entities, or instrumentalities, such as a PPSI's primary Federal payment stablecoin regulator or State payment stablecoin regulator. PPSIs with less complex operations, and lower risk profiles may consider utilizing a shared resource as part of a collaborative arrangement to conduct testing, as long as the testing is independent.¹⁸³ FinCEN would generally expect, as with the AML/CFT officer component, independent testers to have the expertise and experience to satisfactorily perform such a duty, including having sufficient knowledge of the PPSI's risk profile and AML/CFT laws and regulations.

c. Proposed 31 CFR 1033.210(b)(3)—Designate an AML/CFT Officer

Under the GENIUS Act and the BSA, an "officer" oversees an AML/CFT program.¹⁸⁴

1. Proposed 31 CFR 1033.210(b)(3)(iii)—Duties of the AML/CFT Officer

Proposed § 1033.210(b)(3)(iii) would require PPSIs to designate an individual (referred to as an AML/CFT officer) responsible for establishing and implementing the AML/CFT program and coordinating and monitoring day-to-day compliance with the requirements and prohibitions of the BSA and FinCEN's implementing regulations. FinCEN's view is that the individual serving as the AML/CFT officer must be qualified for that role and not overburdened with other responsibilities at the institution.

The proposed rule is not intended to be primarily concerned about the formal title of the individual responsible for establishing and implementing the

AML/CFT program and coordinating and monitoring day-to-day compliance; instead, the proposed rule focuses on the AML/CFT officer's position in the PPSI's organizational structure that enables the AML/CFT officer to effectively establish and implement the PPSI's AML/CFT program. The AML/CFT officer's authority, independence, and access to resources within the PPSI are critical. An AML/CFT officer should have decision-making capability regarding the AML/CFT program and sufficient functional stature within the organization to ensure that the program meets BSA requirements.

The AML/CFT officer's access to resources may include the following: adequate compliance funds and staffing with the skills and expertise appropriate to the PPSI's risk profile, size, and complexity; an organizational structure that supports compliance and effectiveness; and sufficient technology and systems to support the timely identification, measurement, monitoring, reporting, and management of the PPSI's ML/TF risks. An AML/CFT officer with conflicting responsibilities that adversely impact the officer's ability to effectively coordinate and monitor day-to-day AML/CFT compliance generally would not fulfill this requirement.

2. Proposed 31 CFR 1033.210(b)(3)(i) and (ii)—The AML/CFT Officer Located in the United States and Accessible to Regulators

Proposed § 1033.210(b)(3)(i) and (ii) would require a PPSI's AML/CFT officer be located in the United States and accessible to, and subject to oversight and supervision by FinCEN and its designee. Under the proposed rule, while the AML/CFT officer must be located in the United States, personnel located outside of the United States would still be permitted to perform certain AML/CFT functions. This language does not alter existing regulations and guidance that generally prohibit the sharing of SARs with personnel located outside of the United States other than limited circumstances such as a bank's foreign head office or controlling company.¹⁸⁵

¹⁸³ See Board, FDIC, NCUA, OCC, and FinCEN, *Interagency Statement on Sharing Bank Secrecy Act Resources* (Oct. 3, 2018), available at <https://www.fincen.gov/news/news-releases/interagency-statement-sharing-bank-secrecy-act-resources>.

¹⁸⁴ See 12 U.S.C. 5903(a)(5)(A)(i); 31 U.S.C. 5318(h)(1)(B).

¹⁸⁵ See, e.g., FinCEN, *Financial Crimes Enforcement Network: Confidentiality of Suspicious Activity Reports*, 75 FR 75593 (Dec. 3, 2010); see also FinCEN, the Board, FDIC, OCC, and Office of Thrift Supervision, *Interagency Guidance on Sharing Suspicious Activity Reports with Head Offices and Controlling Companies* (Jan. 20, 2006), available at <https://www.fincen.gov/system/files/guidance/sarsharingguidance01122006.pdf>.

¹⁸² See *supra* section IV.D.

3. Proposed 31 CFR 1033.210(b)(3)(iv)—Restriction on Officers With Felony Convictions

Under the GENIUS Act, PPSIs must designate an “officer” to supervise its AML/CFT program.¹⁸⁶ This GENIUS Act provision reflects the BSA requirement that a financial institution designate a “compliance officer” for its AML/CFT program.¹⁸⁷ The GENIUS Act further provides that no individual who has been convicted of a “felony offense involving insider trading, embezzlement, cybercrime, money laundering, financing of terrorism, or financial fraud” may serve as an “officer” or director of a PPSI.¹⁸⁸

Given the use of the term “officer” in the GENIUS Act’s prohibition on individuals being convicted of felonies involving certain activity and the use of the same term in the GENIUS Act and BSA provisions regarding AML/CFT programs, FinCEN proposes to apply this restriction to AML/CFT officers and, accordingly, is proposing adding this requirement to the AML/CFT program’s provision relating to the individual responsible for overseeing the AML/CFT program. FinCEN expects PPSIs would ensure an individual does not have a disqualifying felony prior to designating an individual as responsible for the AML/CFT program, as well as require the individual to report any such conviction and monitor for whether the individual receives such a conviction.

d. Proposed 31 CFR 1033.210(b)(4)—Ongoing Employee Training Program

The BSA requires AML/CFT programs to include an “ongoing employee training program.”¹⁸⁹ Proposed § 1033.210(b)(4) would require PPSIs establish an ongoing employee training program. FinCEN would generally expect training to cover the PPSI’s internal policies, procedures, and controls, which should in turn reflect the results of the PPSI’s risk assessment processes, the latest AML/CFT regulatory requirements, and other relevant information. The frequency with which the training would occur, and the content of the training, would depend on the PPSI’s ML/TF risk profile and the roles and responsibilities of the persons receiving the training.

iii. Proposed 31 CFR 1033.210(d)—Written AML/CFT Program and Approval

Proposed § 1033.210(d) would require that a PPSI’s AML/CFT program be written, and that a PPSI, upon request, make available a copy of its written AML/CFT program to FinCEN or its designee, which can include the appropriate agency with examination authorities delegated by FinCEN.¹⁹⁰

Proposed § 1033.210(d) would also require that a PPSI’s written AML/CFT program be approved by the PPSI’s board of directors or an equivalent governing body within the PPSI, or appropriate senior management. The proposed rule specifies that approval encompasses each of the components of the AML/CFT program.

The proposed rule provides PPSIs with significant flexibility in its chosen approval method. While some PPSIs may choose to have its board approve the written AML/CFT program, for others, an equivalent governing body might be a sole proprietor, general partner, or trustee, or a grouping of owners, senior officers (including board committees or other groups with oversight responsibilities), senior management, or other persons having functions and authority similar to that of a board.

The proposed rule’s provision requiring the approval of the AML/CFT program by a PPSI’s board of directors, equivalent body, or appropriate senior management reflects the importance of PPSIs maintaining a strong culture of compliance. A culture of compliance involves demonstrable support and visible commitment from leadership, the dedication of adequate resources to AML/CFT compliance, effective information sharing throughout the PPSI, qualified and independent testing, and understanding across leadership and staff levels of the importance of BSA reports. Adherence to these principles is critical to ensuring that AML/CFT programs are effective.

iv. Proposed 31 CFR 1033.210(e)—AML/CFT Program Certifications

The proposed rule would also require PPSIs to make available to FinCEN, or its designee, upon request any and all certifications submitted to the PPSI’s primary Federal payment stablecoin regulator or State payment stablecoin regulator certifying that the PPSI has implemented an AML/CFT program.¹⁹¹ While the GENIUS Act specifies that the primary Federal payment stablecoin

regulator or State payment stablecoin regulator shall make this certification available upon Treasury request, FinCEN’s authority under the BSA also enables it to require PPSIs to provide a copy of such certifications to FinCEN as part of FinCEN’s efforts to ensure compliance with the BSA.¹⁹²

4. Proposed 31 CFR 1033.221—Supervision and Enforcement

As previously noted, FinCEN is proposing delegating authority to examine PPSIs for compliance with the proposed rules to the primary Federal payment stablecoin regulators.¹⁹³ In another rulemaking, FinCEN has proposed that where it has delegated its examination authority to the OCC, Board, FDIC, and NCUA (the “Agencies”), those Agencies be required to consult with FinCEN prior to taking significant AML/CFT supervisory actions and outlined FinCEN’s own considerations in determining when it will take certain enforcement actions. The proposal also outlined that a bank would only be subject to certain kinds of enforcement actions and significant supervisory actions for significant and systemic failures to implement an AML/CFT program. In that proposal, FinCEN requested comments on whether the framework outlined in the proposal should be extended to financial institutions beyond banks.

The GENIUS Act similarly identifies these Agencies—the OCC, Board, FDIC, and NCUA—as primary Federal payment stablecoin regulators for certain PPSIs as discussed in section VI.C.2.ii. Additionally, as discussed in section IV, some stablecoin issuers engage in certain activities that are similar to those of banks. Accordingly, in light of the same Agencies that serve as the primary Federal payment stablecoin regulators and certain similarities in activities as banks, FinCEN proposes to set forth a supervision and enforcement framework that would subject PPSIs to the same framework proposed for banks. Specifically, the proposed rule would add § 1033.221 to set forth a supervision and enforcement framework for PPSIs’ AML/CFT programs that is aligned with the AML Act’s emphasis on effectiveness and risk-based supervision. This proposal includes three elements: the first defining key terms; the second outlining when FinCEN or the primary Federal payment stablecoin regulators would take enforcement or supervisory action regarding certain kinds of AML/CFT

¹⁸⁶ See 12 U.S.C. 5903(a)(5)(A)(i).

¹⁸⁷ See 31 U.S.C. 5318(h)(1)(B).

¹⁸⁸ See 12 U.S.C. 5903(f).

¹⁸⁹ See 31 U.S.C. 5318(h)(1)(C).

¹⁹⁰ See 31 CFR 1010.810(b); see also *supra* section VI.C.2.

¹⁹¹ See 12 U.S.C. 5904(i)(1).

¹⁹² See 31 U.S.C. 5318(a)(2).

¹⁹³ See *supra* section VI.C.2.

program violations; and the third outlining when the primary Federal payment stablecoin regulators would consult with FinCEN on potential supervisory actions. FinCEN welcomes comment on whether this supervisory and enforcement framework should apply to PPSIs, as well as the consultation proposal. The enforcement requirements do not apply to and in no way affect criminal enforcement liability under the BSA.

i. Proposed 31 CFR 1033.221(a)—Definitions

Proposed § 1033.221(a) would define several terms used throughout the section.

The term “AML/CFT enforcement action” as proposed in § 1033.221(a)(1) would mean any formal or informal action taken by FinCEN that seeks to penalize, remedy, prevent, or respond to noncompliance with past or ongoing violations of, or past or ongoing deficiencies relating to, an AML/CFT requirement.

The term “AML/CFT requirement” as proposed in § 1033.221(a)(2) would mean a requirement of the BSA, 12 U.S.C. 5903(a)(5)(A)(i)–(v), 12 U.S.C. 5903(a)(6)(B), 12 U.S.C. 5903(f)(1)(A), or 31 CFR chapter X.

The term “significant AML/CFT supervisory action” as proposed in § 1033.221(a)(3) would mean any written communication or other formal supervisory determination issued by FinCEN or a primary Federal payment stablecoin regulator, when acting under supervisory authority delegated by FinCEN, that identifies one or more alleged deficiencies, weaknesses, violations of law, or unsafe or unsound practices or conditions relating to an AML/CFT requirement; communicates supervisory expectations regarding actions or remedial measures required to correct the issue; and contemplates significant or programmatic actions or remedial measures to be taken by the PPSI. Examiner observations, suggestions, or other informal comments would be expressly excluded from this definition.

ii. Proposed 31 CFR 1033.221(b)—Enforcement and Supervision Policy

Proposed § 1033.221(b) would articulate FinCEN’s enforcement and supervision policy as it relates to AML/CFT requirements for PPSIs.¹⁹⁴ Except with respect to a significant or systemic failure to implement an effective AML/CFT program (*i.e.*, deficiencies or issues

that arise from failing to implement, in all material respects, a properly established AML/CFT program), a PPSI that has properly established an AML/CFT program would not be subject to an AML/CFT enforcement action based on a violation of proposed § 1033.210 by FinCEN or to a significant AML/CFT supervisory action based on a violation of proposed § 1033.210 by FinCEN or by a primary Federal payment stablecoin regulator, when acting under supervisory authority delegated by FinCEN.

The proposed rule would clarify that nothing in this policy would restrict an AML/CFT enforcement action or a significant AML/CFT supervisory action with respect to a failure to properly establish an AML/CFT program. Moreover, the proposed rule would not affect the factors that FinCEN applies in the disposition of a violation once FinCEN has determined that such violation involves either: (1) a failure to properly establish an AML/CFT program, or (2) a significant or systemic failure to implement an AML/CFT program.¹⁹⁵

iii. Proposed 31 CFR 1033.221(c) and (d)—FinCEN Consultation and Consideration

Proposed § 1033.221(c) would establish a notice and consultation framework applicable when a primary Federal payment stablecoin regulator, acting under supervisory authority delegated by FinCEN, intend to initiate a significant AML/CFT supervisory action. Before initiating such an action, the primary Federal payment stablecoin regulator would be required to provide the Director of FinCEN with an opportunity to review the action and consider any input offered by the Director, which may include any view as to the effectiveness of the PPSI’s AML/CFT program. To facilitate that review, the primary Federal payment stablecoin regulator would be required to provide written notice to the Director of their intent to take the action at least 30 days in advance of the proposed action, unless a shorter period is necessary, in the sole discretion of the primary Federal payment stablecoin regulators, to remedy, prevent, or respond to an unsafe or unsound practice or condition.

The notice would be accompanied by the relevant AML/CFT information underlying the proposed action. Relevant AML/CFT information may

include, but is not limited to: the relevant portions of the draft report enforcement action; the relevant examination workpapers supporting the proposed action and the relevant AML/CFT information submitted by the PPSI to the primary Federal payment stablecoin regulator. FinCEN notes the primary Federal payment stablecoin regulators would not be obligated to provide information over which the PPSI may claim privilege under Federal or State law. The primary Federal payment stablecoin regulators would also be required to respond to requests for additional AML/CFT information from the Director regarding the proposed action.

Finally, proposed § 1033.221(d) specifies the factors that the Director of FinCEN would consider in determining whether to take an enforcement action or significant supervisory action with respect to PPSIs, or when reviewing a proposed action by a primary Federal payment stablecoin regulator. These factors would include the factors set forth in 31 U.S.C. 5318(h)(2)(B), as applicable; the extent, if any, to which the PPSI—where appropriate in light of its size, complexity, and risk profile—has advanced the AML/CFT Priorities by providing highly useful information to law enforcement or national security officials, conducting proactive analytics or performing other innovative activities producing demonstrable outputs evincing the effectiveness of the PPSI’s AML/CFT program (including effective use of artificial intelligence, federated learning, or other advanced monitoring tools); and any other factor the Director deems appropriate, including the PPSI’s size, complexity, and risk profile, and, as relevant, circumstances in which the PPSI’s low-risk customers or limited business activities naturally limit the extent to which the PPSI can meaningfully contribute to AML/CFT Priorities.

The FinCEN Director’s consideration of the extent to which a PPSI has provided highly useful information to law enforcement or national security agencies reflects that FinCEN considers information sharing to be an important element of an effective AML/CFT program. PPSIs may share useful information by responding to 314(a) requests, or may use 314(b) authorities to share information with other financial institutions to identify and report to the federal government activities that may involve ML/TF. PPSIs may also elect to participate in the FinCEN Exchange Program, a voluntary public-private information sharing partnership among FinCEN, law enforcement agencies, national security

¹⁹⁴ The proposal is not intended to and does not affect criminal enforcement liability under the BSA, or the related authority of the Department of Justice.

¹⁹⁵ FinCEN, *FinCEN Statement on Enforcement of the Bank Secrecy Act*, pp. 2–3 (Aug. 18, 2020), available at https://www.fincen.gov/system/files/shared/FinCEN%20Enforcement%20Statement_FINAL%20508.pdf.

agencies, and financial institutions and other private sector entities that aims to support priority national security and counter-illicit finance objectives.¹⁹⁶ FinCEN strongly encourages information sharing for the purpose of advancing the AML/CFT Priorities.

The Director of FinCEN may consider the above alongside other factors, including those outlined in the FinCEN Statement on Enforcement of the Bank Secrecy Act, such as the nature and seriousness of violations, including the extent of possible harm to the public and amounts involved; impact or harm of the violations on FinCEN's mission to safeguard the financial system from illicit use, combat money laundering, and promote national security; or financial gain or other benefit resulting from, or attributable to, the violations, amongst others.¹⁹⁷

5. Proposed Amendment to 31 CFR 1010.230—Collection of Beneficial Ownership Information

FinCEN is proposing to require PPSIs to collect beneficial ownership information about legal entity customers, which is critical for a PPSI to effectively carry out its due diligence obligations as provided in the GENIUS Act.¹⁹⁸ This proposed obligation is effectuated through FinCEN's proposed AML/CFT program obligation, its proposed amendment to § 1010.605(e)(1), and its proposed amendment to § 1010.230(b)(2) and (c).¹⁹⁹ Collecting information on legal entity customers helps a financial institution assess and mitigate risk, as well as the ability of law enforcement to identify assets and accounts connected with illicit activity. FinCEN is not contemplating application of CDD to secondary market activity. Accordingly, FinCEN is not extending the collection of beneficial ownership information to secondary market activity.

Pursuant to § 1010.230(a) "covered financial institutions" are required "to establish and maintain written procedures that are reasonably designed

to identify and verify beneficial owners of legal entity customers and to include such procedures in their anti-money laundering compliance program required under 31 U.S.C. 5318(h) and its implementing regulations." Section 1010.230(f) defines "covered financial institution" for purposes of the section by referencing § 1010.605(e)(1), to which FinCEN is proposing to add PPSIs.

Section 1010.230 provides further specificity on the kinds of procedures that must be established and maintained and the meaning of account, including in § 1010.230(b)(2) and (c). For financial institutions currently required to collect beneficial ownership information, § 1010.230(b)(2) and (c) reference the customer identification program regulation in the respective parts for those institutions. Given that no such regulation currently exists for PPSIs, FinCEN proposes language generally describing identification verification procedures and the meaning of account. More specifically, FinCEN is currently proposing requiring procedures relating to verifying the identity of beneficial owners that would contain the same elements as 31 CFR 1022.220(a)(2), the customer identification program rule for banks. FinCEN proposes that in explaining the meaning of account in § 1010.230(c), FinCEN clarify that for PPSIs an account is a formal relationship between a customer and a permitted payment stablecoin issuer established to provide or engage in services, dealings, or other financial transactions. FinCEN anticipates further modifications to its proposed language based on its expected forthcoming rulemaking implementing the GENIUS Act's requirement that PPSIs maintain customer identification programs.²⁰⁰ Ultimately, FinCEN expects the requirement under § 1010.230 for PPSIs will closely adhere to existing BSA requirements that apply to many other types of financial institutions, including banks.

6. Proposed 31 CFR 1033.240—Additional Technical Capabilities, Policies, and Procedures for PPSIs

The GENIUS Act requires that PPSIs have "technical capabilities, policies, and procedures to block, freeze, and reject specific or impermissible transactions that violate Federal or State laws, rules, or regulations."²⁰¹ The GENIUS Act also requires that PPSIs "issue payment stablecoins only if the issuer has the technological capability to comply, and will comply, with the

terms of any lawful order."²⁰² FinCEN assesses that these obligations are distinct but complementary and, accordingly, proposes implementing both requirements at § 1033.240, categorized as additional technical capabilities, policies, and procedures for PPSIs. Paragraph (a) would implement the block, freeze, and reject requirement and paragraph (b) would implement the lawful order requirement. Both obligations would apply to secondary market activity. Additionally, the obligations would also apply where a PPSI is authorized by its primary Federal payment stablecoin regulator or State payment stablecoin regulator to engage in digital asset service provider activities.²⁰³

Although both of these requirements will be unique obligations under chapter X, FinCEN expects that some stablecoin issuers may have in place technical capabilities and policies and procedures relating to taking action regarding impermissible transactions and adhering to lawful orders because of existing legal requirements, including complying with OFAC sanctions and court orders.

i. Proposed 31 CFR 1033.240(a)—Obligations Relating to Blocking, Freezing, and Rejecting Certain Transactions

The proposed rule would effectuate the GENIUS Act's directive that PPSIs have technical capabilities, policies, and procedures to block, freeze, and reject specific or impermissible transactions that violate Federal or State laws, rules, or regulations by proposing to promulgate the same language used in the GENIUS Act, with additional language clarifying that this obligation extends beyond a PPSI's customers and accounts, *i.e.*, to secondary market activity.

FinCEN recognizes that some stablecoin issuers are currently able to block, freeze, or reject transactions involving their stablecoin by programming the stablecoin's smart contracts. Stablecoin issuers leverage this capability on secondary as well as primary market activity. Some stablecoin issuers use the programmability afforded in smart contracts to ban specific wallet addresses from interacting with stablecoin smart contracts, effectively "freezing" the stablecoins held at those addresses, or to permanently remove stablecoins from circulation (*i.e.*, "burning" them).

¹⁹⁶ FinCEN, *FinCEN Exchange*, available at <https://www.fincen.gov/resources/fincen-exchange>.

¹⁹⁷ FinCEN, *FinCEN Statement on Enforcement of the Bank Secrecy Act* (Aug. 18, 2020), available at https://www.fincen.gov/system/files/shared/FinCEN%20Enforcement%20Statement_FINAL%20508.pdf.

¹⁹⁸ See 12 U.S.C. 5903(a)(5)(A).

¹⁹⁹ See *Customer Due Diligence Requirements for Financial Institutions*, 81 FR at 29398. As previously highlighted, FinCEN in February 2026 issued an order granting exceptive relief to covered financial institutions from the requirements in 31 CFR 1010.230(b) to identify and verify the identities of beneficial owners of legal entity customers at each new account opening. See *Exceptive Relief from Requirement to Identify and Verify Beneficial Owners at Each Account Opening*, *supra* note 179.

²⁰⁰ 12 U.S.C. 5903(a)(5)(A)(v).

²⁰¹ See 12 U.S.C. 5903(a)(5)(A)(iv).

²⁰² See 12 U.S.C. 5903(a)(6)(B).

²⁰³ See 12 U.S.C. 5903(a)(7)(B), 5901(7) (defining "digital asset service provider").

The proposed rule neither prescribes how PPSIs should implement the technical capability requirement nor the policies and procedures that are specifically required to meet the proposed obligation. FinCEN considered providing more prescriptive regulatory text, but has preliminarily assessed that PPSIs are best positioned to determine how to effectively and efficiently comply with the obligation, particularly in light of potential technological changes. Accordingly, the proposal provides PPSIs the flexibility to use various methods to meet the proposed obligation and account for the development and implementation of new technology.

The proposed rule, consistent with the GENIUS Act, would require PPSIs to have the infrastructure necessary to block, freeze, and reject transactions, but does not identify in which instances PPSIs are required to act on those capabilities. Put differently, this provision would not require a PPSI to make an independent determination that a transaction violates federal or state law. Instead, the use of technological capabilities will be dictated by other federal or state laws, rules, or regulations, as well as court orders, some of which will require PPSIs to take action with regards to transactions occurring on the secondary market. For example, as discussed in section V.B, U.S. sanctions administered by OFAC are a strict liability regime, meaning that U.S. persons, including PPSIs, may be held civilly liable for sanctions violations even without having knowledge or reason to know that it was engaging in such a violation. As such, PPSI's technical capabilities, policies, and procedures should account for identifying and blocking or rejecting payment stablecoin-related transactions that would violate U.S. sanctions, including to identify and block stablecoins that are issued to or redeemed by blocked persons. This would also require PPSIs to have technical capabilities, policies, and procedures to identify and block stablecoins traded by blocked persons on the secondary market when PPSIs exercise possession or control of such stablecoins, including through smart contracts. Federal or state court or administrative orders may also require a PPSI to act on its block, freeze, and reject capabilities—including transactions occurring on the secondary market—which should be accounted for in policies and procedures, as well as technical capabilities.

Because these sources of law may require PPSIs to take action on secondary market transactions, PPSIs

would be expected to have the technical capabilities, policies, and procedures for both primary and secondary market activity. FinCEN believes extending these provisions to secondary market activity is consistent with the GENIUS Act, as well as critical to controlling illicit finance risk associated with PPSI activity. Imposing this obligation only on primary market activity would be of limited utility, as FinCEN assesses that PPSIs currently have a small number of large, generally institutional customers. FinCEN assesses that most of the illicit activity involving stablecoins occurs on the secondary market, and it is critical that PPSIs operating in the U.S. implement these obligations to protect U.S. national security and the U.S. financial system.

Notwithstanding the requirement to maintain technical capabilities, policies, and procedures to block, freeze, and reject specific or impermissible transactions that violate Federal or State laws, rules, or regulations, a PPSI would not be required to block, freeze, or reject a transaction when it is under no legal obligation to take action and this proposal would not require PPSIs to maintain separate internal policies, procedures, or controls as part of required AML/CFT programs to monitor secondary market activity independent of other obligations.

FinCEN welcomes comment on this proposal, including its approach, its clarity, and whether it should provide greater specificity.

ii. Proposed 31 CFR 1033.240(b)—Obligations Relating to Lawful Order Compliance and Technical Capabilities

Proposed § 1033.240(b) would implement the GENIUS Act's requirement that a PPSI "may issue payment stablecoins only if the issuer has the technological ability to comply, and will comply, with the terms of any lawful order."²⁰⁴ A lawful order as defined by the GENIUS Act and FinCEN's proposal, is—in part—an order that specifies with reasonable particularity a payment stablecoin or account and requires a person to seize, freeze, burn, or prevent the transfer of payment stablecoins it issued.²⁰⁵

FinCEN is proposing to promulgate this obligation by closely adhering to

²⁰⁴ See 12 U.S.C. 5903(a)(6)(B). Although codified outside the GENIUS Act section specifically dealing with the BSA, Congress provided Treasury general rulemaking authority to implement the GENIUS Act. See 12 U.S.C. 5913. This provision directly implicates illicit finance considerations and, as such, is appropriately overseen by FinCEN at Treasury as part of efforts to combat money laundering and the financing of terrorism.

²⁰⁵ See 12 U.S.C. 5901(16); see also section VI.C.1.vii.

the GENIUS Act's precise language, but with some clarifying modifications. Proposed § 1033.240(b) would reflect that the GENIUS Act obligation related to lawful orders is ongoing rather than only in existence at the time a stablecoin is issued, which FinCEN believes is both consistent with the GENIUS Act and necessary for the obligation to be meaningful. As with the obligation to have technical capabilities and policies and procedures to block, freeze, and reject impermissible transactions, FinCEN proposes to include some language clarifying that PPSIs must account for and abide by lawful orders requiring them to take action with regards to the secondary market, but does not intend to provide prescriptive regulatory text relating to technological capabilities, providing PPSIs the flexibility to use various methods to meet the proposed obligation and account for the development and implementation of new technology.

As previously described, FinCEN proposes promulgating the term "lawful order" as provided in the GENIUS Act, with limited modifications to account for existing regulatory language. The GENIUS Act does not define terms used within that definition, including the word "burn" and "account." FinCEN believes that "burn" is generally understood in the industry and by law enforcement to mean taking action such that the payment stablecoin is permanently removed from circulation, which can be effected through different tactics. Further, FinCEN is aware that lawful orders often specify particular addresses or wallets for which an issuer is under obligation to take action, and assess such addresses fall within the meaning of "account" for purposes of this provision. FinCEN has not proposed regulatory text defining either "burn" or "account" for the purposes of lawful orders, but requests comment on that approach.

Under this obligation, PPSIs would be required to consider and comply with all terms contained in lawful orders. For example, a quintessential type of lawful order, assuming it meets the GENIUS Act's requirements, would be a seizure warrant.²⁰⁶ Those warrants frequently include requirements to respond within a certain amount of time and prohibitions on frustrating the implementation of the warrant. Additionally, with some regularity, Federal court orders require stablecoin

²⁰⁶ See DOJ, *Asset Forfeiture Policy Manual* (2025), chap. 4, sec. I.B., available at <https://www.justice.gov/usdoj-media/criminal/media/1140236/dl?inline>.

issuers to burn and reissue an equivalent amount of stablecoins to a government-controlled wallet. Having the technical capabilities and complying with terms such as these would be part of a PPSI's obligations under proposed § 1033.240(b). FinCEN recognizes that over time the terms contained in lawful orders might change and would expect that as a PPSI learns of new lawful order terms, such terms will be incorporated into its lawful order compliance processes.

As with the requirement to have technical capabilities and policies and procedures relating to blocking, freezing, and rejecting impermissible transactions, this obligation would apply to any lawful order, including lawful orders that relate to primary or secondary market activity. FinCEN believes the vast majority of lawful orders currently relate to secondary market activity and are likely to continue to do so in the future. FinCEN proposes promulgating language that would make clear the lawful order obligations extend to secondary market activity. Public law enforcement cases demonstrate the value of stablecoin issuers having the capability to comply with lawful orders and carry out actions to seize, freeze, and burn or prevent the transfer of their stablecoins in secondary market transactions. Law enforcement has used lawful orders to seize hundreds of millions of dollars' worth of stablecoins involved in illicit activity.²⁰⁷

FinCEN welcome comment on this proposal, including its approach, its clarity, and whether it should provide greater specificity.

7. Proposed 31 CFR 1033.310 Through 1033.315—Reports of Transactions in Currency

Beyond suspicious activity reporting, the GENIUS Act does not specify additional reporting obligations to be imposed on PPSIs. The BSA authorizes FinCEN to promulgate regulations requiring financial institutions to file reports when they participate in certain types of financial transactions.²⁰⁸ Pursuant to this authority, 31 CFR 1010.310 through 1010.314 requires “financial institutions” (other than casinos) to file currency transaction reports (CTRs) for “each deposit,

withdrawal, exchange of currency or other payment or transfer, by, through, or to such financial institution which involves a transaction in currency of more than \$10,000,” unless subject to an applicable exemption.²⁰⁹ FinCEN proposes applying the CTR reporting provisions to PPSIs through proposed §§ 1033.310 through 1033.315, which would cross reference corresponding provisions in §§ 1010.310 through 1010.315.

Application of §§ 1010.310 through 1010.315 would not require reporting of transactions in payment stablecoins. As defined in § 1010.100(bbb)(2), for the purposes of provisions related solely to the report required by §§ 1010.311 and 1010.313, the term “transaction in currency” means a transaction involving the physical transfer of currency from one person to another. Moreover, the definition of “currency,” as defined in § 1010.100(m), does not include a payment stablecoin, and thus, §§ 1033.310 through 1033.314 do not require reports of transactions in payment stablecoins.²¹⁰ This approach is consistent with § 1010.100(bbb)(2) which also states that a physical transfer of currency does not include bank checks, bank drafts, wire transfers or other written orders.

FinCEN recognizes that, presently, stablecoin issuers rarely transact in physical transfers of currency. FinCEN nevertheless considers it prudent to allow for the possibility that this could change, with PPSI activity expanding to encompass retail, brick-and-mortar locations where currency could be used, or even kiosks that resemble automated teller machines (ATMs).²¹¹ If such an expansion does occur, FinCEN considers it prudent to adopt CTR obligations for PPSIs as it assesses that PPSIs should be subject to the same currency reporting obligations as most other financial institutions as cash enables anonymous, difficult to trace transactions. If a PPSI does not transact in physical transfers of currency, the PPSI would, of course, not file CTRs and would not be expected to create policies

and procedures relating to the filing obligation.

FinCEN's proposal would require PPSIs to comply with the series of provisions comprising CTR obligations. The threshold in § 1010.311 applies to transactions in currency of more than \$10,000 conducted during a single business day. Section 1010.312 specifies when a financial institution is required to verify and record information about an individual conducting a reportable transaction or on whose behalf the transaction is conducted. Under § 1010.313 a financial institution must treat multiple transactions conducted in one business day as a single transaction if the financial institution has knowledge that the transactions are conducted by, or on behalf of, the same person. And § 1010.314 outlines the prohibition on structuring transactions to avoid the reporting requirement. Finally, § 1010.315 exempts non-bank financial institutions from filing reports with respect to transactions between the institution and a commercial bank. Where a PPSI is also a bank, this exemption and not the exemptions applicable to banks would control. FinCEN does not believe it is necessary to clarify in the regulatory text that when an entity is acting as a PPSI, the non-bank exemptions apply. Notably, banks can avail themselves of a greater number of CTR exemptions,²¹² and FinCEN welcomes feedback on whether additional exemptions are appropriate for PPSIs.

8. Proposed 31 CFR 1033.320—Reports of Suspicious Transactions

The GENIUS Act explicitly requires PPSIs to be subject to BSA requirements relating to “monitoring and reporting of any suspicious transaction relevant to a possible violation of law or regulation.”²¹³ Under the BSA, FinCEN has authority to require any financial institution to “report any suspicious transaction relevant to a possible violation of law or regulation.”²¹⁴ Nearly all financial institutions subject to FinCEN regulations are required to identify and report suspicious activity.²¹⁵ These reports provide highly useful information that is leveraged by authorized users as part of criminal, tax, and regulatory investigations; risk assessments; and intelligence and counterintelligence activities.²¹⁶

²⁰⁹ 31 CFR 1010.311.

²¹⁰ 31 CFR 1010.100(m) (defining, in part, “currency” as “[t]he coin and paper money of the United States or of any other country”).

²¹¹ Kiosks, for example, which are ATM-like devices that allow customers to exchange real (or fiat) currency for virtual currency and vice versa, are already used to exchange CVC for fiat currency including cash. See FinCEN, FIN-2025-NTC1, *FinCEN Notice on the Use of Convertible Virtual Currency Kiosks for Scam Payments and Other Illicit Activity* (Aug. 4, 2025), available at <https://www.fincen.gov/system/files/2025-08/FinCEN-Notice-CVCKIOSK.pdf>. Such devices could be leveraged by PPSIs as an additional means to interact with customers.

²¹² See 31 CFR 1020.315.

²¹³ See 12 U.S.C. 5903(a)(5)(A)(iii).

²¹⁴ See 31 U.S.C. 5318(g)(1).

²¹⁵ See 31 CFR 1020.320, 1021.320, 1022.320, 1023.320, 1024.320, 1025.320, 1026.320, 1029.320, 1030.320.

²¹⁶ See 31 U.S.C. 5311(1); see also, e.g., FinCEN, *Financial Crimes Enforcement Network (FinCEN)*

²⁰⁷ See U.S. Attorney's Office EDNC Announces Seizure of \$61 Million Dollars' Worth of Cryptocurrency, Cyber Scam Organization Disrupted Through Seizure of Nearly \$9M in Crypto *supra* note 63; *Largest Ever Seizure of Funds Related to Crypto Confidence Scam* *supra* note 58.

²⁰⁸ See, e.g., 31 U.S.C. 5313(a), 5326. This proposal also implements the GENIUS Act's requirements related to high value transactions. See 12 U.S.C. 5903(a)(5)(A)(v).

This proposed rule would promulgate at § 1033.320 a requirement that PPSIs file SARs for any suspicious transaction relevant to a possible violation of law or regulation. FinCEN expects that requiring PPSIs to report suspicious activity would similarly provide highly useful information for investigations and proceedings involving domestic and international money laundering, terrorist financing, and other illicit finance activity, as well as for intelligence purposes. The proposed requirement is generally consistent with the existing SAR filing requirements for stablecoin issuers regulated as MSBs, as well as other financial institutions with SAR filing requirements.

i. PPSI SAR Obligation With Regards to Secondary Market Activity

FinCEN recognizes that the majority of illicit finance involving payment stablecoins occurs on the secondary market. FinCEN also recognizes that certain aspects of how PPSIs and payment stablecoins operate could raise questions about the appropriate scope of SAR obligations relating to secondary market activity. Specifically, due to the nature of how transactions occur on the secondary market via smart contract, a PPSI can see the movement of its payment stablecoin even when the transfer occurs between individuals or entities with which the PPSI has no established direct customer relationship and when the PPSI is not a party to the transfer other than via operation of its smart contracts.

PPSIs may have less information on secondary market transactions than on primary market transactions. When a payment stablecoin transfer occurs in the secondary market, generally, the PPSI's interaction with the transfer is through the smart contract. When such a transfer occurs in the normal course of business, while the PPSI may be privy to certain information for secondary market transactions, such information may not be highly useful for SAR reporting purposes. For example, in many cases the information would not enable a PPSI to make an informed assessment of the transfer for SAR reporting purposes. At times, a PPSI could not identify an actor behind a secondary market transaction. PPSIs, like other financial institutions and law enforcement, can rely on the blockchain and analytical tools to gain greater insight into the risk associated with a particular transfer, but the PPSI may have limited distinct insight particularly

as to the parties associated with, or the purpose of, the transfer. As such, the information available to PPSIs may present challenges as to how and when they are able to identify and report suspicious activity for secondary market transactions. SARs conveying only limited information are less useful to regulators and law enforcement.

Relatedly, at times, secondary market transfers for which PPSIs have some visibility due to the smart contract may be subject to more ready observation by other BSA-regulated institutions or foreign financial institutions subject to reporting obligations. Such institutions may be better positioned to assess the suspiciousness of a transaction and may be obligated to collect identifying information associated with a transfer, which can be reported via a SAR as appropriate.

Still, there may be instances in which a PPSI has reason to suspect that a transaction is related to criminal activity or has no business or apparent lawful purpose and, thus, could be required to report the activity. PPSIs may also suspect suspicious activity based on public information, information from other compliance efforts, or other information sources. FinCEN also understands that some PPSIs currently devote resources to monitoring secondary market activity to identify illicit finance risks.

FinCEN has preliminarily assessed that the burden of requiring PPSIs to file SARs concerning secondary market activity would potentially outweigh the likely benefits. The requirement would essentially require global monitoring of transfers but could result in SARs containing minimal information. While in some instances, FinCEN expects the reporting could net highly useful information, particularly where the transfers do not occur through BSA-regulated institutions, FinCEN preliminarily has determined that the substantial burden imposed would outweigh the potential benefit it reasonably anticipates could be gained from requiring such reporting. Moreover, a blanket obligation to report suspicious activity on secondary market transactions could lead to PPSIs being overly cautious and filing a substantial number of defensive SARs to avoid criticism from examiners about underreporting. Such defensive SARs can have little value for law enforcement and other users attempting to combat illicit finance.

Accordingly, this proposal does not impose a secondary market SAR reporting obligation. However, consistent with FinCEN's longstanding position, a PPSI would be afforded the

protections from liability provided by the BSA for any SAR voluntarily filed reporting a possible violation of law or regulation in good faith.²¹⁷ To ensure clarity regarding the SAR reporting obligation, FinCEN proposes adding a new paragraph, § 1033.320(g), to clarify that, for purposes of the SAR obligation, a transfer is not a "transaction" conducted or attempted by, at, or through a PPSI only due to an interaction with a smart contract. This language should not be construed as changing or opining on SAR regulations applicable to other types of financial institutions.

FinCEN considered alternatives that would have instead imposed limited secondary market SAR reporting obligations. For example, FinCEN considered a SAR obligation where a PPSI has reason to know a transaction to which it is not a party is designed to evade a lawful order. FinCEN also considered, requiring a PPSI to file a SAR when it is notified in some way, such as through an order, legal process, or via an information sharing channel, that authorities suspect a transfer is associated with illicit activity. But FinCEN assesses that SAR reporting where authorities are aware of suspicious activity and alert a PPSI to activity is of limited utility relative to the reporting burden. FinCEN also considered imposing a SAR obligation when a PPSI learns through any means, such as part of its secondary market risk monitoring, that a secondary market transfer is suspicious. But, as discussed above, FinCEN assesses such an obligation would outweigh the benefit accrued from the obligation due to, among other things, the information available to the PPSI.

FinCEN, however, seeks comment on its preliminary determination that PPSIs should not be obligated to provide SAR reporting on the secondary market. It also seeks comment on whether its proposed regulatory text relating to secondary market activity provides sufficiently clear and accurate guardrails. FinCEN seeks comment on policy alternatives (including the imposition of limited, bespoke reporting obligations about secondary market transfers) and the benefits and drawbacks of such alternatives as well. For any such bespoke SAR obligation recommended, FinCEN requests commenters elaborate on the kinds of information a PPSI could reasonably be expected to provide based on current or expected technical and operational capabilities, the uniqueness of such information (*i.e.*, commenters should

Year in Review for Fiscal Year 2024, available at <https://www.fincen.gov/system/files/2025-08/FinCEN-Infographic-Public-2025-508.pdf>.

²¹⁷ See *infra* section VI.C.8.ii. and vi.

identify the useful information a PPSI could provide about secondary market transfers that could not be readily obtained from other sources).

ii. Proposed 31 CFR 1033.320(a)—
Reports by PPSIs of Suspicious
Transactions

Proposed § 1033.320(a) sets forth the criteria for which a PPSI would be obligated to report suspicious transactions that are conducted or attempted by, at, or through a PPSI and involve or aggregate at least \$5,000 in funds or other assets.

Proposed § 1033.320(a)(1) contains the general statement of the obligation to file reports of suspicious transactions, including that transactions must be reported if conducted or attempted by, at, or through a PPSI. FinCEN proposes referencing a clarification to be codified in § 1033.320(g) on the meaning of “transaction” for the PPSI SAR reporting obligation, which as proposed would state that “A transaction is not conducted or attempted by, at, or through a permitted payment stablecoin issuer only because a transfer by third parties results in an interaction with a permitted payment stablecoin issuer’s smart contract.” To clarify that the proposed rule imposes a reporting requirement that is consistent with those for other financial institutions, § 1033.320(a)(1) incorporates language from the SAR rules applicable to other financial institutions, such as banks, broker-dealers in securities, mutual funds, casinos, and MSBs, including clarifying that the SAR reporting obligations relates not only to discrete transactions but also to patterns of transactions that in aggregate are suspicious and meet the reporting threshold.

Proposed § 1033.330(a)(1) makes clear that a PPSI is permitted to report voluntarily any transaction the PPSI believes is relevant to the possible violation of any law or regulation but that is not otherwise required to be reported by this proposed rule. Thus, the rule would afford PPSIs the protection from liability for the voluntary reporting of such suspicious transactions, including those occurring on the secondary market.

Proposed § 1033.320(a)(2) would require the reporting of suspicious activity that involves or aggregates at least \$5,000 in funds or other assets. The \$5,000 threshold in this proposed rule is consistent with the SAR filing requirements for most other financial institutions.²¹⁸ Currently, stablecoin

issuers regulated as MSBs have SAR filing obligations at the monetary threshold of \$2,000.²¹⁹ FinCEN proposes the \$5,000 monetary threshold for PPSIs because \$5,000 is the reporting threshold that FinCEN’s regulations use for financial institution types that are subject to customer identification program requirements, and the GENIUS Act requires PPSIs to have customer identification programs.²²⁰ The \$2,000 threshold for MSBs was established in a March 2000 final rule, which highlighted specific characteristics for MSBs that do not apply in the PPSI context. In particular, the final rule explained that the threshold for MSBs was less than several other financial institution types due to the relationship between transmitters and their agents; a desire to account for transfers below the existing \$3,000 recordkeeping requirement with respect to funds transfers conducted through MSBs; the fact that BSA regulations for MSBs were new and existing state-level regulations were uneven; and feedback from law enforcement about serious abuse of money transmission at levels below \$2,000.²²¹ The proposed \$5,000 threshold takes into account the current status of the payment stablecoin ecosystems, where primary market transactions below \$5,000 are rare; the lack of transmitter/agent relationships in the PPSI ecosystem; and the required imposition of customer identification program obligations on PPSIs.

Section 1033.320(a)(2)(i) through (iv) specifies that a PPSI would be required to report a transaction if it knows, suspects, or has reason to suspect that the transaction (or a pattern of transactions of which the transaction is a part): (i) involves funds derived from illegal activity or is intended or conducted to hide or disguise funds or assets derived from illegal activity as a part of a plan to violate or evade any Federal law or regulation or to avoid any transaction reporting requirement under Federal law or regulation; (ii) is designed, whether through structuring or other means, to evade the requirements of the BSA; (iii) has no business or apparent lawful purpose, and the PPSI knows of no reasonable

(requiring banks, casinos, broker-dealers in securities, mutual funds, futures commission merchants and introducing brokers, and loan or finance companies to report suspicious transactions if they involve in the aggregate at least \$5,000).

²¹⁹ 31 CFR 1022.320(a)(2).

²²⁰ 12 U.S.C. 5903(a)(5)(A)(v).

²²¹ See FinCEN, *Amendments to the Bank Secrecy Act Regulations—Requirement that Money Transmitters and Money Order and Traveler’s Check Issuers, Sellers, and Redeemers Report Suspicious Transactions*, 65 FR 13683 (Mar. 14, 2000).

explanation for the transaction after examining the available facts; or (iv) involves the use of the PPSI to facilitate criminal activity. FinCEN notes that paragraph (iv) is included in all SAR rules enacted after 2001.²²² The bank SAR rule does not contain an equivalent to paragraph (iv), because it was issued prior to 2001. To maintain standard language across financial institution types, FinCEN proposes paragraph (iv) for PPSIs, which FinCEN does not believe adds substantially to the reporting obligation already mandated by paragraphs (i) through (iii).

Section 1033.320(a)(3) recognizes that one or more financial institutions may have an obligation to report the same suspicious transaction and that other financial institutions may have separate obligations to report suspicious activity with respect to the same transaction pursuant to other provisions in the BSA. Under this proposed provision, where more than one financial institution with a separate suspicious activity reporting obligation²²³ is involved in the same transaction, only one report jointly filed on behalf of all involved financial institutions would be required, provided that the joint report contained all relevant facts and that each institution maintained a copy of the report and any supporting documentation. Accordingly, where a PPSI is a subsidiary of a parent insured depository institution and both institutions are required to file a SAR, the parent will be permitted to file SARs on behalf of its PPSI subsidiary (and vice versa).

iii. Proposed 31 CFR 1033.320(b)—
Filing and Notification Procedures

Proposed § 1033.320(b)(1) through (4) sets forth the filing and notification procedures a PPSI would need to follow to make reports of suspicious transactions. If the PPSI identifies a suspect, within 30 days of initial detection by the reporting PPSI of facts that may constitute a basis for filing a SAR, the PPSI would need to report the transaction by completing and filing a SAR with FinCEN in accordance with all form instructions. If a PPSI does not identify a suspect, a PPSI may delay filing for 30 days to identify a suspect. The PPSI would also need to collect and

²²² See 31 CFR 1021.320(a)(2)(iv), 1022.320(a)(2)(iv), 1023.320(a)(2)(iv), 1024.320(a)(2)(iv), 1025.320(a)(2)(iv), 1026.320(a)(2)(iv), 1029.320(a)(2)(iv), 1030.320(a)(2)(iv).

²²³ Other BSA-defined financial institutions, such as banks, broker-dealers in securities, and mutual funds have separate reporting obligations that may involve the same suspicious activity. See 31 CFR 1020.320, 1023.320, 1024.320.

²¹⁸ See 31 CFR 1020.320(a), 1021.320(a), 1023.320(a), 1024.320(a), 1026.320(a), 1029.320(a)

maintain supporting documentation relating to each SAR.

For situations requiring immediate attention, such as suspected terrorist financing or ongoing money laundering schemes, PPSIs would be required under § 1033.320(b)(4) to notify immediately by telephone the appropriate law enforcement authority in addition to filing a timely SAR.

Finally, § 1033.320(b)(5) provides that a PPSI wishing to voluntarily report suspicious transactions that may relate to terrorist activity may call FinCEN's Financial Institutions Hotline at 1-866-556-3974 in addition to filing timely a SAR if required by this section. The PPSI may also, but is not required to, contact its primary Federal payment stablecoin regulator to report such situations.

iv. Proposed 31 CFR 1033.320(c)—Retention of Records

Proposed § 1033.320(c) would provide that PPSIs must maintain copies of filed SARs and the underlying related documentation for a period of five years from the date of filing. Supporting documentation would need to be made available to FinCEN, any Federal, State, or local law enforcement agency; or any Federal regulatory authority that examines the PPSI for compliance with the BSA under the proposed rule, upon request of that agency or authority.

v. Proposed 31 CFR 1033.320(d)—Confidentiality of SARs

Consistent with BSA provisions regarding SAR confidentiality,²²⁴ proposed § 1033.320(d) would provide that a SAR and any information that would reveal the existence of a SAR are confidential and shall not be disclosed except as authorized in § 1033.320(d)(1)(ii). Section 1033.320(d)(1)(i) would generally provide that no PPSI, and no current or former director, officer, employee, or agent of any PPSI, shall disclose a SAR or any information that would reveal the existence of a SAR. This provision of the proposed rule would further provide that any PPSI and any current or former director, officer, employee, or agent of any PPSI that is subpoenaed or otherwise requested to disclose a SAR or any information that would reveal the existence of a SAR, would decline to produce the SAR or such information and would be required to notify FinCEN of such a request and any response thereto. In addition to reports of suspicious activity required by the proposed rule, PPSIs would be

prohibited from disclosing voluntary reports of suspicious activity.

Proposed § 1033.320(d)(1)(ii) would provide three rules of construction that clarify the scope of the prohibition against the disclosure of a SAR by a PPSI. The rules of construction proposed would remain qualified by, and subordinate to, the statutory mandate that revealing to one or more subjects of a SAR of the SAR's existence would remain a crime.²²⁵ The first rule of construction, in § 1033.320(d)(1)(ii)(A)(1), would authorize a PPSI, or any director, officer, employee or agent of a PPSI, to disclose a SAR, or any information that would reveal the existence of a SAR, to various specified authorities provided that no person involved in the reported transaction is notified that the transaction has been reported. The second rule of construction, in § 1033.320(d)(1)(ii)(A)(2), would provide two instances where disclosures of underlying facts, transactions, and documents upon which a SAR was based would be permissible: in connection with (i) preparation of a joint SAR or (ii) certain employment references or termination notices.

The third rule of construction, in § 1033.320(d)(1)(ii)(B), would authorize sharing of a SAR within a PPSI's corporate organizational structure for purposes consistent with the BSA as determined by regulation or in guidance. FinCEN proposes specifying in this rule of construction that a PPSI subsidiaries and its insured depository institution parent can share SARs between the two entities as doing so is consistent with Title II of the Bank Secrecy Act. Specifically, such sharing enables a parent company to discharge its oversight responsibilities with respect to enterprise-wide risk management.²²⁶ This provision is intended to make it clear that PPSIs will be permitted to share SARs, as well as the underlying facts, transactions, and documents upon which a SAR was based, with its parent insured depository institution (and vice versa).

Section 1032.330(d)(2) would also incorporate the statutory prohibition

against disclosure of SAR information by government authorities that have access to SARs other than in fulfillment of their official duties consistent with the BSA. The paragraph would clarify that official duties do not include the disclosure of SAR information in response to a request by a non-governmental entity for non-public information²²⁷ or for use in a private legal proceeding, including a request under 31 CFR 1.11.²²⁸

vi. Proposed 31 CFR 1033.320(e)—Limitation of Liability

Proposed § 1033.320(e) would provide protection from liability, also known as a safe harbor, for making either required or voluntary reports of suspicious transactions, or for failures to provide notice of such disclosure to any person identified in the disclosure to the full extent provided by 31 U.S.C. 5318(g)(3).²²⁹ This protection would extend to a PPSI and any current or former director, officer, employee, or agent of a PPSI.

vii. Proposed 31 CFR 1033.320(f)—Compliance

Proposed § 1033.320(f) would note that FinCEN or its delegates will examine PPSIs' compliance with their obligation to report suspicious transactions. Proposed § 1033.320(f) would also provide that a PPSI's failure to comply with FinCEN's SAR filing requirements may constitute a violation of the BSA and FinCEN's regulations.

viii. Proposed 31 CFR 1033.320(g)—Clarification Regarding Transactions

Proposed § 1033.320(g) would effectuate FinCEN's intent to explicitly scope out secondary market transfers from a PPSI's SAR reporting obligation. It would state that, for the purposes of the PPSI SAR regulation, "A transaction, for purposes of § 1033.320, is not conducted or attempted by, at, or

²²⁷ For purposes of this rulemaking, "non-public information" refers to information that is exempt from disclosure under the Freedom of Information Act.

²²⁸ 31 CFR 1.11 is Treasury's regulation governing demands for testimony or the production of records of Department employees and former employees in a court or other proceeding.

²²⁹ As previously referenced, to encourage the reporting of possible violations of law or regulation and the filing of SARs, the BSA contains a safe harbor provision that shields financial institutions making such reports from civil liability. In 2001, the USA PATRIOT Act clarified that the safe harbor also covers voluntary disclosure of possible violations of law and regulations to a government agency and expanded the scope of the safe harbor to cover any civil liability which may exist under any contract or other legally enforceable agreement (including any arbitration agreement). See USA PATRIOT Act, Public Law 107-56, sec. 351(a), 115 Stat. 272, 321 (2001); 31 U.S.C. 5318(g)(3).

²²⁵ See 31 U.S.C. 5318(g)(2)(A)(i), 5322.

²²⁶ In reaching this conclusion, FinCEN considered and found persuasive the rationale underlying interagency guidance issued by FinCEN, the Board, FDIC, OCC, and Office of Thrift Supervision, which determined "a U.S. bank or savings association may disclose a Suspicious Activity Report to its controlling company." See FinCEN, the Board, FDIC, OCC, and Office of Thrift Supervision, *Interagency Guidance on Sharing Suspicious Activity Reports with Head Offices and Controlling Companies* (Jan. 20, 2006), available at <https://www.fincen.gov/system/files/guidance/sarsharingguidance01122006.pdf>.

²²⁴ 31 U.S.C. 5318(g)(2).

through a permitted payment stablecoin issuer only because a transfer by third parties results in an interaction with a permitted payment stablecoin issuer's smart contract."

FinCEN also considered, instead of clarifying what transfers are scoped *out* of the rule, specifying transfers scoped *into* the rule, by outlining that "transactions" include (1) issuances or redemptions of a payment stablecoin; (2) transfers, payments, or withdrawals of funds or value related to issuing or redeeming a payment stablecoin; (3) transfers, payments, or withdrawals of funds or value related to managing reserve assets; (4) transfers, payments, or withdrawals of funds or value related to providing custodial or safekeeping services for payment stablecoins, required reserves; or private keys of payment stablecoins; (5) transfers, payments, or withdrawals of funds or value related to any activities that support (1)–(4); and (6) transfers, deposits or withdrawals relating to any activity in which a PPSI is authorized to engage. FinCEN preliminarily believes, however, that attempting to further outline "transaction" adds unnecessary complexity; may result in confusion because "transaction" is otherwise defined in FinCEN's regulations; and could lead to the PPSI SAR obligation being overly or underly inclusive as the kinds of activities in which PPSIs engage, and how they engage in those activities, could evolve. As indicated above, FinCEN welcomes comment on its proposed approach.

9. Proposed 31 CFR 1033.400 and 1033.410—Recordkeeping Requirements for PPSIs

The GENIUS Act requires that PPSIs be subject to requirements relating to "retention of appropriate records."²³⁰ Under the BSA, FinCEN has authority to impose on financial institutions obligations relating to requiring, retaining, and maintaining records.²³¹ Financial institutions subject to the BSA obligations have these recordkeeping requirements.²³² These records enhance law enforcement's ability to detect, investigate, and prosecute money laundering, financial crimes, and have a

high degree of usefulness in criminal, tax, or regulatory investigations.²³³ Consistent with its treatment of other financial institutions under the BSA, FinCEN proposes amendments to § 1010.410 and adding §§ 1033.400 and 1033.410 to apply these recordkeeping requirements to PPSIs.

Proposed § 1033.400 would state generally that PPSIs are subject to the recordkeeping requirement of subpart D of part 1010, which would include § 1010.430 that, among other things, requires records to be kept for five years and § 1010.415. Proposed § 1033.410 would cross-reference § 1010.410 which details the specific recordkeeping requirements explained in detail below.

i. Application of Recordkeeping Obligations in § 1010.410(a)–(d)

The proposal would require PPSIs to comply with the recordkeeping obligations outlined in § 1010.410(a) through (c). The recordkeeping obligations would require PPSIs to create and retain certain records for extensions of credit in excess of \$10,000;²³⁴ and certain records of cross-border transfers of currency, monetary instruments, funds, checks, investment securities, and credit worth more than \$10,000. Section 1010.410(d) would require also a PPSI to maintain records related to any order issued under § 1010.370(a) for up to five years.

ii. Application of Recordkeeping Obligations in § 1010.410(e) and (f)

The proposal would also require PPSIs to comply with the Recordkeeping Rule and Travel Rule, which are complementary obligations codified in §§ 1010.410(e) and 1010.410(f), respectfully.²³⁵ The Recordkeeping Rule requires financial institutions to collect and retain records for funds transfers and transmittals of funds in amounts of \$3,000 or more. The Travel Rule requires financial institutions to transmit information on certain funds transfers and transmittals

of funds to other financial institutions participating in the transfer or transmittal. As such, the information "travels" with the transmittal to the next financial institution in the payment chain.²³⁶ Under the current regulatory regime, stablecoin issuers are subject to the Recordkeeping Rule and Travel Rule as MSBs. The proposed requirement is generally consistent with existing recordkeeping requirements for stablecoin issuers regulated as MSBs, as well as other financial institutions with recordkeeping requirements. FinCEN is not proposing to substantively change the Recordkeeping Rule and Travel Rule requirements via this rulemaking other than clearly imposing those requirements on PPSIs, consistent with the GENIUS Act, and ensuring it is clear that transmittal orders involving payment stablecoins are covered by the Recordkeeping Rule and Travel Rule.²³⁷

a. Proposed Amendment to 31 CFR 1010.100(eee)—Definition of Transmittal Order

Both the Recordkeeping Rule, § 1010.410(e),²³⁸ and Travel Rule, § 1010.410(f), rely on the definition of "transmittal order" in § 1010.100(eee), which states, in part, that a transmittal order causes another financial institution to pay a fixed amount of "money." FinCEN has clarified in guidance that transmittal orders relating to transfers involving CVC, of which payment stablecoins are one type, are subject to the Recordkeeping and Travel Rules, presuming the Rules' other conditions are met.²³⁹ Nevertheless, to avoid any doubt regarding the application of the term transmittal order to payment stablecoins in light of the GENIUS Act's direction to issue regulations setting out requirements for PPSIs, FinCEN proposes amending the definition of transmittal order in § 1010.100(eee) to expressly include payment stablecoins in addition to "money."²⁴⁰ This change should not be

²³⁶ See 31 CFR 1010.410(e).

²³⁷ In addition to implementing the GENIUS Act's directive that PPSIs be subject to recordkeeping obligations, this proposal also implements its requirements related to high value transactions by requiring collection of information for certain transactions. See 12 U.S.C. 5903(a)(5)(A)(v).

²³⁸ Section 1010.410(e) applies to "nonbank financial institutions." FinCEN recognizes that some PPSIs may also be banks but believes further clarifying in the regulatory text that when an entity acts as a PPSI it is acting as a nonbank financial institution is not necessary.

²³⁹ See 2019 CVC Guidance, *supra* note 87.

²⁴⁰ Under 31 U.S.C. 5318(a)(2), FinCEN can require financial institutions to maintain appropriate procedures, including to collect and report information, to guard against money laundering, the financing of terrorism, or other forms of illicit finance. Additionally, 12 U.S.C. 1953

²³⁰ See 12 U.S.C. 5903(a)(5)(A)(ii).

²³¹ See 12 U.S.C. 1953; 31 U.S.C. 5318(a)(2); see also 12 U.S.C. 5901(2) (defining "Bank Secrecy Act" to include 12 U.S.C. 1951 *et seq.*); 31 U.S.C. 5311(1) (stating purpose of the BSA includes requiring records that are highly useful for law enforcement and regulatory investigations and intelligence and counterintelligence activities).

²³² See 31 CFR 1020 subpart D, 1021 subpart D, 1022 subpart D, 1023 subpart D, 1024 subpart D, 1025 subpart D, 1026 subpart D, 1027 subpart D, 1028 subpart D, 1029 subpart D, and 1030 subpart D.

²³³ See 31 CFR 1010.401.

²³⁴ FinCEN recognizes that it is unlikely PPSIs will engage in extensions of credit, but in the event the ability of PPSI to extend credit is not fully foreclosed, FinCEN believes it prudent to apply the obligation. A PPSI not engaged in such activity would not be expected to take any action to implement it, including creating policies and procedures, and accordingly would accrue no burden from the application of this obligation.

²³⁵ The Recordkeeping Rule for nonbank financial institutions is codified at 31 CFR 1010.410(e). The Travel Rule is codified at 31 CFR 1010.410(f) and applies to both bank and nonbank financial institutions. See Treasury, Board, *Amendment to the Bank Secrecy Act Regulations Relating to Recordkeeping for Funds Transfers and Transmittals of Funds by Financial Institutions*, 60 FR 220 (Jan. 3, 1995).

construed, including by negative inference, to imply that orders to pay other kinds of value that substitute for currency are not transmittal orders.²⁴¹

FinCEN previously discussed its treatment of CVCs for purposes of the Recordkeeping and Travel Rules. FinCEN's 2019 guidance clarified the application of the Recordkeeping and Travel Rules to CVCs: "because a transmittal order involving CVC is an instruction to pay 'a determinable amount of money,' transactions involving CVC qualify as transmittals of funds, and thus may fall within" these obligations.²⁴² FinCEN recognizes various definitions and treatment of the term "money." Notably, under the GENIUS Act, the term "money" means "(A) [] a medium of exchange currently authorized or adopted by a domestic or foreign government; and (B) includes a monetary unit of account established by an intergovernmental organization or by agreement between 2 or more countries."²⁴³ As FinCEN explained in its 2020 notice of proposed rulemaking related to the Recordkeeping and Travel Rules, in the preamble to the original Recordkeeping Rule, FinCEN indicated non-defined terms should be given the meaning given to the term in Article 4A of the Uniform Commercial Code (UCC), which, at the time, defined "money" as "a medium of exchange currently authorized or adopted by a domestic or foreign government."²⁴⁴ Since 2020, however, additional CVCs and digital assets have emerged. As recognized by Congress in the AML Act, these new forms of assets are intended to operate as value that substitutes for traditional forms of money.²⁴⁵ Based on prior

provides the Secretary the ability to, for any financial institution other than an insured bank, promulgate rules related to maintenance of appropriate records including relating to funds transfers. While FinCEN assesses its inclusion of "payment stablecoin" is no more than a clarification, it also has and is using its authority under 12 U.S.C. 1953 and 31 U.S.C. 5318(a)(2) to independently add payment stablecoin to the Recordkeeping and Travel Rule's purview.

²⁴¹ See *supra* section VI.C.1.iv; see also 2019 CVC Guidance, *supra* note 87, p. 11.

²⁴² See 2019 CVC Guidance, *supra* note 87, p. 11.

²⁴³ 12 U.S.C. 5901(18).

²⁴⁴ See FinCEN, Board, *Threshold for the Requirement To Collect, Retain, and Transmit Information on Funds Transfers and Transmittals of Funds That Begin or End Outside the United States, and Clarification of the Requirement To Collect, Retain, and Transmit Information on Transactions Involving Convertible Virtual Currencies and Digital Assets With Legal Tender Status*, 85 FR 68005, 68009 (Oct. 27, 2020). FinCEN intends to withdraw this proposal. See *E.O. 14178 Report*, *supra* note 32, p. 100.

²⁴⁵ See, e.g., AML Act, Public Law 116–283 (2021). Section 6102(d) of the AML Act adding "value that substitutes for currency" to clarify the application of the BSA to those assets, including clarifying that "monetary instruments" can include

FinCEN guidance, stablecoin issuers do constitute money for purpose of the Recordkeeping and Travel Rules,²⁴⁶ and, accordingly, FinCEN proposes adding payment stablecoin to the definition of transmittal order to ensure the application to payment stablecoins is clear in light of the GENIUS Act.

b. Proposed Amendment to 31 CFR 1010.410(e)(6)—Scope of Recordkeeping Obligation

FinCEN proposes amending § 1010.410(e)(6) to add PPSIs to the list of entities excepted from the requirements in § 1010.410(e) when the transfer is between the entities listed. Under this proposal, PPSIs would be treated in the same manner—and with the same exceptions for transfers to certain other entities—such as banks, broker-dealers, futures commission merchants, introducing brokers in commodities, and mutual funds. In other words, the recordkeeping requirements of the Recordkeeping Rule would not apply to transmittals of funds in which both the transmitter and the recipient are either a PPSI, bank, broker-dealer, futures commission merchant, introducing broker in commodities, or mutual fund.

10. Proposed 31 CFR 1033.520 and 1033.540—Special Information-Sharing Procedures

The GENIUS Act generally directs that PPSIs be treated as financial institutions under the BSA and be subject to "all laws" relating to "prevention of money laundering."²⁴⁷ Although the GENIUS Act does not explicitly direct FinCEN to apply its provisions relating to information sharing to PPSIs, information sharing authorities are established components of the BSA, which, among other purposes, seek to "prevent laundering of money."²⁴⁸ Indeed, in the AML Act, Congress declared that one purpose of the BSA is to "establish appropriate frameworks for information sharing."²⁴⁹ The USA PATRIOT Act, which amended the BSA, provides in section 314(a) that the Secretary should adopt regulations to encourage the further cooperation and sharing of information regarding credible evidence of terrorist acts or money laundering activities among financial institutions, their regulatory authorities, and law

enforcement authorities.²⁵⁰ Section 314(b) further provides financial institutions with the ability to voluntarily share information regarding parties suspected of possible terrorist or money laundering activities with another financial institution upon notice to the Treasury under a safe harbor that offers protections from liability.

FinCEN's regulations at 31 CFR 1010.520 and 1010.540 implement sections 314(a) and 314(b) of the USA PATRIOT Act, respectively. Section 1010.520 applies to financial institutions generally and, as explained below, requires a financial institution to search its records upon receipt of a request from FinCEN and provide information in return. Section 1010.540 applies to financial institutions that are required to have AML/CFT programs, or are treated as having satisfied that requirement, and is a voluntary information sharing tool of which a financial institution may, but is not required, to avail itself.

Consistent with its treatment of other financial institutions under the BSA, FinCEN proposes adding §§ 1033.500, 1033.520, and 1033.540 to its regulations to expressly apply the information-sharing provisions of §§ 1010.520 and 1010.540 to PPSIs. FinCEN is proposing to apply these provisions to PPSIs so that law enforcement would be able to request information from PPSIs where there is reasonable suspicious and credible evidence that an individual, entity, or organization is involved in terrorist acts or money laundering, potentially resulting in lead information that might otherwise never be uncovered.²⁵¹ Further, PPSIs would be able to participate in voluntary information sharing arrangements, through which they can share and receive information from other financial institutions to identify and, where appropriate, report activities that may involve terrorist activity or money laundering. As FinCEN has previously noted, under 314(b) financial institutions can share information about transactions involving the proceeds of specified unlawful activities, which include an array of fraudulent and other criminal activities, such as fraud against

²⁵⁰ See 31 U.S.C. 5311 note ("Cooperation Among Financial Institutions, Regulatory Authorities, and Law Enforcement Authorities").

²⁵¹ FinCEN, *FinCEN's 314(a) Fact Sheet* (last updated Feb. 3, 2026), available at <https://www.fincen.gov/sites/default/files/shared/314factsheet.pdf>. Covered financial institutions are instructed not to reply to the 314(a) request if a search does not uncover any matching accounts or transactions.

"value that substitutes for any monetary instrument."

²⁴⁶ See 2019 CVC Guidance, *supra* note 87, p. 11.

²⁴⁷ 12 U.S.C. 5903(a)(5)(A).

²⁴⁸ 31 U.S.C. 5311(2), (5).

²⁴⁹ See 31 U.S.C. 5311(5); see also AML Act, Public Law 116–283.

individuals, organizations, or governments, computer fraud and abuse, and other crimes.²⁵² Such sharing could, for example, enable broader understanding of customer risk and filing of more comprehensive SARs.²⁵³

In particular, proposed § 1033.500 would state generally that PPSIs are subject to the special information sharing procedures of subpart E of part 1010. In addition to §§ 1010.520 and 1010.540, subpart E of part 1010 contains a brief definition section, § 1010.505, containing definitions for, among other things, account. FinCEN assesses that the already codified definition of account is sufficiently broad to cover accounts established with PPSIs, but requests comment on whether this or any other definition in that section, including transaction, should be modified to clarify obligations of PPSIs.

Proposed § 1033.520 would cross-reference § 1010.520 and require a PPSI, upon request from FinCEN, to expeditiously search its records for specific information to determine whether the PPSI maintains or has maintained an account for, or has engaged in any transaction with, an individual, entity, or organization named in FinCEN's request.²⁵⁴ A PPSI would then be required to report any such identified information to FinCEN.²⁵⁵

Proposed § 1033.540 would cross-reference § 1010.540 and permit PPSIs to, upon providing notice to FinCEN, transmit, receive, or otherwise share information with other financial institutions or associations of financial institutions in order to identify and report to the federal government activities that may involve money laundering or terrorist activity.

11. Proposed 31 CFR 1033.600 Through 1033.630—Special Standards of Diligence; Prohibitions; and Special Measures

The GENIUS Act mandated that a PPSI maintain “appropriate enhanced due diligence,”²⁵⁶ and the BSA directs that financial institutions establish appropriate enhanced due diligence for correspondent accounts and private banking accounts.²⁵⁷ Congress has also authorized Treasury to impose special measures to guard the U.S. financial

system when foreign financial institutions or transactions are of primary money laundering concern.²⁵⁸ FinCEN's regulations implementing these BSA provisions are contained in 31 CFR part 1010, subpart F. FinCEN has applied enhanced due diligence and special measures to financial institutions who typically maintain account-based relationships with customers.

Consistent with that practice, FinCEN is proposing to apply most of the provisions in part 1010 subpart F to PPSIs, including enhanced due diligence for correspondent and private banking accounts and some special measures. Proposed § 1033.600 would state generally that PPSIs are subject to the special standards of diligence, prohibitions, and special measures of part 1010 subpart F. FinCEN is not proposing to apply to PPSIs § 1010.630, which prohibits correspondent accounts for foreign shell banks, or § 1010.670, which relates to summons and subpoenas on foreign banks, as the statutory authority authorizing those provisions apply only to certain types of financial institutions.²⁵⁹

i. Definition of “Correspondent Account” and “Covered Financial Institution”

FinCEN is proposing to amend two definitions in § 1010.605, the definition section for subpart F. In addition to amending these terms to account for PPSIs, FinCEN is also making non-substantive edits to § 1010.605(c)(2)(ii) through (iv) to correct cross references.²⁶⁰

First, FinCEN proposes amending the definition of “account” in § 1010.605(c), as applied to the meaning of correspondent account to include accounts with PPSIs. FinCEN recognizes that the term correspondent account is not typically used in the stablecoin industry. In a prior rulemaking FinCEN concluded that in enacting the BSA

provisions relating to enhanced due diligence for correspondent accounts, Congress intended the term “correspondent account” to capture more than traditional bank relationships.²⁶¹ Rather its goal in enacting BSA provisions related to correspondent accounts was preventing “money laundering through accounts that give foreign financial institutions a base for moving funds through the U.S. financial system.”²⁶² Accordingly, FinCEN extended the term “correspondent account” to non-bank financial institutions that “offer accounts that provide foreign financial institutions a conduit for engaging in ongoing transactions in the U.S. financial system either on their own behalf or for their customers.”

To effectuate the GENIUS Act's requirement that PPSIs maintain “enhanced due diligence,” FinCEN is proposing to amend the definition of “correspondent account” so that PPSIs are required to implement obligations related to the BSA's explicit references to “enhanced due diligence.” Accordingly, FinCEN proposes here, as it has before, extending the term correspondent account beyond its traditional use in banking and incorporating certain accounts established by PPSIs.

FinCEN proposes adding a new paragraph, § 1010.605(c)(2)(v), defining “account,” as applied to the meaning of “correspondent account” in § 1010.605(c), to include, as applied to a PPSI, “any formal relationship established by a permitted payment stablecoin issuer to provide regular services, dealings, and other financial transactions.” This definition is intended to include the range of activities in which a PPSI may engage as articulated in 12 U.S.C. 5903(a)(7), which include issuing and redeeming payment stablecoin, managing reserves, and providing custodial services, as well as activities that support any of those efforts. It would also cover where a PPSI engages in activities as a digital asset service provider.

Second, FinCEN is proposing to amend § 1010.605(e)(1) to include PPSIs in the definition of “covered financial institution,” which results in PPSIs being subject to provisions implementing special standards of due diligence for correspondent accounts established or maintained for foreign financial institutions and private

²⁵² See FinCEN, *Section 314(b) Fact Sheet* (Dec. 2020), available at <https://www.fincen.gov/system/files/shared/314bfactsheet.pdf>.

²⁵³ *Id.*

²⁵⁴ See 31 CFR 1010.520(b)(3)(i).

²⁵⁵ See 31 CFR 1010.520(b)(3)(ii).

²⁵⁶ See 12 U.S.C. 5903(a)(5)(A)(v).

²⁵⁷ See 31 U.S.C. 5318(i)(1).

²⁵⁸ See 31 U.S.C. 5318A and note; 21 U.S.C. 2313a; see also 31 CFR 1010.651–664.

²⁵⁹ See 31 U.S.C. 5318(j)(1) (specifying prohibition on correspondent accounts for shell banks is limited to financial institutions defined in 31 U.S.C. 5312(A) though (G)); 31 U.S.C. 5318(k)(1)(B) (specifying application of subsection only to covered financial institutions as specified in 31 U.S.C. 5318(j)(1)).

²⁶⁰ Currently, cross references in § 1010.605(c)(2)(ii) through (iv) to corresponding paragraphs in (e)(1) are misaligned. For example, § 1010.605(c)(2)(ii), which deals with broker dealers, should cross the corresponding paragraph in (e)(1) that deals with broker dealers, paragraph (e)(1)(ii), but instead references paragraph (e)(1)(viii). FinCEN's proposed changes to paragraphs 1010.605(c)(2)(ii) through (iv) clean up the cross references and do not result in any substantive change to the rule.

²⁶¹ FinCEN, *Anti-Money Laundering Programs; Special Due Diligence Programs for Certain Foreign Accounts*, 71 FR 496, 497–98 (Jan. 4, 2006).

²⁶² *Id.* at 499.

banking accounts established or maintained for non-U.S. persons.²⁶³

As part of its implementation of BSA obligations related to enhanced due diligence for private banking accounts, FinCEN has already defined the term private banking account in § 1010.605(m). That definition provides, in part, that a private banking account means an account (or collection of accounts) with minimum aggregate assets of more than \$1 million, established on behalf of a non-U.S. person, and assigned or administered by the covered financial institution. FinCEN assesses that this definition covers the kinds of account relationships PPSIs could maintain for a non-U.S. person and is proposing no changes, but seeks comment on that approach.

ii. Special Standards for Diligence

To implement the GENIUS Act's directive to apply BSA obligations related to "enhanced due diligence," FinCEN proposes adding §§ 1033.610 and 1033.620, which adopt by reference §§ 1010.610 and 1010.620. Sections 1010.610 and 1010.620 implement BSA obligations related to enhanced due diligence for correspondent accounts and private banking accounts, respectively.

Sections 1010.610 and 1010.620 require that covered financial institutions maintain due diligence programs for correspondent accounts for foreign financial institutions and banks and for private banking accounts that include policies, procedures, and controls that are reasonably designed to detect and report any known or suspected money laundering or suspicious activity conducted through or involving any such correspondent or private banking accounts.²⁶⁴ These provisions also set certain minimum standards for such due diligence programs, as well as procedures for enhanced due diligence for correspondent accounts for foreign banks²⁶⁵ and private banking accounts for senior foreign political figures.²⁶⁶

Applying these special standards of due diligence to PPSIs would help PPSIs in understanding risk and identifying illicit activity in certain relationships with foreign financial institutions. Specifically, these standards would address relationships with high-net worth non-U.S. customers and foreign financial institutions that may be acting on behalf of higher-risk

non-U.S. customers, when those relationships involve correspondent accounts for foreign financial institutions or private banking accounts.

FinCEN requests comment on the application of these provisions, including whether additional amendments should be made to account for any uniqueness of PPSIs.

iii. Special Measures

Under the BSA, FinCEN can require U.S. financial institutions to implement certain special measures pursuant to section 311 of the USA PATRIOT Act (section 311) if the Secretary finds that reasonable grounds exist to conclude that a foreign jurisdiction, institution, class of transaction, or type of account is a "primary money laundering concern."²⁶⁷ Section 9714(a) of the Combatting Russian Money Laundering Act²⁶⁸ and section 7213A Fentanyl Sanctions Act (as amended by section 3201 of the FEND Off Fentanyl Act)—the latter codified in 21 U.S.C. 2313a and referred to colloquially as section 2313a—allow for similar special measures in the context of Russian illicit finance and illicit opioid trafficking, respectively. As financial institutions, FinCEN is proposing that PPSIs be required to comply with special measures issued pursuant to sections 311, 9714(a), and 2313a to maintain the options available under these sections to protect the U.S. financial system from certain illicit finance threats.

Additionally, by incorporating PPSIs into the definition of "covered financial institutions" in § 1010.605(e)(1), FinCEN consequently imposes the special measures codified in § 1010.658 (relating to FBME Bank, Ltd.); § 1010.659 (relating to North Korea); § 1010.660 (relating to Bank of Dandong); § 1010.661 (relating to Iran); § 1010.663 (relating to Al-Huda Bank); and § 1010.664 (relating to Huione Group).²⁶⁹ FinCEN is also proposing to amend § 1010.651 (relating to Burma)²⁷⁰

and § 1010.653 (relating to the Commercial Bank of Syria) to apply those special measures to PPSIs.²⁷¹

VII. Proposed Application of Sanctions Program Requirement

The GENIUS Act requires PPSIs to maintain "an effective sanctions compliance program, including verification of sanctions lists, consistent with Federal law."²⁷² As discussed in section V.B above, PPSIs are U.S. persons under OFAC's existing regulations because the GENIUS Act requires PPSIs to be formed in the United States.²⁷³ Accordingly, like all other U.S. persons, stablecoin issuers that qualify as PPSIs will be required to comply with U.S. sanctions under existing Federal law, meaning they must generally block the property and interests in property of blocked persons; reject prohibited transactions involving certain persons, jurisdictions, or activities; and retain certain records and file reports with OFAC. The sanctions compliance program requirement in the GENIUS Act, however, represents the first time that Federal law has explicitly mandated that a particular U.S. person have an effective sanctions compliance program, although IEEPA and other statutory authorities authorize the President to, among other actions, investigate, block, regulate, or prohibit transactions and dealings in property subject to U.S. jurisdiction when a foreign national or country has an interest.²⁷⁴

Accordingly, OFAC is proposing a new part 502 to chapter V of the CFR entitled the "Permitted Payment Stablecoin Issuer Effective Sanctions Compliance Program Regulations" to effectuate the GENIUS Act's effective sanctions compliance program requirement,²⁷⁵ consistent with statutory authorities that authorize OFAC to administer sanctions.²⁷⁶

institutions to maintain correspondent accounts for Burmese banks under certain conditions. See FinCEN, *Conditional Exception to Bank Secrecy Act Regulations Relating to the Burma Section 311 Final Rule*, 81 FR 71986 (Oct. 19, 2016).

²⁷¹ In May 2025, FinCEN issued conditional exceptive relief permitting covered financial institutions to open and maintain correspondent accounts for the Commercial Bank of Syria under certain conditions. FinCEN, *Exception to Prohibition Imposed by Section 311 of the USA PATRIOT Act Against the Commercial Bank of Syria* (May 23, 2025), available at <https://www.fincen.gov/system/files/2025-08/Commercial-Bank-of-Syria-Exceptive-Relief.pdf>.

²⁷² 12 U.S.C. 5903(a)(5)(A)(vi).

²⁷³ 12 U.S.C. 5901(23) (defining, in part, "permitted payment stablecoin issuer" as "a person formed in the United States").

²⁷⁴ See 50 U.S.C. 1702.

²⁷⁵ 12 U.S.C. 5903(a)(5)(A)(vi).

²⁷⁶ See, e.g., 50 U.S.C. 1702.

²⁶³ See 31 CFR 1010.610–620.

²⁶⁴ See 31 CFR 1010.610–620.

²⁶⁵ See 31 CFR 1010.610(b).

²⁶⁶ See 31 CFR 1010.620(c).

²⁶⁷ Section 311 is codified at 31 U.S.C. 5318A.

²⁶⁸ Section 9714(a) of the Combating Russian Money Laundering Act, as amended by section 6106(b) of the National Defense Authorization Act for Fiscal Year 2022. Section 9714 (as amended) can be found in a note to 31 U.S.C. 5318A.

²⁶⁹ Additionally, FinCEN has proposed special measures that, if finalized, could also require PPSIs to take special measures. See FinCEN, *Proposal of Special Measure Regarding MBaer Merchant Bank AG as a Financial Institution Operating Outside of the United States of Primary Money Laundering Concern*, 91 FR 10034 (Mar. 2, 2026); FinCEN, *Proposal of Special Measure Regarding Transactions Involving Ten Mexican Gambling Establishments as a Class of Transactions of Primary Money Laundering Concern*, 90 FR 51234 (Nov. 17, 2025).

²⁷⁰ In October 2016, FinCEN issued conditional exceptive relief permitting covered financial

Section VII.A below describes the recordkeeping and reporting requirement for a PPSI in line with standard OFAC requirements for all U.S. persons,²⁷⁷ as well as an additional requirement that PPSIs provide to OFAC upon request certain certifications required by the GENIUS Act and relevant to OFAC's role administering and enforcing the requirement that PPSIs maintain an effective sanctions compliance program.²⁷⁸ Section VII.B then outlines the five elements of an effective sanctions compliance program proposed at § 502.201(b), including an explanation and rationale for each component. Section VII.C discusses terms OFAC proposes to define in the definitions section in subpart C to part 502. Finally, section VII.D provides an overview of the proposed penalties for materially or knowingly violating the effective sanctions compliance program requirement contained in proposed 31 CFR part 502, consistent with the GENIUS Act²⁷⁹ and pursuant to statutory authorities authorizing OFAC to impose civil monetary penalties, including IEEPA.²⁸⁰

A. Recordkeeping and Reporting

Consistent with OFAC's requirements for all U.S. persons, proposed § 502.102(a) imposes on PPSIs standard recordkeeping and reporting requirements as found in 31 CFR part 501. These requirements align with PPSIs' status as U.S. persons, making them subject to the requirements found in subpart C of part 501. OFAC's experience in enforcing U.S. sanctions and supporting compliance by regulated persons has found these requirements to be essential to the integrity of the U.S. sanctions regime.

Proposed § 502.102(b) would require PPSIs provide to OFAC upon request, given OFAC's role in administering and enforcing economic sanctions and issuing sanctions compliance program requirements under the GENIUS Act, any and all certifications submitted to the PPSI's primary Federal payment stablecoin regulator or State payment stablecoin regulator certifying, pursuant to the GENIUS Act, that the PPSI has implemented an effective sanctions compliance program.²⁸¹ OFAC intends to interpret the terms "primary Federal payment stablecoin regulator" and "State payment stablecoin regulator"

consistent with how those terms are defined in the GENIUS Act.²⁸²

B. Effective Sanctions Compliance Program

The GENIUS Act requires both that PPSIs maintain an "effective sanctions compliance program"²⁸³ and that regulations promulgated under the Act are "tailored to the size and complexity"²⁸⁴ of a PPSI. Based on decades of experience administering and enforcing U.S. sanctions, OFAC has found across multiple sectors that an entity's size and complexity are significant factors in assessing sanctions risk. A larger sized entity can mean greater exposure to transactions that could involve a blocked person, sanctioned jurisdictions, or interaction with other OFAC-administered prohibitions or restrictions. Likewise, greater complexity in an entity's operations can necessitate more sophisticated controls to mitigate sanctions risk. Therefore, based on OFAC's historical experience, OFAC assesses that the best way to implement the GENIUS Act's instructions is to delineate effective sanctions compliance elements that provide PPSIs discretion to make risk-based judgments in light of, among other factors, their size and complexity.

In 2019, OFAC published "A Framework for OFAC Compliance Commitments" (the "2019 Compliance Framework") to support the regulated public's development of effective sanctions compliance programs with guidance on tailoring risk-based principles to an organization's unique characteristics and sanctions risk exposure.²⁸⁵ In addition to being a cornerstone of OFAC's public outreach to all regulated industries, the compliance guidance and expectations detailed in the 2019 Compliance Framework consistently form the basis of OFAC's published guidance (e.g., sanctions advisories, compliance communiqués, and frequently asked questions), as well as specific guidance issued in response to public inquiries.

Subsequently, in 2021, OFAC provided additional guidance to the digital assets industry grounded in the Framework by publishing the "Sanctions Compliance Guidance for

the Virtual Currency Industry" ("Virtual Currency Industry Guidance") and several Frequently Asked Questions on Virtual Currency.²⁸⁶ One of OFAC's main objectives in issuing the Virtual Currency Industry Guidance was to explain how actors in the broader digital assets industry could mitigate sanctions risk by adopting a risk-based approach to sanctions compliance. The Virtual Currency Industry Guidance also highlighted specific risks facing actors in the digital assets industry and identified best practices to support industry stakeholders with sanctions compliance, such as the use of geolocation and blockchain analytics tools for screening and transaction monitoring.²⁸⁷ Many in the compliance community noted that the document provided clear guidance on digital asset providers' sanctions obligations and valuable best practices for ensuring compliance in that space.

In addition to OFAC's existing guidance, OFAC's extensive experience administering and enforcing U.S. sanctions has also demonstrated that a risk-based approach is an effective way to mitigate sanctions risk. Promoting compliance is a core objective in pursuing enforcement actions. As outlined in the preamble to the Final Rule establishing OFAC's Enforcement Guidelines,²⁸⁸ the purpose of OFAC's enforcement actions are to raise awareness, increase compliance, and deter "conduct that undermines the goals of [U.S.] sanctions programs."²⁸⁹ Accordingly, OFAC's enforcement settlement agreements with parties usually insist on implementation of a sanctions compliance program in line with the 2019 Compliance Framework. Consequently, across both OFAC's history of guidance and enforcement, OFAC has consistently observed that an effective sanctions compliance program contains certain key elements.

Based on that experience, OFAC is now proposing requiring PPSIs adopt a sanctions compliance program including the five key elements in line with the 2019 Compliance Framework:

²⁸⁶ See OFAC, *Sanctions Compliance Guidance for the Virtual Currency Industry* (Oct. 2021) [hereinafter *Virtual Currency Industry Guidance*], available at <https://ofac.treasury.gov/media/913571/download?inline>; see also OFAC, *Questions on Virtual Currency*, available at <https://ofac.treasury.gov/faqs/topic/1626>.

²⁸⁷ See *Virtual Currency Industry Guidance*, supra note 286, at pp. 14, 16.

²⁸⁸ OFAC, *Economic Sanctions Enforcement Guidelines*, 74 FR 57593 (Nov. 9, 2009).

²⁸⁹ *Id.* at 57594.

²⁷⁷ See, e.g., 31 CFR 525.102, 583.102, 587.601.

²⁷⁸ See 12 U.S.C. 5904(i)(1).

²⁷⁹ 12 U.S.C. 5905(b)(5)(B)–(C).

²⁸⁰ See, e.g., 50 U.S.C. 1705(b), 4315(b).

²⁸¹ See 12 U.S.C. 5904(i)(1).

²⁸² See 12 U.S.C. 5901(25), 5901(30).

²⁸³ 12 U.S.C. 5903(a)(5)(A)(vi).

²⁸⁴ 12 U.S.C. 5903(a)(5)(B).

²⁸⁵ See OFAC, *A Framework for OFAC Compliance Commitments* (May 2, 2019) [hereinafter *2019 Compliance Framework*], available at <https://ofac.treasury.gov/media/16331/download?inline>.

(1) Senior Management and Organizational Commitment; (2) Risk Assessment; (3) Internal Controls; (4) Testing and Auditing; and (5) Training. OFAC assesses that a risk-based approach and a sanctions compliance program grounded in the five enumerated elements best implements the GENIUS Act's requirement that Treasury adopt rules tailored to the size and complexity of PPSIs while ensuring that PPSIs maintain an effective sanctions compliance program.²⁹⁰ Specifically, by mandating the five elements as a minimum for an effective sanctions compliance program, the proposed rule intentionally sets a necessary floor for an effective sanctions compliance program while leaving space for PPSIs to take additional or refined compliance measures that account for the specific circumstances of individual PPSIs. Finally, OFAC notes the proposed rule's focus on a risk-based approach and the five enumerated elements of an effective sanctions compliance program intends to provide flexibility to account for rapidly evolving payment stablecoin technologies in the digital assets ecosystem. As PPSIs utilize the GENIUS Act's framework to support innovation and the responsible growth and use of payment stablecoins, OFAC anticipates the development of new stablecoin-related products and services that may differ from those provided or used by stablecoin issuers today. Such products and services, in turn, may require new approaches to sanctions compliance to mitigate sanctions risks and meet OFAC's regulatory obligations.

In sections VII.B.1 through VII.B.5 below, OFAC provides further details regarding the five elements that constitute the effective sanctions compliance program requirements that OFAC proposes for PPSIs pursuant to the GENIUS Act and consistent with statutory authorities that OFAC administers as described above.

1. Proposed 31 CFR 502.201(b)(1)—Senior Management and Organizational Commitment

Proposed § 502.201(b)(1) would require a PPSI's senior management to review and approve a PPSI's sanctions compliance program and to support the sanctions compliance program's effective implementation, including by ensuring the sanctions compliance program, at a minimum: (i) applies to all payment stablecoin-related activity; (ii) has sufficient resources, including necessary investments in human capital, expertise, and information technology,

to carry out the requirement that PPSIs conduct risk assessments, maintain internal controls, conduct testing and auditing, and maintain a risk-based sanctions compliance training program, as described in the proposed § 502.201(b)(2) through (b)(5) (see sections VII.B.2 through VII.B.5 below); (iii) is fully integrated into the PPSI's ongoing stablecoin-related operations; (iv) routinely provides risk updates, including test results, to senior management and other appropriate personnel within the PPSI; and (v) provides sufficient authority and autonomy to the compliance function to manage effectively U.S. sanctions risk for the entire PPSI.

A PPSI's senior management includes individuals responsible for monitoring performance across the organization, including its sanctions compliance program. As applicable, senior management could include supervisory, managerial, and executive employees, and can also include its board of directors, owners, operators, and other leadership personnel depending on the PPSI's governance structure. The particular composition of a PPSI's senior management is a fact-specific matter depending on each individual PPSI, and in this proposed rule, OFAC proposes to provide PPSIs with flexibility in determining which members of senior management ensure an effective sanctions compliance program. Nevertheless, based on its experience administering and enforcing U.S. sanctions, including providing guidance to industry, OFAC views senior management engagement as essential to the effectiveness of any person's sanctions compliance program.²⁹¹ A PPSI's senior management's combination of its vantage point across the entire organization's activities and its decision-making authority uniquely positions it to review a sanctions compliance program with a comprehensive understanding of the PPSI's operations and credibly approve a program as meeting that PPSI's particular circumstances. Additionally, the requirement that senior management approve the sanctions compliance program demonstrates senior management support and buy-in, which is critical to building a culture of

compliance by establishing ultimate responsibility at the PPSI's senior levels.

Furthermore, the proposed § 502.201(b)(1) would require senior management to support the sanctions compliance program's effective implementation by ensuring the program includes, at a minimum, certain key components. First, senior management would be required to ensure the sanctions compliance program applies to all payment stablecoin-related activity. As outlined, a PPSI's senior management operates from a distinct vantage point compared to other personnel, enabling broader awareness and oversight across an entire organization that uniquely positions them to monitor the creation and implementation of a sanctions compliance program. That perspective supports making sure the compliance program does not only apply to discrete parts of a PPSI's operations. While, as outlined below in this section, an effective sanctions compliance program requires a measure of delegation and autonomy to the compliance function to deploy established compliance policies and procedures, senior management's visibility across a PPSI's operations during the creation of a sanctions compliance program is vital to avoiding gaps that create heightened risks of sanctions violations.

Second, senior management would be required to ensure the sanctions compliance program has adequate resources. OFAC's experience has demonstrated that adequate resourcing is particularly crucial for PPSIs given the nature of the rapidly evolving technologies underpinning payment stablecoins and attendant sanctions risks. OFAC does not propose to prescribe specific resourcing levels or breakdowns in resources for various elements of a compliance program. Senior management should tailor those decisions to a PPSI's particular circumstances. Nonetheless, ensuring adequate resources would entail senior management knowledge of and engagement on how the PPSI allocates resources for compliance functions across the organization and how that allocation is commensurate with current levels of sanctions risk exposure, including in the form of human capital, expertise, information technology, such as the tools described in section VII.B.3 below, and other resources, as appropriate.

Third, senior management would be required to ensure the sanctions compliance program is fully integrated into a PPSI's ongoing stablecoin-related operations. The active incorporation of the compliance program into ongoing

²⁹¹ See, e.g., OFAC, *OFAC Settles with Murad, LLC for \$3,334,286 and with a Former Senior Executive of Murad, LLC for \$175,000 Related to Apparent Violations of the Iranian Transactions and Sanctions Regulations* (May 17, 2023), available at <https://ofac.treasury.gov/media/931761/download?inline=>.

²⁹⁰ 12 U.S.C. 5903(a)(5)(B).

operations is critical to both timely and effective responses to sanctions risk. In line with section VII.B.3 below, a senior management commitment with respect to ongoing operations would entail ensuring a sanctions compliance function has the necessary tools to identify and respond to sanctions risks judiciously. Simultaneously, in addition to resourcing necessary tools, this commitment could also be expressed by ensuring written policies and procedures (see section VII.B.3) that enable PPSI personnel to respond expeditiously when confronting sanctions risk.

Fourth, senior management would be required to ensure senior management, and other appropriate personnel, routinely receive risk updates, including test results, from the sanctions compliance program. OFAC's experience providing guidance to the regulated public and enforcing U.S. sanctions has shown that absent a senior management commitment to an entity's sanctions compliance program, staff implementing the program will have less routine access to senior management to provide risk updates, including test results. Such routine updates are necessary to support senior management's continued appreciation of the organization's sanctions obligations and timely awareness of sanctions risks, as well as then facilitating informed decisions. In the proposed rule OFAC does not prescribe a cadence for these routine risk updates, as they should be tailored to the particular circumstance of each PPSI.

Finally, while routine updates to senior management are essential, under the proposed rule, senior management would also be required to ensure that the sanctions compliance program has sufficient authority and autonomy to function and conduct timely and effective operations. The proposed rule would require that a PPSI's sanctions compliance program be empowered to work independently to take appropriate actions to address and mitigate sanctions risks for the entire organization, which is critical to the integrity of the PPSI's compliance functions. The sanctions compliance program must be able to act efficiently and effectively within the organization to be able to respond to timely sanctions-related developments. Accordingly, the proposed rule would require, as a key element, that senior management ensure that the sanctions compliance program is able to manage effectively U.S. sanctions risks for the entire organization.

Critically, senior management's active support for the five requirements

proposed in § 502.201(b)(1)(i) through (v) constitute a minimum set of activities that OFAC would expect when considering whether a PPSI's sanctions compliance program is effective. Additional activities may be relevant to a PPSI's compliance program under a risk-based approach. In accordance with the GENIUS Act's mandate to tailor rules to the size and complexity of each PPSI's operations,²⁹² the proposed rule leaves discretion for PPSI's to adopt additional measures in line with their circumstances.

2. Proposed 31 CFR 502.201(b)(2)—Risk Assessments

Proposed § 502.201(b)(2) would require a PPSI conduct sanctions-related risk assessments by: (i) conducting holistic assessments of U.S. sanctions risks at appropriate intervals; (ii) using the risk assessments to inform the PPSI's operation of its sanctions compliance program, including revising internal controls and training as appropriate; and (iii) revising risk assessments as appropriate to account for any identified U.S. sanctions violations or deficiencies, new products, services, mergers, or acquisitions, and any other factors that may affect a PPSI's risk profile.

In the sanctions context, risks are potential threats or vulnerabilities that, if ignored or not properly handled, can lead to violations of the regulations administered by OFAC. Holistic risk assessments allow an organization to identify these threats or vulnerabilities. OFAC has found, through its enforcement actions for violations of sanctions and engagement with private industry, that regular risk assessments are foundational for sanctions compliance programs to be effective. In keeping with the GENIUS Act's requirement to tailor rules to the size and complexity of each PPSI's operations,²⁹³ OFAC does not propose a uniform frequency for conducting risk assessments. Similarly, while risk assessments should be holistic reviews—for instance, evaluating a PPSI's touchpoints with external parties and jurisdictions, including customers, vendors, and intermediaries, in order to identify direct and indirect sources of sanctions risk—OFAC does not propose a uniform criteria for a holistic review, again recognizing the GENIUS Act's tailoring requirement.²⁹⁴

Use of risk assessment results to develop and revise a sanctions compliance program ensures a program

is grounded in the most current understanding of the various sources of sanctions risks. As OFAC has determined through various enforcement actions, a sanctions compliance program's internal controls (see section VII.B.3) and training (see section VII.B.5) are only effective if an organization has an accurate understanding of the sanctions risks it faces. Therefore, holistic and appropriately frequent risk assessments are essential to the proper implementation of the other elements of an effective sanctions compliance program outlined in this section VII.B.

Additionally, to be effective, risk assessments themselves must be revised to account for new information or changing circumstances that impact a PPSI's risk profile. Identification of U.S. sanctions violations or deficiencies in an existing compliance program naturally suggest the presence of vulnerabilities necessitating revisions or remediation. Similarly, with respect to new products, services, mergers, or acquisitions, OFAC has on multiple occasions entered into settlement agreements with entities in the digital assets industry for apparent violations that arose from the development and release of a product or service without having given sufficient consideration of attendant sanctions risks or compliance implications.²⁹⁵ A holistic assessment of the sanctions-related risks that such a new product or service could create is necessary to understand what additional or revised controls may be necessary.²⁹⁶ Without these steps pre-launch, the new products or services themselves may immediately give rise to sanctions compliance-related gaps, possibly seriously undermining the effectiveness of a sanctions compliance program.

3. Proposed 31 CFR 502.201(b)(3)—Internal Controls

Proposed § 502.201(b)(3) would require a PPSI²⁹⁷ to establish and maintain a system of risk-based internal controls—including technical capabilities and written policies and procedures—applicable to all payment

²⁹⁵ See, e.g., OFAC, *Key Holding, LLC Settles with OFAC for \$608,825 Related to Apparent Violations of Cuban Assets Control Regulations* (July 2, 2025) [hereinafter *Key Holding*], available at <https://ofac.treasury.gov/media/934456/download?inline>.

²⁹⁶ See *Virtual Currency Industry Guidance*, supra note 286, at p. 11.

²⁹⁷ The PPSI as an entity would be required to establish and maintain the internal controls as part of the compliance program, which senior management would be required to review and approve as part of reviewing and approving the compliance program writ large. See supra section VII.B.1 for discussion of the role of senior management.

²⁹² See 12 U.S.C. 5903(a)(5)(B).

²⁹³ *Id.*

²⁹⁴ *Id.*

stablecoin-related activity, whether on the primary or secondary market, that identifies, blocks, and/or rejects transactions that may violate or would violate U.S. sanctions and retains relevant records in accordance with OFAC regulations. OFAC assesses that a dynamic internal controls system that adapts to new regulatory and risk-related developments is critical to fulfilling key obligations imposed under the GENIUS Act.

First, the technical components of a PPSI's internal control system are paramount. In particular, the GENIUS Act requires that a PPSI must be able to "block, freeze, and reject specific or impermissible transactions that violate Federal or State laws, rules, or regulations,"²⁹⁸ which includes transactions that violate or would violate U.S. sanctions regulations. Although PPSIs are generally neither the originator nor the beneficiary of transactions, other than issuing or redeeming a payment stablecoin, the GENIUS Act makes clear that a PPSI is nonetheless obligated to block and reject impermissible transactions—including on the secondary market—involving a payment stablecoin it has issued. The proposed rule's requirement that each PPSI establish and maintain technical capabilities to block or reject any payment stablecoin-related activity that violates or would violate U.S. sanctions directly tracks the GENIUS Act's mandate that PPSIs maintain such technical control over impermissible transactions that violate Federal laws, including sanctions regulations.

In practical terms, PPSIs should implement risk-based sanctions controls on transactions, including on the secondary market, to satisfy this requirement. OFAC's Virtual Currency Industry Guidance provides examples of best practices of internal controls, including with respect to transaction monitoring and sanctions screening, for digital asset participants, which will likely be relevant for PPSIs.²⁹⁹ For example, at a minimum, such sanctions screening should include tools sufficient to identify and block transactions associated with digital currency addresses included on OFAC's SDN List.³⁰⁰ In addition, the technical internal controls should enable the PPSI to clearly and effectively identify, interdict, escalate, and report (as necessary and appropriate) activity that may be prohibited by the regulations and laws administered by OFAC.

Furthermore, PPSIs should generate and maintain records pertaining to activity that may be prohibited by OFAC as part of their internal controls regime. OFAC has imposed penalties on entities not solely because prohibited transactions occurred, but because organizations failed to maintain complete records or submit timely reports.³⁰¹

As described, proposed § 502.201(b)(3) would also mandate that the PPSI continually update the technical internal controls (including risk-based sanctions screening), which ensures the internal controls effectively address amended or updated U.S. sanctions authorities and applicable U.S. sanctions risks. Given the dynamic nature of OFAC sanctions, internal controls should be capable of adjusting rapidly to new OFAC designations, prohibitions, requirements, and guidance, and of effectively identifying risk exposure that may warrant heightened due diligence.³⁰² Relevant guidance may, as noted in the proposed rule, include risks identified in advisories, alerts, or notices issued by the Department of the Treasury or other relevant U.S. government agencies. These reports often enumerate specific red flags and typologies indicative of sanctions evasion trends. PPSIs should consider using such information, along with other open source and proprietary information, in order to conduct proactive diligence to identify and mitigate potential sanctions risks. Information obtained by a PPSI for purposes of complying with the BSA may also be relevant in identifying and mitigating sanctions risks. By establishing and maintaining technical internal control mechanisms, including the ability to effectively identify sources of sanctions risk, PPSIs are able to maintain the technical capacity necessary to comply with OFAC's blocking and non-blocking sanctions programs.

Second, the written policies and procedures requirement of proposed § 502.201(b)(3) prescribes that the risk-based internal controls established by the PPSI are documented in writing and are clearly communicated to all relevant personnel and stakeholders (e.g., clients, business partners, counterparties). OFAC is proposing written policies and

procedures because they ensure that compliance measures (like screening the SDN List) are applied consistently across an entire organization, preventing fragmented, decentralized, or ad-hoc practices that can lead to sanctions violations.³⁰³ OFAC has finalized numerous civil monetary penalties or settlements since publishing the 2019 Compliance Framework in which an organization's decentralized compliance function was one of the root causes of the sanctions violations identified during the course of the investigation. Written policies and procedures can clearly define the roles and responsibilities of compliance staff, ensuring accountability and proper oversight. Written policies also ensure that compliance protocols are communicated to all relevant stakeholders, minimizing inadvertent violations caused by misunderstanding or lack of training. Proposed § 502.201(b)(3) also stipulates that such internal control documents must be routinely reviewed and revised such that there is timely and appropriate action to remediate any identified compliance gaps or deficiencies. The process of routinely reviewing and revising written policies and procedures should incorporate frequent testing of technical internal controls to ensure effectiveness and sufficiency. If and when a PPSI identifies a weakness in its internal controls system, the PPSI should take immediate and effective action, to the extent possible, to identify and implement compensating controls until the root cause of the weakness can be determined and remediated.

Finally, OFAC notes that the exact form of internal controls is not prescribed by this proposed rule. In keeping with the GENIUS Act's requirement to tailor rules to the size and complexity of each PPSI's operations,³⁰⁴ OFAC does not propose a uniform or "one-size-fits-all" internal control system. Rather, the specific internal control system should be risk-based and will depend, among other things, on the PPSI's products, services, geographical scope of operations, direct customers, end users or holders, and on the sanctions risks the PPSI identifies during its risk assessment process or through any other measures.

PPSIs may consider using a variety of tools to develop and implement internal controls, including external resources. In the financial industry, internal controls often include software for sanctions screening, investigations, transaction monitoring, and other

²⁹⁸ See, e.g., OFAC, *OFAC Imposes \$7,139,305 Penalty on Gracetown, Inc. for Violating Ukraine-/Russia-Related Sanctions and Reporting Obligations* (Dec. 4, 2025), available at <https://ofac.treasury.gov/media/934796/download?inline>.

³⁰² See, e.g., OFAC, *OFAC Settles with Toll Holdings Limited for \$6,131,855 Related to Apparent Violations of Multiple Sanctions Programs* (Apr. 25, 2022), available at <https://ofac.treasury.gov/media/922441/download?inline=>.

³⁰³ See, e.g., *Key Holding*, *supra* note 295.

³⁰⁴ 12 U.S.C. 5903(a)(5)(B).

²⁹⁹ 12 U.S.C. 5903(a)(5)(A)(iv).

²⁹⁹ See *Virtual Currency Industry Guidance*, *supra* note 286, at pp. 13–17.

³⁰⁰ See *id.* at p. 15.

purposes. For digital assets industry participants in particular, these tools typically function as a linchpin of the organization's internal controls. OFAC does not require PPSIs to use any specific tool or software, and OFAC's engagement with the private sector has found that the specific tools employed vary widely by industry. Digital assets industry participants routinely report using blockchain analysis, open-source intelligence, geolocation tools, and media monitoring tools, among other solutions, whether developed internally or sourced from a vendor. OFAC's Virtual Currency Industry Guidance provides other examples of internal controls best practices that PPSIs may consider adopting.³⁰⁵ Whether a PPSI uses these or other tools will depend on specifics of each PPSI's operations.

Ultimately, the internal controls required by the proposed rule will allow PPSIs to comply with the numerous other mandates in the GENIUS Act.

4. Proposed 31 CFR 502.201(b)(4)—Testing and Auditing

Proposed § 502.201(b)(4) would require that a PPSI establish and maintain an independent testing or audit function, accountable to senior management, with sufficient resources, expertise, and authority to identify U.S. sanctions compliance-related weaknesses and deficiencies. In addition, each PPSI would also have to ensure that qualified personnel routinely perform comprehensive, independent, and objective testing or auditing of the effectiveness of the sanctions compliance program and its functions. And finally, the proposed rule would require that such testing and auditing results are used to identify and implement any needed updates or enhancements to the sanctions compliance program, and that PPSIs maintain and provide to OFAC upon request records of any such testing and auditing results and enhancements.

An independent testing or audit function can be either external or internal to a PPSI. If internal, controls must be in place to ensure audits or testing are sufficiently independent. Criteria relevant to establish "independence" may vary based on a range of factors, including a PPSI's internal corporate structure, the internal auditor's accountability to senior leadership and or the PPSI's board of directors, as well as the training and expertise possessed by the internal auditor. With the appropriate independence, expertise, and resources,

internal audits may be effective and may be a reasonable part of a compliance program, depending on a PPSI's individualized risk profile. However, OFAC's experience administering and enforcing U.S. sanctions has also shown that internal audits can lack the independence, expertise, and resources to conduct objective and thorough evaluations of an entity's own compliance efforts, while external audits often provide more effective and comprehensive assessments.

Routine, comprehensive, independent, and objective testing or auditing of a sanctions compliance program is essential to the program's continued effectiveness.³⁰⁶ OFAC has observed cases of apparent violations resulting from compliance, testing, or audit software that was improperly configured, deactivated, or modified over time, including following updates, changes, or the deployment of new technology by the broader organization. Human error and lack of attention to changes in testing and audit results can compound these issues as can the speed and volume of payment stablecoin-related activity that PPSIs and other digital assets industry participants may face.

Again, in line with the GENIUS Act's requirement to tailor rules to the size and complexity of each PPSI's operations,³⁰⁷ proposed § 502.201(b)(4) does not specify the precise contours of what the testing and audit function should include. However, based on the existing 2019 Compliance Framework, PPSIs should be prepared to implement a testing and audit function that can identify weaknesses and deficiencies in their sanctions compliance, including in products or services still under development. In addition, based on the existing 2019 Compliance Framework, a testing and auditing program should be tailored to address the sanctions risks accompanying the PPSI's operations, and results should be used to implement updates, remediate compliance gaps, and make the PPSI aware of how its products and services are performing against the sanctions compliance program's internal control benchmarks.

5. Proposed 31 CFR 502.201(b)(5)—Training

Proposed § 502.201(b)(5) would require a PPSI establish and maintain a risk-based compliance training program

that is: (i) performed at least annually and with a frequency appropriate to the PPSI's risk assessments and risk profile; (ii) provided to all relevant personnel and stakeholders; (iii) appropriately tailored to each trainee's role and responsibilities; (iv) modified to reflect risk assessments findings and identified deficiencies in the sanctions compliance program, including testing and audit findings; and (v) designed to include easily accessible resources and materials for all relevant personnel and stakeholders. Based on OFAC's experience investigating and enforcing sanctions violations and providing compliance guidance to private industry, OFAC has found the establishment and maintenance of a risk-based sanctions compliance training program to be critical to ensuring that the benefits and expertise cultivated by the PPSI's compliance efforts are shared across an organization and not limited to compliance program personnel and senior management.³⁰⁸

In keeping with the GENIUS Act's requirement to tailor rules to the size and complexity of each PPSI's operations,³⁰⁹ OFAC proposes PPSI discretion in setting a training cadence that aligns with a PPSI's particular circumstances, provided a PPSI meets the minimum of an annual training. Based on industry practice, OFAC views annual training as an appropriate minimum, recognizing that certain PPSIs may determine, based on their assessment of risk, that more frequent trainings may be necessary, either for all or certain personnel and stakeholders, including after a knowing or material violation of the GENIUS Act has occurred or an apparent violation of U.S. sanctions, to understand root causes and avoid repeated issues.

OFAC proposes training be provided to all relevant personnel and stakeholders³¹⁰ to support the type of comprehensive risk assessments and testing and auditing that an effective sanctions compliance program requires. Broad awareness of an organization's sanctions compliance obligations, policies, and available tools is necessary to identify and surface information regarding potential sanctions risks and to support timely action to address those risks. Based on OFAC's

³⁰⁸ See, e.g., OFAC, *OFAC Settles with 3M Company for \$9,618,477 Related to Apparent Violations of the Iranian Transactions and Sanctions Regulations* (Sept. 21, 2023), available at <https://ofac.treasury.gov/media/932161/download?inline>.

³⁰⁹ 12 U.S.C. 5903(a)(5)(B).

³¹⁰ Relevant stakeholders can include clients, suppliers, business partners, and counterparties. 2019 Compliance Framework, *supra* note 285, at p. 7.

³⁰⁵ See generally *Virtual Currency Industry Guidance*, *supra* note 286.

³⁰⁶ See, e.g., OFAC, *OFAC Enters Into \$1,385,901.40 Settlement with Payoneer Inc. for Apparent Violations of Multiple Sanctions Programs* (Jul. 23, 2021), available at <https://ofac.treasury.gov/media/911571/download?inline>.

³⁰⁷ 12 U.S.C. 5903(a)(5)(B).

experience engaging with private sector entities of various sizes and sanctions risk profiles, a “one-size-fits-all” training requirement would both be less effective and run counter to the principle of supporting private actors to make their own circumstance-based prioritizations in furtherance of compliance. Furthermore, the requirement that training-related resources and materials be made easily available to all relevant personnel and stakeholders likewise supports the essential flow of information and a well-trained workforce. Employees or stakeholders with insufficient or inaccessible training may overlook or fail to understand the significance of relevant information at key junctures, causing sanctions violations to go unnoticed, while properly trained employees will be equipped to spot red flags and identify sanctions risk in real time.

Finally, the proposed requirement that organizations modify training programs to reflect findings of risk assessments and identified deficiencies in their sanctions compliance program is essential to keeping trainings current and effective. Training programs that do not incorporate new information and corrections to past deficiencies are inherently less effective than training programs that account for such developments.

C. Definitions

OFAC is proposing to define four terms in the definitions section of the new 31 CFR part 502. OFAC proposes to define two terms—“knowingly” and “OFAC”—at § 502.301 and § 502.302, respectively, consistent with other OFAC regulations. OFAC proposes to define “payment stablecoin-related activity” at § 502.303 to capture the range of activities involving a PPSI’s payment stablecoin from the time of issuance until the payment stablecoin’s removal from circulation, including activity on the secondary market, and to future-proof the regulations. Finally, OFAC proposes to define the term “permitted payment stablecoin issuer” at § 502.304 consistent with the definition of that term contained in the GENIUS Act, with slight modifications to reconcile differences between how the GENIUS Act defines the term “person” and how that term is defined in OFAC’s regulations, as well as to synthesize definitions contained within the GENIUS Act for ease of understanding by the regulated public.

With the exception of the term “OFAC,” which simply refers to the “Office of Foreign Assets Control,” OFAC below provides additional

explanations of the terms described above.

1. Proposed 31 CFR 502.301—Knowingly

Consistent with the GENIUS Act, OFAC’s proposed rule provides for civil monetary penalties, including penalties for each day during which a PPSI knowingly violates the GENIUS Act’s requirement that PPSI’s maintain an effective sanctions program.³¹¹ However, the GENIUS Act does not define the term “knowingly.” Under the proposed rule, OFAC defines “knowingly” with respect to conduct, a circumstance, or a result, as meaning that a person has actual knowledge, or should have known, of the conduct, the circumstance, or the result. OFAC is proposing this definition because it is consistent with how OFAC defines that term across multiple sanctions programs and will be familiar to the sanctions compliance community.³¹²

2. Proposed 31 CFR 502.303—Payment Stablecoin-Related Activity

OFAC proposes to define “payment stablecoin-related activity” to include issuing, trading, holding, transacting, transferring, redeeming, or any other activity involving a payment stablecoin issued by a PPSI from the time of issuance until the payment stablecoin’s removal from circulation, whether on the primary or secondary market, including through redemption or by any other means. OFAC intends to interpret the term “payment stablecoin” consistent with how that term is defined in the GENIUS Act.³¹³ As discussed in section V.B above, there are a variety of scenarios under which PPSIs may be required to block or reject transactions under U.S. sanctions, whether on the primary or secondary market. For example, a PPSI is prohibited from issuing payment stablecoins to a blocked person and from allowing blocked persons to engage with its smart contracts to facilitate trades of its payment stablecoins. Accordingly, OFAC’s proposed definition ensures that a PPSI’s sanctions compliance obligations apply to all activity involving its payment stablecoins, whether on the primary or secondary market. OFAC’s proposed definition is also appropriately scoped to ensure that the proposed rule captures future technological developments, whether in

the issuance of payment stablecoins or in the trading thereof.

3. Proposed 31 CFR 502.304—Permitted Payment Stablecoin Issuer; PPSI

OFAC proposes to define the term “permitted payment stablecoin issuer” or “PPSI” consistent with the definition provided in the GENIUS Act.³¹⁴ To ensure the definition of “permitted payment stablecoin issuer” accurately applies only to “persons” as defined in the GENIUS Act, rather than “person” as defined differently in other regulations administrated by OFAC, OFAC is replacing the word “person” with “individual, partnership, company, corporation, association, trust, estate, cooperative organization, or other business entity, incorporated or unincorporated,” which is how “person” is defined in the GENIUS Act.³¹⁵

D. Proposed 31 CFR 502.401 and 502.402—Penalties

Proposed § 502.401(a) would impose civil monetary penalties of not more than \$100,000 per day for PPSIs that materially violate the requirement to maintain an effective sanctions compliance program. Proposed § 502.401(b) would provide for an additional \$100,000 penalty for each day during which a PPSI knowingly participates in a violation of the same. If a PPSI does not pay the penalty imposed pursuant to § 502.401, proposed § 502.402 authorizes OFAC to refer the matter for administrative collection measures by the Department of the Treasury or to the Department of Justice for appropriate action to recover the penalty in a civil suit in a federal district court.

The proposed penalties are consistent with those prescribed in the GENIUS Act, which provides for a civil penalty of not more than \$100,000 for each day during which a PPSI materially violates any regulation issued under the GENIUS Act and an additional penalty of not more than \$100,000 per day during which a PPSI knowingly violates any regulation issued under the GENIUS Act.³¹⁶ Additionally, the penalties are consistent with those permitted under IEEPA, which allows for the imposition of civil penalties of the greater of \$377,700 or twice the amount of the underlying transaction for each violation,³¹⁷ as well as the Trading with

³¹⁴ See 12 U.S.C. 5901(23).

³¹⁵ See 12 U.S.C. 5901(24).

³¹⁶ See 12 U.S.C. 5905(b)(5)(B)–(C).

³¹¹ 12 U.S.C. 5905(b)(5)(B).

³¹² See, e.g., 31 CFR 561.314, 566.312, 589.322, 594.321.

³¹³ See 12 U.S.C. 5901(22).

³¹⁷ See 50 U.S.C. 1705(b), as adjusted pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note).

the Enemy Act (TWEA), the sanctions authority that underpins OFAC's Cuba sanctions program, which allows OFAC to impose penalties of up to \$111,308 for each violation.³¹⁸

VIII. Final Rule Effective Dates

FinCEN and OFAC are proposing that their respective rules will become effective 12 months after issuance of final rules to allow sufficient time for PPSIs to review and implement the requirements of the proposed rule. We seek comment on the proposed effective date.

IX. AML/CFT Request for Comment

FinCEN seeks comments on all aspects of the proposed rule and specifically seeks comments on the following topics. For all responses, commenters are encouraged to provide the basis for any conclusions drawn in their comments. FinCEN is also requesting commenters consider whether any obligation can be better tailored to the size and complexity of an issuer and how such tailoring would impact burden and risk of illicit finance.

A. Questions on PPSI Relationships to Other Types of Financial Institutions

1. Where PPSIs are subsidiaries of insured depository institutions, do any of FinCEN's proposals for PPSIs present legal challenges or substantial operational challenges such that implementation would be practically impossible? How can FinCEN's regulatory infrastructure promote an efficient and effective BSA regime where a PPSI and its parent may be subject to similar or overlapping obligations?

2. Where PPSIs are also uninsured national banks, do any of FinCEN's proposals present legal challenges or substantial operational challenges such that implementation would be practically impossible? How can FinCEN's regulatory infrastructure promote an efficient and effective BSA regime where a PPSI may be subject to similar or overlapping obligations as both a PPSI and an uninsured national bank? Should FinCEN carve out PPSIs from rules that apply to banks for some or all obligations?

3. What would be the benefits and drawbacks of FinCEN extending the logic of its 2012 administrative ruling³¹⁹ to PPSIs that are a subsidiary

of an insured depository institution subject to a parallel regulation?

4. Should FinCEN carve PPSIs out of the MSB definition? Are there circumstances in which an entity could reasonably be uncertain whether it should be treated as a PPSI or as an MSB under the proposed definitions? If so, please describe.

B. Questions on Proposed Definitions

5. Are FinCEN's proposed definitions sufficiently clear? Should the definitions be expanded or narrowed in any respect? Should FinCEN define additional terms or amend additional existing terms?

6. Are there products or arrangements that may fall near the boundary of the proposed definition of payment stablecoin, and if so, how should FinCEN address such cases?

7. Is FinCEN's proposed definition of "lawful order" sufficiently clear? Should FinCEN further define any terms within "lawful order"? Should FinCEN, for example, specify that "accounts" for purposes of lawful orders include any number or identifier used to identify a holder of a payment stablecoin, including a wallet address?

C. Questions on Proposed AML/CFT Program

8. In what respects should a PPSI's AML/CFT program account for risks on the secondary market?

9. The proposed rule sets forth the conditions for an effective AML/CFT program. Is the description of an effective program sufficiently clear or is there anything further that FinCEN should consider adding in the final rule to clarify program effectiveness?

10. The proposed rule reflects a determination by FinCEN that PPSIs are best placed to identify risks and allocate resources, and that providing them with greater discretion in these areas will improve the quality of AML/CFT compliance and reporting to law enforcement. Is this correct or should FinCEN consider adding more requirements regarding allocation of resources? How might PPSIs assess changes in the total allocation of resources devoted to an AML/CFT program in a changing risk and cost environment?

11. Should the proposed rule's distinction between "establishing" and "maintaining" a program be modified? Is the distinction between "establishing" and "maintaining" a compliance program useful for PPSIs?

Should FinCEN add anything to further define these terms in the final rule?

12. What, if any, difficulties do PPSIs anticipate when incorporating the AML/CFT Priorities as part of their risk assessment processes?

13. Should risk assessment processes be required to take into account additional or different criteria or risks than those listed in the proposed rule? If so, what additional factors should FinCEN consider requiring?

14. What risk factors should PPSIs consider when conducting risk assessments under the proposed rule, including customer, product, transaction, geographic, and technological risks?

15. Is additional explanation needed concerning when a PPSI would be required to update its risk assessment? In particular, how might FinCEN clarify how risk assessment processes would be updated "promptly"? Would an alternative approach, such as periodic updates or a set schedule for updates, be preferable? Would an alternative standard, such as "materially changes," be clearer than "significantly changes"?

16. To what extent do the proposed AML/CFT program requirements provide sufficient flexibility for PPSIs to design programs that are appropriately risk-based and tailored to their size, complexity, and business models?

17. To what extent should PPSIs consider information about secondary market transactions as part of their customer due diligence processes?

18. Should FinCEN further clarify which specific elements of an institution's AML/CFT program must be written? Should FinCEN instead eliminate the requirement that an AML/CFT program be expressly required to be "written" because, among other reasons, financial institutions may be subject to other applicable recordkeeping and documentation requirements? What would be the benefits or drawbacks of not prescribing a mandatory written requirement in the regulation?

19. The proposed rule would require that a PPSI's written AML/CFT program be approved by its board of directors, an equivalent governing body, or appropriate senior management. Should FinCEN further clarify which aspects of the AML/CFT program must be subject to such approval? In particular: (a) should approval be required for each of the core program components, or would approval of the overall program framework be sufficient; (b) should material revisions to particular components (such as significant changes to the institution's risk assessment methodology, monitoring architecture, or governance structure) require re-

³¹⁸ See 50 U.S.C. 4315(b)(1), as adjusted pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note).

³¹⁹ FinCEN, FIN-2012-R005, *Compliance Obligations of Certain Loan or Finance Company Subsidiaries of Federally Regulated Banks and Other Financial Institutions* (Aug. 13, 2012),

available at https://www.fincen.gov/system/files/administrative_ruling/FIN-2012-R005.pdf.

approval at the same level; and (c) what level of specificity should the approving body be required to review and approve (e.g., high-level program architecture versus detailed procedures or parameter-level settings)? Should FinCEN instead eliminate the specified approval requirement, allowing PPSIs flexibility in determining how leadership oversight of the AML/CFT program is structured? What would be the benefits or drawbacks of not prescribing a mandatory approval requirement in the regulation? If FinCEN does not eliminate the specified approval requirement, should FinCEN consider amending the requirement? Are there alternatives to board of directors, an equivalent governing body, or appropriate senior management that would be more appropriate?

20. Should FinCEN impose the supervision and enforcement framework outlined in this proposal for PPSIs?

21. If the supervision and enforcement framework is implemented for PPSIs should FinCEN further refine or clarify any of the concepts or definitions outlined in this proposal, including “significant or systemic failure,” “failure to establish an AML/CFT program,” “any written communication,” and “significant AML/CFT supervisory action”?

22. Should a revocation of a permitted payment stablecoin issuer’s application to a primary Federal payment stablecoin regulator be accounted for in the supervision and enforcement framework?

23. Do any aspects of the GENIUS Act framework with regards to supervision, examination, and enforcement need to be better accounted for if the framework was implemented for PPSIs, including a consultation framework when a primary Federal payment stablecoin regulator intends to take an AML/CFT enforcement action or significant AML/CFT supervisory action?

24. Should the proposed consultation process include an asset threshold—i.e., consultation is required for any significant AML/CFT supervisory actions involving PPSIs with \$10 billion or more in assets? In addition, or as an alternative, should the proposed rule provide the option for PPSIs to request their primary Federal payment stablecoin regulator consult with FinCEN prior to initiating a significant AML/CFT supervisory action?

25. Notwithstanding the benefits of the proposed consultation described above, the proposal may result in additional review during an examination. How can FinCEN and the primary Federal payment stablecoin regulator streamline the consultation

process and prevent logistical burdens for PPSIs or delays in exam report issuance?

26. FinCEN welcomes comment on how the Director of FinCEN may consider the performance of innovative activities that produce demonstrable outputs under the proposed supervision and enforcement framework.

D. Questions on Proposed Additional Technical Capabilities

27. Should FinCEN refine or clarify the obligation related to having the technical capabilities to block, freeze, and reject impermissible transactions?

28. Are there aspects of the proposed requirement that could unintentionally constrain PPSIs’ choice of technical or operational approaches? If so, please explain.

29. Is FinCEN’s proposed language specifying PPSIs must have the technical capabilities to block, freeze, and reject impermissible transactions occurring on the secondary market appropriately scoped and sufficiently clear? Does it capture activity it should not? Does it leave out activity it should include?

30. What technical, operational, or architectural challenges, if any, might PPSIs face in implementing block, freeze, and reject capabilities? How can FinCEN account for such challenges in light of the GENIUS Act’s clear directive that PPSIs must have such technical abilities?

31. Should FinCEN refine or clarify the obligation related to having the technical capabilities to comply and actual compliance with the terms of lawful orders?

32. Is FinCEN’s proposed language specifying PPSIs must have the technical capabilities to comply with the terms of lawful orders regarding the secondary market appropriately scoped and sufficiently clear? Does it capture activity it should not? Does it leave out activity it should include?

E. Questions on Currency Transaction Reporting

33. Should FinCEN impose on PPSIs currency transaction reporting obligations? What would be the risks in not doing so?

34. What, if any, additional exemptions should FinCEN promulgate for PPSIs relating to currency transaction reporting obligations?

F. Questions on Proposed Suspicious Activity Reporting

35. Is FinCEN’s proposal clear regarding SAR obligations relating to secondary market activity. If not, why not and how can it be improved?

36. Are there particular types of payment stablecoin transactions or activities for which additional clarification regarding SAR reporting obligations would be beneficial?

37. Should the proposed regulatory text be modified to clarify joint SAR-filing and SAR sharing when a PPSI is a subsidiary of a parent depository institution? Are other clarifications or modifications needed with regards to SAR sharing?

38. Is clarification needed on how the proposed SAR reporting requirements interact with PPSIs’ obligations related to blocking, freezing, and rejecting transactions, recordkeeping, or responding to lawful orders?

39. Should FinCEN reconsider its decision not to impose any SAR obligation with respect to secondary market activity? In what circumstances would secondary market reporting be most beneficial and how burdensome would such a reporting obligation be? For example, should PPSIs be required to report secondary market suspicious activity but only at a higher standard than in primary market transactions, such as requiring reporting only when a PPSI “knows” a transaction meets specified criteria?

G. Questions on Proposed Recordkeeping Requirements

40. To what extent is it clear how payment stablecoins should be treated for purposes of FinCEN’s recordkeeping requirements, including whether payment stablecoins should be considered “money,” “funds,” “currency,” or another category under the proposed rule?

41. Would Recordkeeping and Travel Rule obligations for PPSIs and other financial institutions be clearer if FinCEN codified a PPSI-specific Recordkeeping and Travel Rule in part 1033?

42. The Recordkeeping and Travel Rule proposal implements the GENIUS Act’s directive relative to “high-value transaction.” How else could this provision of the GENIUS Act be implemented?

H. Questions on Proposed Special Information-Sharing Procedures

43. Are there aspects of the information sharing framework that would benefit from clarification or modification when applied to PPSIs, including definitions in 31 CFR 1010.505?

44. To what extent would PPSIs participate in voluntary information sharing with other financial institutions under section 314(b)?

45. Are there legal, operational, or technical considerations that could affect PPSIs' ability or willingness to engage in voluntary information sharing related to payment stablecoin transactions?

I. Questions on Proposed Special Standard of Diligence

46. Are there aspects of the special standard of diligence framework that would benefit from clarification or modification when applied to PPSIs?

47. To what extent is it clear how the special standards of diligence applicable to correspondent and private banking accounts apply to PPSIs and to activities involving payment stablecoins?

48. Are there types of relationships, accounts, or arrangements involving PPSIs that may raise questions about whether they should be treated as correspondent accounts, private banking accounts, or neither?

49. What challenges, if any, would PPSIs face in identifying, collecting, or verifying information required to comply with the special standards of diligence, including information related to ownership, control, or source of funds?

J. Question on Proposed Effective Date

50. FinCEN is proposing an effective date of 12 months from the date of issuance of the final rule to allow sufficient time for PPSIs to review and implement its requirements. FinCEN solicits comment on the proposed effective date.

K. Question on AML/CFT Requirements for Foreign Payment Stablecoin Issuers

51. Through this rulemaking FinCEN is only proposing application of AML/CFT requirements to PPSIs. Are there particular requirements that FinCEN has proposed to apply to PPSIs that should or should not apply to foreign payment stablecoin issuers? Please describe why and any benefits and drawbacks.

X. Sanctions Request for Comment

OFAC seeks comments on the following topics. For all responses, commenters are encouraged to provide the basis for any conclusions drawn in their comments.

1. Are the proposed effective sanctions compliance program regulations clear regarding the minimum elements PPSIs must include in their programs? If not, which aspects would benefit from additional clarification?

2. Is the proposed definition of "Payment stablecoin-related activity" sufficiently clear and comprehensive to

capture the full lifecycle of a payment stablecoin?

3. What best practices would PPSIs consider in developing and implementing policies, procedures, and internal controls designed to ensure ongoing compliance with the proposed effective sanctions compliance program requirements?

4. What technical, operational, or architectural controls might PPSIs consider in implementing block, freeze, and reject capabilities to comply with U.S. sanctions, including blocking stablecoins of blocked persons traded on the secondary market or rejecting transactions on the secondary market that involve sanctioned jurisdictions, such as Iran?

5. To what extent does the proposed rule appropriately afford PPSIs flexibility to determine how to implement the technical capability to block, freeze, and reject transactions, consistent with their business models, technologies, and risk profiles?

6. What risk factors should PPSIs consider when conducting risk assessments under the proposed rule, including customer, product, transaction, geographic, and technological risks?

7. OFAC is proposing an effective date of 12 months from the date of issuance of the final rule to allow sufficient time to review and implement the effective sanctions compliance program requirements. OFAC solicits comment on the proposed effective date.

XI. Executive Order 14294 Fighting Overcriminalization in Federal Regulations

A. Overview

Executive Order 14294 *Fighting Overcriminalization in Federal Regulations* requires that agencies promulgating regulations potentially subject to criminal enforcement explicitly describe the conduct subject to criminal enforcement, the authorizing statutes, and the *mens rea* standard applicable to those offenses.³²⁰ Section 5 of E.O. 14294 directs that all future notices of proposed rulemaking and final rules published in the **Federal Register**, the violation of which may constitute criminal regulatory offenses, should include a statement identifying that the rule or proposed rule is a criminal regulatory offense and the authorizing statute.³²¹ E.O. 14294 directs agencies to draft this statement

³²⁰ E.O. 14292, *Fighting Overcriminalization in Federal Regulations*, 90 FR 20363, 20364 (May 14, 2025).

³²¹ *Id.*

in consultation with the Department of Justice.³²²

E.O. 14294 further directs that the regulatory text of all NPRMs and final rules with criminal consequences published in the **Federal Register** after May 9, 2025 should explicitly state a *mens rea* requirement for each element of a criminal regulatory offense, accompanied by citations to the relevant provisions of the authorizing statute.

B. Criminal Enforcement for Chapter X Obligations

Willful violations of the regulations proposed to be added to Chapter X, if finalized, may be subject to criminal penalties pursuant to 31 U.S.C. 5322 and regulations promulgated 31 CFR chapter X. The statutory authority for criminal liability requires a *mens rea* of willfulness as an element under 31 U.S.C. 5322(a) and 31 U.S.C. 5322(b). FinCEN's existing regulation, 31 CFR 1010.840, that sets out criminal penalties for violations of regulations promulgated in 31 CFR chapter X also includes a *mens rea* of willfulness. In drafting this statement, FinCEN has consulted with the Department of Justice.

C. Criminal Enforcement for Chapter V Obligations

Willful violations of the regulations proposed to be added to Chapter V, if finalized, may be subject to criminal penalties pursuant to 50 U.S.C. 1705, 50 U.S.C. 4315, 19 U.S.C. 3907, 21 U.S.C. 1906, and regulations promulgated thereunder. The statutory authority for criminal liability under 50 U.S.C. 1705(c), 50 U.S.C. 4315(a), 19 U.S.C. 3907(a)(2), and 21 U.S.C. 1906(a) requires a *mens rea* of willfulness as an element. OFAC's existing regulations that set out criminal penalties for violations of regulations issued pursuant to these statutes also include a *mens rea* of willfulness. In drafting this statement, OFAC has consulted with the Department of Justice.

XII. Regulatory Impact Analysis

FinCEN and OFAC have analyzed the proposed rule as required under E.O. 12866,³²³ E.O. 13563,³²⁴ E.O. 14192,³²⁵

³²² *Id.*

³²³ E.O. 12866, *Regulatory Planning and Review*, 58 FR 51735 (Oct. 4, 1993).

³²⁴ E.O. 13563, *Improving Regulation and Regulatory Review*, 76 FR 3821 (Jan. 21, 2011).

³²⁵ See E.O. 14192, *Unleashing Prosperity Through Deregulation*, 90 FR 9065 (Feb. 6, 2025); Office of Management and Budget (OMB), M-25-20, *Guidance Implementing Section 3 of Executive Order 14192, Titled "Unleashing Prosperity Through Deregulation"* (Mar. 26, 2025), available at <https://www.whitehouse.gov/wp-content/uploads/2025/02/M-25-20-Guidance-Implementing-Section->

the Regulatory Flexibility Act (RFA),³²⁶ the Unfunded Mandates Reform Act of 1995 (UMRA),³²⁷ and the Paperwork Reduction Act (PRA).³²⁸

This proposed rule has been determined to be a “significant regulatory action” under section 3(f) of E.O. 12866. FinCEN and OFAC have included an Initial Regulatory Flexibility Analysis (IRFA) pursuant to the RFA as the proposed rule may have a significant economic impact on a substantial number of certain types of affected small entities.³²⁹ Pursuant to analysis required by UMRA, FinCEN and OFAC conclude it is unlikely that the proposed rule, if implemented, would result in a novel annual expenditure of more than \$193 million by State, local, and Tribal governments or by the private sector.³³⁰

As described above,³³¹ the proposed rule would require certain issuers of “payment stablecoins,” referred to herein as PPSIs, to “be treated as a financial institution for purposes of the Bank Secrecy Act, and as such, shall be subject to all Federal laws applicable to financial institutions located in the United States relating to economic sanctions, prevention of money laundering, customer identification, and due diligence.”³³² Specifically, this NPRM, among other things, would implement the GENIUS Act’s directive for PPSIs to: (i) maintain an effective AML program, which includes appropriate risk assessments and designation of an officer to supervise the program; (ii) retain appropriate records;

3-of-Executive-Order-14192-Titled-Unleashing-Prosperty-Through-Deregulation.pdf.

³²⁶ 5 U.S.C. 601 *et seq.*

³²⁷ 2 U.S.C. 1532.

³²⁸ 44 U.S.C. 3501 *et seq.*

³²⁹ This economic expectation is sensitive to key assumptions about how potentially affected financial institutions would respond to the proposed requirements. FinCEN and OFAC request comment on whether it would instead be more reasonable to certify that the proposed rule would not have a significant economic impact on a substantial number of small entities.

³³⁰ The UMRA requires an assessment of any Federal mandates that may result in annual expenditures of \$100 million or more, adjusted for inflation, before issuing a general notice of proposed rulemaking. 2 U.S.C. 1532(a). FinCEN and OFAC have not anticipated material changes in expenditures for State, local, and Tribal governments, insofar as they would not participate in the primary activities of monitoring or enforcing compliance of the newly proposed requirements in a way that differs from current involvement, thereby incurring novel incremental costs. But because the proposed rule would affect entities in the private sector that are covered financial institutions, FinCEN and OFAC have considered expenditures these private entities may incur, pursuant to UMRA, as part of the regulatory impact in its assessment below.

³³¹ See *supra* section VI.A.1.

³³² 12 U.S.C. 5903(a)(5)(A).

(iii) monitor and report any suspicious transaction relevant to a possible violation of law or regulation; and (iv) maintain the technical capabilities, policies, and procedures to block, freeze, and reject specific or impermissible transactions that violate Federal or State law, rules, or regulations.³³³ It also requires PPSIs to maintain an effective sanctions compliance program.³³⁴ The proposal would also implement a GENIUS Act requirement that PPSIs have the technological capability to comply and will comply with the terms of any lawful order in order to issue payment stablecoins.³³⁵

In so doing, FinCEN and OFAC contemplate a number of benefits for PPSIs, law enforcement and national security agencies, and the general public that would flow from (1) ensuring that a PPSI’s AML/CFT program is substantively consistent with the requirements of other financial institution types, and where appropriate, that PPSI are subject to additional provisions to further mitigate ML/TF risks unique to PPSIs; and (2) codifying longstanding economic sanction compliance expectations and establishing a minimum threshold for compliance standards.

This regulatory impact analysis (RIA) begins by describing the broad economic analysis undertaken to inform the expectations of the proposed rule’s economic impact and burden.³³⁶ This is followed by pieces of additional and, in some cases, more specifically tailored analysis as required by E.O.s 12866, 13563 and 14192,³³⁷ the RFA,³³⁸ the UMRA,³³⁹ and the PRA.³⁴⁰ Requests for comments on the RIA—regarding specific findings, assumptions, or expectations, or with respect to the analysis in its entirety—can be found in the final subsection.³⁴¹ These requests for comments have been previewed throughout the RIA.

A. Assessment of Impact

Consistent with best practices in regulatory economic analysis, the assessment of impact begins with an overview of broad economic considerations identifying, among other things, the need for the policy intervention.³⁴² Next, FinCEN and

OFAC (1) describe the current regulatory requirements and background practices against which the proposed rule would introduce changes and (2) establish baseline estimates of the number of covered financial institutions and other entities that could be affected by the proposed rule.³⁴³ The analysis then briefly reviews elements of the proposed rule that most directly inform how foreseeable economic impacts would flow from how covered financial institutions and their respective regulators would need to newly undertake activities to comply with the proposed regulation in which they would otherwise be unlikely to engage in the ordinary course of business.³⁴⁴ Next, the RIA presents the anticipated benefits and estimated costs to the respective affected parties that would be associated with compliance.³⁴⁵ Finally, the assessment concludes with a brief discussion of alternative policies FinCEN and OFAC considered and could have proposed, including an evaluation of the relative economic merits of each against the expected value of the rule as proposed.³⁴⁶

1. Broad Economic Considerations

In performing its assessment of impact, FinCEN and OFAC took into consideration certain fundamental economic problems that the proposed rule is expected to address as well as the general social and economic costs that may ensue from PPSIs with ineffective BSA compliance or inadequate economic sanctions compliance programs. Because this NPRM is being issued pursuant to statutory obligations,³⁴⁷ the necessity for FinCEN and OFAC to independently identify and articulate fundamental economic problems that the proposed rule is intended to address, as the basis for regulatory action,³⁴⁸ is attenuated because, at best, this activity would complement the problem identification already performed by Congress.³⁴⁹

³⁴³ See *infra* section XII.A.2.

³⁴⁴ See *infra* section XII.A.3.

³⁴⁵ See *infra* section XII.A.4.

³⁴⁶ See *infra* section XII.A.5.

³⁴⁷ See generally *supra* section II.

³⁴⁸ See E.O. 12866, section 1(b)(1) (“Each agency shall identify the problem that it intends to address (including, where applicable, the failures of private markets or public institutions that warrant new agency action) as well as assess the significance of that problem.”).

³⁴⁹ With respect to AML/CFT programs in particular, Congress instructed FinCEN to consider the potential economic inefficiencies engendered by the presence of market externalities when promulgating implementing regulations. See 31 U.S.C. 5318(h)(2)(B)(i) (stating financial institutions are spending private compliance funds for a public and private benefit, including protecting U.S.

Nevertheless, FinCEN and OFAC have remained mindful of these animating considerations as well as the general social and economic costs that may ensue from an ineffective BSA and sanctions compliance regime.

FinCEN and OFAC expect that the proposed rulemaking would meaningfully alleviate certain underlying economic problems that could otherwise impair the effective administration of the BSA and U.S. sanctions laws, as well as potentially distort affected markets. These include potential problems that flow from the incidence of both positive and negative externalities in connection with BSA and sanctions compliance activities, certain information asymmetries, and the potential for regulatory arbitrage in the absence of uniform minimum standards for PPSIs' BSA and sanctions compliance obligations.³⁵⁰

The expected benefits of the proposed rule, as discussed below, are therefore linked by the extent to which the proposed requirements would address these fundamental economic problems.³⁵¹

2. Institutional Baseline and Affected Parties

In proposing this rule, FinCEN and OFAC considered the incremental impacts of the proposed requirements relative to the current state of the affected markets and their participants.³⁵² This baseline analysis of the parties that would be affected by the proposed rule, their current obligations and related activities, and currently accrued costs and/or benefits satisfies analytical best practices by describing the alternative of not pursuing the proposed, or any other, novel regulatory action.³⁵³ In each case, for new

financial system from illicit finance risks); *see also* 31 U.S.C. 5318(h)(2)(B)(iii) (stating that AML/CFT programs safeguard national security and generate significant public benefits by prevent illicit flows of funds and assisting law enforcement and national security agencies with information).

³⁵⁰ *See, e.g.,* FinCEN, *Anti-Money Laundering and Countering the Financing of Terrorism Programs*, 89 FR 55428, 55451 (July 3, 2024).

³⁵¹ *See infra* section XII.A.4.i.

³⁵² In this context, FinCEN and OFAC employ the term "market" in its broadest economic sense, referring to any set of exchanges, transactions, or actions that involve counterparties with unique objectives. The baseline here set forth also forms the counterfactual against which the quantifiable effects of the rule are measured; therefore, substantive errors in or omissions of relevant data, facts, or other information may affect the conclusions formed regarding the general and economically significant impacts of the rule. FinCEN and OFAC invite comment on the accuracy of the baseline population estimates as well as any supporting studies, data, or anecdotes.

³⁵³ *See* E.O. 12866, section 1(a) ("In deciding whether and how to regulate, agencies should

proposed requirements, FinCEN and OFAC have attempted to identify the incremental expected economic effects of each component of the proposal as precisely as practicable against this baseline. Nevertheless, in certain cases, FinCEN and OFAC can only make qualitative assessments.

As a first step in the process of isolating these anticipated marginal effects, FinCEN and OFAC assessed the regulatory and market landscape facing current stablecoin issuers, and potential future PPSIs, that would be affected by the proposed rule, including an estimate of the expected near-term number of potential PPSIs, their existing regulatory requirements, and the burden they either would or currently face in connection with the compliance activities the proposed rule would require. FinCEN and OFAC also briefly discuss other categories of persons and entities (*i.e.*, regulators, compliance examiners, law enforcement and national security agencies, and certain members of the general public) that are expected to be directly affected by the proposed rule.

FinCEN acknowledges that the discussion below does not include an assessment of the baseline level of general compliance with existing BSA requirements and must therefore caveat that the incremental effects estimated in subsequent sections are based on the presumption of full compliance with the current rules.³⁵⁴ FinCEN does not attempt to estimate a baseline population of currently non-compliant entities that could be differently affected by the rule because it is unclear that the proposed rule would alter the compliance choices already made by those financial institutions. FinCEN invites comment on whether this assumption, or the baseline it implies, is appropriate for the purposes of this analysis.

Relatedly, prior to the passage of the GENIUS Act, there was no explicit legal requirement for U.S. person stablecoin issuers to establish and maintain a sanctions compliance program. However, as U.S. persons, U.S. stablecoin issuers are, and from inception have always been, required to comply with U.S. sanctions laws administered by OFAC. OFAC acknowledges that the discussion below does not include an assessment of the baseline level of general compliance by U.S. persons with sanctions law as

assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating").

³⁵⁴ *See infra* section XII.A.4; *see also infra* sections XII.C. and XII.E.

currently administered by OFAC and must therefore caveat that the incremental effects estimated in subsequent sections are similarly based on the presumption of full compliance as status quo. OFAC invites comments on whether this assumption, or the baseline it establishes, is the most appropriate and informative for the purposes of this RIA.

i. Regulatory Baseline

FinCEN and OFAC took various components of the current regulatory landscape into consideration when assessing the increments by which the proposed rule would impose changes on the status quo.³⁵⁵ Specifically, FinCEN and OFAC considered (1) existing AML/CFT requirements, (2) existing sanctions compliance requirements (3) state regulations, and (4) required activities proposed here that would also be necessary to satisfy requirements in other proposed related rules that would implement the GENIUS Act but are not part of this NPRM.³⁵⁶ The extent to which each of these components of the regulatory baseline is germane to the novel incremental burden of a given future PPSI is expected to depend on the unique facts and circumstances of the PPSI under consideration.³⁵⁷

a. Existing AML/CFT Requirements

Through this rulemaking FinCEN proposes, as required by the GENIUS Act, imposing certain novel obligations or obligations that differ in some material respects from stablecoin issuers' current obligations. In many respects, however, FinCEN expects issuers' obligations under this proposal, if finalized, would be comparable to existing ones. If an existing stablecoin

³⁵⁵ Analyzing the anticipated effects of a rule requires first establishing what the proposed changes will be measured against, and establishing such a counterfactual often requires making numerous assumptions. The extent to which the proposed rule would impose incremental economic effects relies on a number of assumptions about the strategic decisions current and future stablecoin issuers would make, responsive to various factors, that include but are not limited to: (1) the decision to remain/become a stablecoin issuer; (2) the decision to pursue registration as a PPSI, and if so; (3) the decision about which type of PPSI status to seek. These assumptions, in turn, inform the selection of the most informative counterfactual(s), including the appropriate regulatory baseline.

³⁵⁶ *See supra* note 11.

³⁵⁷ For example, if one assumes a current stablecoin issuer decides to both remain an issuer and pursue registration as a PPSI, the most relevant regulatory baseline comparison might be relative to the current AML/CFT requirements for MSBs that are money transmitters. Alternatively, if a decision is made to newly become a stablecoin issuer, and to do so as a bank subsidiary, then the current BSA requirements of the parent bank might be a more appropriate regulatory baseline to assess the incremental burden of that PPSI.

issuer's current regulatory obligations already include AML/CFT requirements, FinCEN expects this to primarily flow from the applicability of the BSA to that stablecoin issuer as an MSB that is a money transmitter. The exposition on this in section V.A is adopted here by reference as part of the RIA regulatory baseline.

Alternatively, a future PPSI might exist as the subsidiary of an insured depository institution or as an uninsured national bank. In this case, because such institutions are also currently subject to a range of BSA obligations, including AML/CFT program obligations, it is reasonable to consider the regulatory requirements of the parent institution a more relevant baseline. In addition to the AML/CFT requirements for MSBs discussed above, banks and credit unions are subject to a number of additional FinCEN requirements, including: (1) CIP requirements,³⁵⁸ (2) beneficial ownership information (BOI) requirements for legal entity customers,³⁵⁹ (3) required reporting on transactions of exempt persons,³⁶⁰ (4) additional recordkeeping requirements,³⁶¹ (5) due diligence programs for correspondent accounts for foreign financial institutions and private banking accounts,³⁶² (6) requirements related to the prohibition on correspondent accounts for foreign shell banks and records concerning owners of foreign banks and agents for service of legal process,³⁶³ and (7) reporting

obligations on foreign bank relationships with Iranian-linked financial institutions designated under IEEPA and IRGC-linked persons designated under IEEPA.³⁶⁴ Because the FinCEN requirements for banks already encompass a broader set of elements, and these elements are largely the same as the requirements being proposed to apply to PPSIs, the incremental change to the regulatory baseline of FinCEN requirements for future PPSIs that would be subsidiaries of insured depository institutions or uninsured national banks is expected to be smaller than for PPSIs that would transition into the status from previously being MSBs.³⁶⁵

b. Existing Sanctions Compliance Requirements

Prior to the passage of the GENIUS Act, there was no explicit regulatory requirement for U.S. persons to establish and maintain a sanctions compliance program. However, all U.S. persons, including U.S.-based stablecoin issuers, are required to comply with U.S. sanctions pursuant to regulations administered by OFAC. Therefore, stablecoin issuers that would be subject to the proposed rule as PPSIs would be independently required to comply with existing sanctions obligations as U.S. persons,³⁶⁶ which as a practical matter typically involves the development and implementation of a risk-based sanctions compliance program in order to comply with such existing sanctions obligations.³⁶⁷ Thus, OFAC expects PPSIs' obligations under this proposed rule, if finalized, would be comparable to existing obligations stemming from

their status as U.S. persons subject to U.S. sanctions laws. Furthermore, with respect to non-U.S. person stablecoin issuers that would become U.S. persons to qualify as a PPSI, OFAC's experience administering U.S. sanctions has demonstrated that sophisticated multi-jurisdictional financial actors often maintain sanctions compliance programs aligned with U.S. sanctions requirements regardless of their status as U.S. persons.³⁶⁸ The exposition on this in section V.B is adopted here by reference as part of the RIA regulatory baseline.

c. State Regulations

Stablecoin issuers may also be subject to state regulations, which can vary in (1) general level of detail and complexity, which as a baseline matter would introduce variation in the incremental compliance burden of the proposed rule's program requirements; and (2) nexus with AML/CFT and sanctions compliance program requirements, from state to state. For example, the New York State Department of Financial Services (NYDFS) has detailed virtual currency regulations and guidance specifically for stablecoins.³⁶⁹ When a stablecoin issuer applies for a license or a charter, NYDFS reviews the issuers' business plan, product offerings, and business model and may consider whether the issuers is registered with FinCEN as an MSB as well as take into consideration the issuer's AML program and sanctions compliance.³⁷⁰ After licensure, a stablecoin issuer must obtain NYDFS's written approval before issuing a stablecoin.³⁷¹ NYDFS looks at a range of potential risks before authorizing a stablecoin issuer to issue a stablecoin, including AML and sanctions

³⁵⁸ 31 CFR 1020.220; see generally Supporting Statement for OMB Control No. 1506-0026: FinCEN, *Customer Identification Program Regulatory Requirements for Banks* (Aug. 29, 2024), available at https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202408-1506-003.

³⁵⁹ 31 CFR 1020.210(a)(2)(v) and (b)(2)(v), 1010.230(b)(c); see generally Supporting Statement OMB Control No. 1506-0070: FinCEN, *Beneficial Ownership Requirements for Legal Entity Customers* (Apr. 30, 2024), available at https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202404-1506-004.

³⁶⁰ 31 CFR 1020.315; see generally Supporting Statement OMB Control No. 1506-0012: FinCEN, *Transactions of Exempt Persons Regulations, and FinCEN Form 110, Designation of Exempt Persons Report* (Oct. 28, 2024), available at https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202410-1506-001.

³⁶¹ 31 CFR 1020.410; see generally Supporting Statement OMB Control No. 1506-0059: FinCEN, *Additional Records to be Made and Retained by Banks* (Oct. 29, 2024), available at https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202410-1506-006.

³⁶² 31 CFR 1020.610, 1020.620, 1010.610, 1010.620; see generally Supporting Statement OMB Control No. 1506-0046: FinCEN, *Due Diligence Programs for Correspondent Accounts for Foreign Financial Institutions and for Private Banking Accounts* (Aug. 27, 2024), available at https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202408-1506-001.

³⁶³ 31 CFR 1020.630, 1010.630; see generally Supporting Statement OMB Control No. 1506-0043:

FinCEN, *Prohibition on Correspondent Accounts for Foreign Shell Banks; Records Concerning Owners of Foreign Banks and Agents for Service of Legal Process* (July 31, 2025), available at https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202501-1506-001.

³⁶⁴ 31 CFR 1060.300; see generally Supporting Statement OMB Control No. 1506-0066: FinCEN, *Reporting Obligations on Foreign Bank Relationships with Iranian-Linked Financial Institutions Designated under IEEPA and IRGC-Linked Persons Designated under IEEPA* (July 8, 2025), available at https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202507-1506-001.

³⁶⁵ If, under an effective GENIUS framework, the issuer of an existing stablecoin product applies and is granted registration as a PPSI, then its obligations under the BSA as an MSB would be superseded by its new obligations as a PPSI.

³⁶⁶ In 12 U.S.C. 5901(23), the GENIUS Act defines PPSIs as persons incorporated in the United States. As such, in order to issue stablecoins, an issuer would need to register as a U.S. person and would therefore become subject to U.S. sanctions laws and all resulting obligations.

³⁶⁷ OFAC's Enforcement Guidelines, 31 CFR part 501, Appendix A, include the existence, nature, and adequacy of a subject person as a factor in determining what administrative action to take in response to an apparent violation of U.S. sanctions.

³⁶⁸ This understanding aligns with OFAC's guidance in the 2019 Compliance Framework, which notes that "OFAC strongly encourages organizations subject to U.S. jurisdiction, as well as foreign entities that conduct business in or with the United States, U.S. persons, or using U.S.-origin goods or services, to employ a risk-based approach to sanctions compliance by developing, implementing, and routinely updating a sanctions compliance program (SCP)." 2019 Compliance Framework, *supra* note 285, at p. 1.

³⁶⁹ 23 NYCRR Part 200; NYDFS, *Guidance on the Issuance of U.S. Dollar-Backed Stablecoins* (June 8, 2022), available at https://www.dfs.ny.gov/industry_guidance/industry_letters/il20220608_issuance_stablecoins.

³⁷⁰ 23 NYCRR 200.4; see also NYDFS, *Guidance on the Issuance of U.S. Dollar-Backed Stablecoins* (June 8, 2022), available at https://www.dfs.ny.gov/industry_guidance/industry_letters/il20220608_issuance_stablecoins.

³⁷¹ 23 NYCRR 200.10; see also NYDFS, *Guidance on the Issuance of U.S. Dollar-Backed Stablecoins* (June 8, 2022).

³⁷² NYDFS, *Guidance on the Issuance of U.S. Dollar-Backed Stablecoins* (June 8, 2022).

compliance.³⁷² In other states, stablecoin issuers do not have separate virtual currency regulations and are instead regulated as money transmitters.³⁷³

FinCEN and OFAC took these factors into consideration when assessing the quantifiable incremental economic costs of the proposed rule. In particular, FinCEN and OFAC were sensitive to the additional challenges state regulatory requirements would present to successfully disaggregating economic effects of the proposed rule from those attributable to business activities otherwise undertaken with respect to state-level regulatory requirements.

d. Other GENIUS Act Requirements for PPSIs

As part of their analysis, FinCEN and OFAC contemplated additional prospective baseline requirements—once certain other, but related, rules proposed pursuant to the GENIUS Act are adopted as final rules—that would become part of a prospective future PPSI's regulatory baseline. Under the GENIUS Act, a PPSI is required to certify to its primary Federal payment stablecoin regulator or State payment stablecoin regulator that it has implemented an AML program and economic sanctions compliance program consistent with the requirements of the GENIUS Act within 180 days of approval of its initial application and annually thereafter.³⁷⁴ Additionally, each PPSI that (1) is not a State qualified payment stablecoin issuer, (2) has a total outstanding issuance of less than \$10 billion, and (3) is supervised by a primary Federal payment stablecoin regulator, is required, upon request, to submit to its regulator a report on that FQPSI's compliance with the requirements of the BSA and sanctions implemented by OFAC.³⁷⁵ FinCEN and OFAC took these requirements into consideration, noting that because the statutory registration requirements, which are distinct from the ones covered in this proposed rulemaking, necessitate the collection and production of certain information and records that would flow from compliance with the requirements in this proposed rule, it may not be practicable to artificially segregate the incremental components of the same

recordkeeping burden to fully avoid double-counting the costs of PPSI efforts across all PRA analyses covering the same activity.³⁷⁶

ii. Baseline of Affected Parties

FinCEN and OFAC expect the following populations to be directly affected by the proposed rule: (1) certain financial institutions, namely PPSIs and PPSI-affiliated insured depository institutions or uninsured national banks; (2) regulators and other compliance examiners; and (3) law enforcement and national security agencies. FinCEN and OFAC also took into consideration that certain other persons, including PPSI business counterparties, clients/customers of PPSIs, and other members of the general public may be indirectly affected by the proposed rule. However, for purposes of the remaining analysis, it was determined that of these various groups of other affected parties, it would be reasonable to limit further consideration of the anticipated economic impact on specific subpopulations of the general public, aside from to the general public as a whole,³⁷⁷ to direct customers of PPSIs³⁷⁸ and to further limit consideration of the impact on such customers as narrowly attributable to the proposed AML/CFT and sanctions compliance requirements.³⁷⁹ To the extent that economic impact on additional key, directly affected subpopulations of the general public should be considered, FinCEN and

OFAC invite comment, data, studies, or reports that would enhance its ability to identify and quantify such effects.

a. Affected Financial Institutions

FinCEN and OFAC expect the proposed rule to directly affect the financial institutions it would regulate. This includes all future PPSIs. For specifically those PPSIs that would be subsidiaries of insured depository institutions, FinCEN and OFAC considered that the proposed rule may also economically affect the parent insured depository institutions.

1. PPSIs

Because the proposed rule would specifically apply AML/CFT and economic sanctions compliance program requirements on PPSIs, they are expected to be the proposed rule's primary affected parties. To form an estimate of the number of future PPSIs the proposed rule would cover, FinCEN and OFAC attempted to account for both existing stablecoin issuers, who may become PPSIs, as well as prospective future PPSIs that, but for the GENIUS Act framework, would be unlikely to enter the market.

To estimate the expected population of future PPSIs, FinCEN and OFAC began by conducting a comprehensive review of current products that were each individually identified by either the product issuer or another market participant as a "stablecoin." This scoping of the initial review was intended to be sufficiently broad so as to encompass all current products that could potentially meet the definitional criteria set forth in the GENIUS Act for a future "payment stablecoin."³⁸⁰ The next step was to cull from this initial pool of stablecoin issuers, offering approximately 350 products, the proper subpopulation of potential future PPSIs that, following the GENIUS Act taking effect, would be able to pursue registration as a PPSI without first needing to make substantive changes to their current product attributes.³⁸¹

³⁸⁰ See 12 U.S.C. 5901(22); see also *supra* section VI.C.1.viii.

³⁸¹ See 12 U.S.C. 5903(a)(11), PPSIs are not permitted to pay the holder of any payment stablecoin any form of interest or yield solely in connection with the holding, use, or retention of payment stablecoins. See also 12 U.S.C. 5903(a)(1)(A). PPSIs are required to maintain identifiable reserves backing its payment stablecoin, on at least a one-to-one basis, with reserves composed of certain specific, high-quality and liquid assets, including United States coins and currency; demand deposits; and Treasury bills, notes, or bonds. Accordingly, the GENIUS Act does not allow payment stablecoins to be backed by, for example, other kinds of digital assets, nor does the GENIUS Act allow payment stablecoins to be algorithmic backed.

³⁷² See, e.g., Texas Dep't of Banking, *GENIUS Act—Non Depository* (last accessed Apr. 6, 2026) (noting that Texas "currently licenses and regulates issuers of fiat-currency backed stablecoin as money transmitters"), available at <https://www.dob.texas.gov/money-services-business/genius-act-non-depository>.

³⁷⁴ 12 U.S.C. 5904(i)(1).

³⁷⁵ 12 U.S.C. 5905(a)(2)(D).

³⁷⁶ See *supra* note 11; see also *infra* section XII.E.

³⁷⁷ See *infra* section XII.A.2.ii.d.1.

³⁷⁸ See *infra* section XII.A.2.ii.d.2.

³⁷⁹ OFAC does not anticipate the proposed sanction compliance program requirements would have an incremental direct economic effect on a future PPSI's primary market customers because OFAC's proposed rule applies only to the PPSIs themselves. Further, as noted previously, future PPSIs would already be U.S. persons and therefore subject to U.S. sanctions laws irrespective of any regulations issued under the Act. As a result, they would have already been prohibited from engaging in prohibited transactions with or involving prospective primary market customers, and OFAC's proposed additional requirement that the PPSI would need to maintain an effective sanctions compliance program should not impose any additional burden or economic impact on that PPSI's direct customers. To the extent a non-U.S. person stablecoin issuer would become U.S. persons to qualify as a PPSI, as discussed above in section XII.A.2.i.b, OFAC's experience administering U.S. sanctions has demonstrated that sophisticated multi-jurisdictional financial actors, of the type that would seek to qualify as a PPSI, often maintain sanctions compliance programs aligned with U.S. sanctions requirements regardless of their status as U.S. persons. Furthermore, where a future PPSI's direct customers are U.S. persons, those direct customers would already also be subject to existing U.S. sanctions requirements themselves. OFAC invites comment on whether the economic impact of its proposed rule would not have an economic impact on direct customers of PPSIs is reasonable.

FinCEN and OFAC applied certain filters on product characteristics to eliminate identified stablecoins that did not comport with the definitional attributes of a payment stablecoin as defined by the GENIUS Act and used this to sort the stablecoins' issuers.

To be a payment stablecoin, under the GENIUS Act, a digital asset must be used or designed for payment or settlement, its issuer must be obligated to redeem or convert it for a fixed amount of monetary value and not another digital asset, and its issuer must represent that it will maintain a stable value relative to a fixed amount of

monetary value.³⁸² A PPSI must maintain identifiable reserves backing the payment stablecoin with specific, high quality, liquid assets, which include U.S. coins and currency, demand deposits, and Treasury bills, notes, and bonds.³⁸³ Consequently, issuers who did not offer products pegged to the U.S. dollar were treated as unlikely to pursue PPSI registration in the future. In addition, stablecoin products with no central issuer were also considered unlikely to be associated with an entity that would seek PPSI status.

Table 1 provides a summary of how this review of identified current stablecoins effectively narrowed the total population to those that might, in the future, be eligible to be considered payment stablecoins. Of the approximately 350 products examined, only 43 meet the above criteria—*i.e.*, were tri-partly fiat-backed, USD hard-pegged centralized coins. Of these 43, five were precluded from potential future payment stablecoin eligibility by their reserve holdings, nine by their yield, and one by both of these features.

TABLE 1—ESTIMATED POTENTIAL PAYMENT STABLECOIN POPULATION BY CRITERIA

Stablecoin classification	Product population	Filtering criteria	Number of stablecoin products excluded
Full population	352	None	0.
Able to meet payment stablecoin criteria without significant restructure.	43	Fiat-backed, USD-pegged, centralized issuance, hard-peg ^a .	309 (from total).
Technically compliant with payment stablecoin reserves criteria.	38	GENIUS Act defined reserve holdings ^b .	5 (from technically eligible).
Technically compliant with payment stablecoin yield requirements.	34	Non-yield bearing ^c	9 (from technically eligible).
Potential payment stablecoins	30	All	322 (from total) 13 (from technically eligible).

^a As defined in section 2(22)(A) of the GENIUS Act, a payment stablecoin must be a digital asset that is, or designed to be, used as a means of payment or settlement, and, as defined in section 2(22)(A)(ii)(II) of the GENIUS Act, a payment stablecoin must be redeemable for a fixed amount, and the issuer represents that it will maintain a stable value relative to the value of a fixed amount of monetary value. FinCEN and OFAC view product pegging to the U.S. dollar as opposed to another currency as a practical requirement to hold only USD-denominated reserve assets.

^b As required by section 4(a)(1)(A) of the GENIUS Act, the issuer of a payment stablecoin must only hold asset types as provided by the Act as reserves.

^c As required by section 4(a)(11) of the GENIUS Act, a payment stablecoin must not offer yield.

Using this method, FinCEN and OFAC identified 30 products issued by 25 unique entities that matched the specified criteria. As such, there are at least 25 existing issuers of stablecoins that, if the regulations implementing the GENIUS Act were presently effective, would appear to be eligible to apply to be PPSIs. Understanding that some of these entities might still choose not to seek PPSI status,³⁸⁴ and allowing that other current stablecoin issuers could, in the interim, still modify the digital assets that they issue in order to be eligible to seek PPSI status once the GENIUS Act becomes effective, FinCEN and OFAC anticipate that the number of

current entities that could be potential future PPSIs subject to the proposed rule may be between 20 and 40.³⁸⁵ FinCEN and OFAC nonetheless acknowledge that a wide range of factors that could potentially influence the choice of eligible institutions to apply for PPSI status in the future, including market demand, strategic operational decisions, and future developments in the digital asset landscape.³⁸⁶ In general, where current stablecoin issuers see PPSI standards as representing costs that would outweigh the benefits of achieving the PPSI designation, they may voluntarily choose another regulatory option

despite being technically eligible to register.³⁸⁷

FinCEN and OFAC's analysis also considered the need for this impact assessment to, in some fashion, account for potential future PPSIs that have not yet entered the stablecoin market. In the aforementioned review of 350 current stablecoin products, 63 products were identified as issued by an entity that appeared facially eligible for potential future status as either a PPSI or a foreign payment stablecoin issuer (FPSI).³⁸⁸ Of those issued since 2018, approximately 45 percent (28 stablecoins) were issued within the last two calendar years (2024 and 2025), with year-over-year growth

³⁸² 12 U.S.C. 5901(22).

³⁸³ 12 U.S.C. 5903(a)(1).

³⁸⁴ The degree to which the current stablecoin market would migrate to PPSI status under the proposal remains uncertain. The issuers of several large products have made varying statements about their interest in seeking PPSI status.

³⁸⁵ FinCEN and OFAC invite comments on the methodology and assumptions used to derive this estimate.

³⁸⁶ FinCEN and OFAC invite comment on the driving factors that would incentivize an issuer to apply for PPSI status.

³⁸⁷ FinCEN and OFAC expect that issuers of payment stablecoin products may have several incentives to apply for status as a PPSI instead of existing under another designation. First, because PPSIs would be required by law to maintain certain standards (for example, holding certain assets in their reserve portfolio), the designation may be attractive to more risk-averse investors or payment stablecoin customers. In addition, because potential PPSIs would be required to apply for that status and

be approved by the appropriate regulatory agency to be entitled to the designation, the designation may serve as a stronger signal of regulatory compliance in contrast to a self-adopted designation. Other issuers may have alternative incentives to avoid the PPSI designation, despite being technically able to comply with its requirements.

³⁸⁸ In addition to activities permitted for PPSIs, the GENIUS Act allows for the offering and selling in the United States of payment stablecoins issued by FPSIs subject to certain requirements. See 12 U.S.C. 5902(b)(2).

in 2025 slightly lower than the year prior. Because the stablecoin market is still relatively nascent and has historically faced varying levels of regulatory uncertainty, basing expectations of stable or sustainable future growth rates on past trends would be exceedingly speculative and generally inadvisable. On the one hand, the number of stablecoin market entrants may increase in light of the enhanced certainty and clarity afforded by the GENIUS Act framework. On the other hand, it is also possible that a number of current stablecoin issuers may exit the U.S. market, either because they are legally not able to remain if not PPSIs, or because the market may naturally consolidate as it matures.³⁸⁹

To estimate the near-term expected inflow of future PPSIs, FinCEN and OFAC looked to the companionate GENIUS Act-related analyses of expected future PPSI registration requirements performed by OCC, FDIC, and NCUA as additional sources of information.³⁹⁰ FinCEN and OFAC expect that a substantial proportion of future PPSIs newly entering the U.S. stablecoin market would be affiliated with an insured depository institution or uninsured national bank and that, additionally, some potential future PPSIs that currently do not have any such affiliation, may newly become affiliated with an insured depository institution or uninsured national bank. Insured depository institutions in particular are well-suited to launch payment stablecoin products due to their position within financial markets, customer base, and existing technology and compliance infrastructure.

The OCC, FDIC, and NCUA have each conducted independent research with a view to estimating the number of potential PPSIs that would register as PPSIs in the near-term future.³⁹¹ Summing across these respective exercises yields a projection of up to 42 new PPSIs that would initially register as entities affiliated with insured depository institutions. Taking each of those independent analyses, their respective methodologies, and expected levels of precision into consideration, FinCEN and OFAC anticipate that the proposed rule could be expected to apply to an average of approximately 50

PPSIs in each of the first three years of the GENIUS Act being effective.³⁹²

FinCEN and OFAC project that of the 50 anticipated PPSIs, approximately 60 percent would be subsidiaries of insured depository institutions and 40 percent would be other PPSIs.³⁹³ Because this projection represents best efforts given limited information, the public is strongly encouraged to provide additional comments, data, and other information that could enhance the accuracy and precision of these estimates.

2. Insured Depository Institutions With PPSI Subsidiaries

FinCEN and OFAC expect that certain financial institutions other than future PPSIs themselves would be impacted by the rule. In particular, insured depository institutions that would have a PPSI as a subsidiary may incur additional costs integrating their PPSI subsidiaries into their broader AML/CFT programs and sanctions compliance framework.³⁹⁴ Because this RIA projects that there may be up to 30 such PPSIs on average in the each of the first three effective years of the GENIUS Act, the corresponding number of expected affected insured depository institutions would also be up to 30. It is anticipated that insured depository institutions would arrange for their subsidiary PPSI's compliance policies, procedures, and activities to nest within the preexisting overall programmatic compliance structure of the parent organization. As such, parent organizations may be economically affected by the need to revise, expand, or otherwise tailor their existing practices. It is possible that similarities between the existing requirements for banks and this proposal would reduce, though not eliminate, these costs.

b. Regulators and Other Compliance Examiners

Examiners that would be required to assess future PPSIs' compliance with AML/CFT and sanctions compliance program requirements are expected to be directly affected by the proposed rule.³⁹⁵ With respect to the proposed

AML/CFT requirements, as discussed above in section VI.C.2, the GENIUS Act distinguishes between the categories "primary Federal payment stablecoin regulator" and "State payment stablecoin regulator," and this NPRM includes proposals to (1) amend § 1010.810(b) to delegate examination authority to the primary Federal payment stablecoin regulators and (2) apply the existing delegation to the IRS at § 1010.810(b)(8) for PPSIs regulated by State payment stablecoin regulators.³⁹⁶ As a function of the proposed amendments, this proposed rule is expected to directly affect FinCEN as well as other Federal financial regulatory agencies and their compliance examiners, who number approximately 7,500 from the Board, FDIC, NCUA, and OCC,³⁹⁷ plus several hundred additional examiners from the IRS.³⁹⁸

With respect to the proposed sanctions compliance program obligations, presented in section VII, this NPRM would require that PPSIs maintain certain records related to their sanctions compliance program, which can be made available to OFAC upon request.³⁹⁹ As such, the proposed rule may affect OFAC's enforcement personnel, who would investigate and enforce potential violations of the effective sanctions compliance program requirement. Additionally, similar to FinCEN's estimation above, the proposed rule is anticipated to directly affect other Federal financial regulatory agencies and their compliance examiners, who number approximately 7,500 from the Board, FDIC, NCUA, and OCC, who already incorporate sanctions compliance review as part of the examination process.⁴⁰⁰

regulators. However, given that the GENIUS Act sets out a federal regulatory framework with certain tasks for Federal regulators, it is difficult at this time to do more than speculate about what actions states may take, and therefore FinCEN and OFAC did not attempt to estimate the effect of this rule on state regulatory agencies. However, FinCEN and OFAC are interested in receiving comments offering assessments on this subject.

³⁹⁶ FinCEN is not proposing to amend § 1010.810(b)(8) to effectuate this because the existing delegation covers it. See *supra* section VI.C.2.i.

³⁹⁷ This figure is based on the estimated number of compliance examiners at the Board, FDIC, NCUA, and OCC.

³⁹⁸ These figures represent an approximate number of Federal examiners provided by Federal functional regulators with AML/CFT supervisory responsibilities.

³⁹⁹ See *supra* section VII.A.

⁴⁰⁰ On the listed figure, see *supra* note 398. See generally OFAC, *Examination Guidelines*, (Jun. 30, 2005) available at <https://ofac.treasury.gov/recent-actions/20050630a>.

³⁸⁹ To the extent that the evolution of the stablecoin market is comparable to other technology sector models. See e.g., Steven Klepper, "Entry, Exit, Growth, and Innovation over the Product Life Cycle," *The American Economic Review*, vol. 86, no. 3 (June 1996), at pp. 562–83, available at <https://www.jstor.org/stable/pdf/2118212.pdf>.

³⁹⁰ See *supra* note 11.

³⁹¹ See *id.*

³⁹² Because no currently operating stablecoin issuers have been identified that can, with more certainty than not, be expected to become a SQPSI within the PPSI regulatory framework (as defined in proposed 31 CFR 1010.100(ttt)(3) and 31 CFR 1010.100(xxx)), the population used in this analysis does not include an estimate for these types of potential future PPSIs.

³⁹³ See *supra* sections VI.C.1.xi and xiii (discussing potential definitions for FQPSIs and SQPSIs at 31 CFR 1010.100(vvv) and (xxx), respectively); see also 12 U.S.C. 5901(11), (31).

³⁹⁴ See *supra* section VI.A.2.i.

³⁹⁵ Certain state regulators may be affected in a way that is comparable to the effects on Federal

c. Law Enforcement and National Security Agencies

The proposed rule is intended to support the efforts of law enforcement and national security agencies by promoting AML/CFT compliance and sanctions compliance program implementation among stablecoin issuers that become PPSIs, which should generate highly useful reports and other data in addition to deterring predicate crimes and violations of U.S. laws and regulations. Law enforcement and national security agencies that enter into a memorandum of understanding with FinCEN can directly access and use reports and data provided to FinCEN in compliance with AML/CFT requirements. As of fiscal year 2024, 432 Federal, State, and local law enforcement; regulatory; and national security agencies had access to BSA reports and BSA Search, and the BSA Portal had over 12,000 users.⁴⁰¹ In addition, reports of blocked property and rejected transactions submitted to OFAC can be key to developing sanctions enforcement actions that help protect U.S. national security interests.

d. Members of the General Public

FinCEN and OFAC expect the general public to be affected by the proposed rule, with certain subpopulations affected more directly than others in specific instances.⁴⁰²

1. General Public

Implementing the proposed rule would ensure that PPSIs are “subject to all Federal laws applicable to a financial institution located in the United States relating to economic sanctions, prevention of money laundering, customer identification, and due diligence.”⁴⁰³ Ensuring these guardrails and infrastructure are in place is fundamental to unlocking the potential benefits that a vibrant and well-functioning payment stablecoin market can offer the public (described above in section IV.B) because these regulatory guardrails and infrastructure are necessary to insulate the system from abuse and critical risks to its integrity (described in section IV.D). FinCEN and OFAC also considered that the proposed rule could further benefit the general public to the extent that AML/CFT and sanctions compliance would deter the use of payment stablecoins to enable

fraud⁴⁰⁴ and help prevent the use of payment stablecoins to enable and fund illicit activity counter to U.S. national security interests.⁴⁰⁵

2. PPSI Customers

Because the proposed AML/CFT requirements include obligations that depend on information collected and produced by a PPSI's customers, FinCEN considered the prospective customers of future PPSIs as uniquely affected members of the general public. Although estimated payment stablecoin users number in the hundreds of millions, a substantially smaller number (in the hundreds of thousands) are likely to interact with PPSIs in the primary market. Many of these customers are large financial institutions, as described above in section IV.A, and most large stablecoin issuers set significant financial requirements for primary market participants that exclude retail-level participation. Most primary market activity, as measured in transaction volume, is attributable to these large entities. However, some issuers have increasingly adopted wider-facing mint/redeem models that seek to include smaller investors and businesses. To the extent that PPSI markets continue to face large, or almost exclusively, larger clients who are themselves legal entities, financial institutions, or other non-natural persons, the typical future PPSI would be expected to face a higher per-customer burden than other types of financial institutions that currently have AML/CFT program obligations comparable to those that would apply to PPSIs but a lower concentration of legal entity customers to individuals. Because certain program requirements that rely on customer information have burdens that scale with the complexity of the customer and, in general, legal entity customers have more complex information to provide than natural persons, both future PPSIs and their typical prospective customers would face compliance-related cost profiles that are unique to the industry.

OFAC also considered the impact of the proposed rule on the relationship between PPSIs and their customers. Because PPSIs would be considered U.S. persons, they are therefore subject to U.S. sanctions laws, including obligations to block or reject

unauthorized transactions as they would apply on either the primary and secondary market, regardless of the proposed rule's requirement that PPSIs maintain an effective sanctions compliance program. Furthermore, PPSI customers who are U.S. persons are already obligated to comply with U.S. sanctions themselves. As a result, OFAC would not expect any incremental costs to the customers of PPSIs as a result of the proposed rule.

To estimate the number of expected primary market customers a future PPSI might interact with and, therefore, need to collect certain information and conduct due diligence on under the proposed AML/CFT requirements, FinCEN and OFAC examined current on-chain minting and redemption activity as observable from publicly available data. The majority of stablecoin products meeting the GENIUS Act's definitional criteria for future payment stablecoins that FinCEN and OFAC reviewed had fewer than 1,000 primary market customers in a given year, which is consistent with prior expectations of high barriers to market participation. However, a small number of the stablecoins reviewed had significantly more primary market contact (with up to as many as 250,000 customers) in a given year. In the sample of issuers FinCEN reviewed, the average number of an issuer's primary market customers was approximately 17,000, but this value appeared to be driven by extreme outliers. The truncated average was approximately 1,000, and the median value was 100.⁴⁰⁶

Based on this analysis, FinCEN estimates that the “average” PPSI would have approximately 1,000 primary market customers that it interacts with directly, including issuing and redeeming payment stablecoins and engaging in digital asset service provider activities where those activities are authorized by the appropriate primary Federal or the State payment stablecoin regulator and consistent with all other federal and state laws. However, some PPSIs are expected to have substantially more or substantially fewer. On aggregate, FinCEN does not expect the total market population of identifiably unique future primary market PPSI customers to exceed

⁴⁰¹ See FinCEN, *Financial Crimes Enforcement Network (FinCEN) Year in Review for Fiscal Year 2024*, p. 5. Note that not all users are from external agencies. FinCEN employees are also among the users with access to the BSA Portal.

⁴⁰² See *infra* section XII.A.2.ii.d.2.

⁴⁰³ 12 U.S.C. 5903(a)(5)(A).

⁴⁰⁴ The Federal Bureau of Investigation estimated that in 2025 direct losses to U.S. citizens resultant of crypto-related scammers and fraudsters exceeded \$7.2 billion. See Federal Bureau of Investigation, *2025 internet Crime Report* (2026), available at https://www.ic3.gov/AnnualReport/Reports/2024_IC3Report.pdf; see also *supra* section IV.D.2.

⁴⁰⁵ See *supra* section IV.D.

⁴⁰⁶ To address the impact of extreme outliers, the truncated average was estimated by removing six percent of the sample from the left and right tails of the distribution (the single smallest and largest values). The largest value was more than three standard deviations away from nearest value, making it a significant outlier.

300,000.⁴⁰⁷ However, FinCEN and OFAC anticipate that a substantial number of these observably unique customers may be affiliates of a single counterparty (*i.e.*, not substantively unique or representative of distinct legal entities) or associated with non-U.S. entities.⁴⁰⁸ As such, FinCEN and OFAC find that a more appropriate estimate of the population of primary market customers that are unique U.S. businesses, legal entities, or other non-natural person is much smaller than 300,000 and is closer to approximately 10,000. These businesses belong to several categories, including digital asset exchanges, specialized digital asset commodities traders, and other types of investment and securities related businesses. Besides digital asset exchanges, FinCEN and OFAC expect that most of a typical future PPSI's other customers are likely to be financial institutions.⁴⁰⁹

FinCEN and OFAC also used publicly available data on on-chain minting and redemption activity to analyze annual rates of customer growth and turnover. Many of the stablecoin issuers reviewed retained the same group of large "core" primary market customers year over year but exhibited significant turnover among their smaller primary market customers. In addition, most stablecoin issuers saw significant growth in their primary market customer base during 2025. For purposes of modelling expected economic effects, FinCEN and OFAC assume that this growth will continue, particularly among stablecoin issuers that are able to secure PPSI registration. Of the stablecoin issuers FinCEN reviewed, the average rate of new customer inflow, year-over-year, was approximately 65 percent of the number of existing, previous customers. Therefore, FinCEN and OFAC apply this rate, where relevant, when estimating the costs in the remaining analysis. FinCEN requests comment on whether the assumptions regarding the number

of primary market customers are reasonable.

iii. Current Market Practices

In assessing the impact of the proposed rule, FinCEN and OFAC took into consideration a number of current market features relevant to both the proposed future AML/CFT obligations and the proposed sanctions compliance program requirements of potential future PPSIs.⁴¹⁰ FinCEN then separately considered current practices of unique relevance to its proposed AML/CFT requirements,⁴¹¹ while OFAC similarly considered economic sanctions compliance-related current market practices.⁴¹²

a. Market Structure and Activities

At present, the stablecoin market is characterized by many features of early stage development, and within this ecosystem, existing stablecoins whose issuers would potentially be eligible to register as a payment stablecoin issuers (PPSIs or FPSIs) in the future constitute a small proportion of currently available products (less than one in five) but a considerably larger share of current market capitalization, ranging in expectation from approximately 75 to 81 percent, with variation based on assumptions. Thus, the stablecoin market that future PPSIs would face might reasonably be expected to persist in being highly concentrated.

Current stablecoin issuers, particularly those with larger market shares, also appear to be part of more complex corporate structures, existing operationally within a framework of affiliated legal entities that may be functionally unified but, for either tax or legal purposes, considered technically distinct. It is unclear if these configurations should be expected to persist in their current form once the GENIUS Act becomes effective.

b. Current AML/CFT Compliance Practices

To inform its assessment of the expected incremental impact of the proposed obligations, FinCEN considered several features related to current stablecoin issuers' AML practices. In particular, FinCEN performed additional analysis of the stablecoin issuers identified, as discussed above in section XII.A.2.ii.a, as potential future PPSIs, taking into

account the observed incidence and rate of MSB registration and BSA reporting activity as well as the general utilization of BSA filings by law enforcement and national security agencies' efforts that PPSIs would contribute to under the proposed requirements, and thereby indirectly benefit the general public.

1. Current Stablecoin Issuer MSB Registration

In its review of MSB registrations newly filed, revised, or renewed by the issuers of stablecoin products at least once in the most recent two calendar years, FinCEN observed that approximately 50 percent of the stablecoin-issuing entities identified in section XII.A.2.ii.a.1 appear to have submitted the requisite filings to be registered as MSBs, including one issuer also affiliated with a major international bank. Current stablecoin products for which no associated MSB registration activity could be identified, while representing nearly half of the current stablecoin-issuing population, represented less than one percent of the total market capitalization of all the likely potential future payment stablecoin products.

2. Current Stablecoin Issuer AML/CFT Programs

Even without the AML/CFT requirements of the BSA or the GENIUS Act, FinCEN expects that many stablecoin issuers would still be likely to employ some AML/CFT measures in their current issuance and trading frameworks. For example, nearly all centralized issuers collect information on their direct customers (*i.e.*, "primary market" customers) when minting or redeeming coins.⁴¹³ Direct customers must typically provide information such as name, address, Social Security number/tax ID number (TIN), government ID, and often additional business documentation.

In order to collect, screen, and store customer information in the ordinary course of business, stablecoin issuers and other financial market participants often employ software technologies especially suited for this purpose. These third-party services often provide customer identity information verification and screening to collect and verify personal information such as

⁴⁰⁷ A substantial portion of these customers may be affiliates of a single counterparty or associated with non-U.S. entities. In cases where these entities are not U.S. persons, the incremental economic burdens of the proposed rule, while considered as part of the broader economic analysis, are not included in the IRFA (see *infra* section XII.C) because RFA considerations apply to U.S. small entities only.

⁴⁰⁸ In cases where these entities are not U.S. persons, the incremental economic burdens of the proposed rule, while considered as part of the broader economic analysis, are not included in the IRFA because RFA considerations apply to U.S. small entities only.

⁴⁰⁹ Such firms would be classified under North American Industry Classification System (NAICS) industry code 523 ("Securities, Commodity Contracts, and Other Financial Investments and Related Activities").

⁴¹⁰ The term "potential payment stablecoin" is meant in this analysis to refer to those products which, based on FinCEN's analysis, possess the attributes that could qualify them as "payment stablecoins" as defined in the GENIUS Act.

⁴¹¹ See *infra* section XII.A.2.iii.b.

⁴¹² See *infra* section XII.A.2.iii.c.

⁴¹³ The FATF identifies central governance bodies (issuers) as "obliged entities" responsible for customer due diligence and transaction monitoring; they typically collect some customer information from primary market customers. See FATF, *Report to the G20 on So-called Stablecoins*, pp. 9–11 (Jun. 2020), available at <https://www.fatf-gafi.org/en/publications/Virtualassets/Report-g20-so-called-stablecoins-june-2020.html>.

name or address. These products provide a technical basis for many AML/CFT compliance tasks, particularly with regard to primary market customers.

As previously discussed in section XII.A.2.ii.d.2, many of the potential future PPSIs identified by FinCEN have tended to retain the same group of large “core” primary market customers year over year but have exhibited significant turnover among smaller primary market customer institutions focused on market arbitrage or other short-term trading opportunities. In its review, FinCEN observed that turnover rates were particularly high among issuers whose business models, from inception, facilitated larger numbers of primary market customers. These kinds of issuers appear to have had several thousand new primary market participants in a given year, which suggests such firms are likely to have automated screening functions to enable interaction with such high volumes of new customers. Smaller or more centralized stablecoin issuers generally had far fewer new customers (although retention or growth may be similar from a percentage standpoint) and have processes that may be more manual.

3. Current Stablecoin Issuer BSA Reporting Practices

In its assessment of current market practices, FinCEN evaluated the SAR and CTR filing activity of current stablecoin issuers. This review both (1) informed the estimates of expected BSA-reporting activity and burden utilized in sections XII.A.4.ii.a and XII.E.1 below and (2) illuminated aspects of certain stablecoin issuers’ current organizational features and practices in identifying and responding to suspicious activity.

As a preliminary matter, FinCEN observed that BSA filing activity generally followed the same distribution of attributes as stablecoin issuer MSB registration but has, in relatively stable fashion, remained concentrated to a smaller proportion of the population of stablecoin issuers and exhibited more pronounced differences between high volume and low volume report filers year over year.

FinCEN reviewed BSA available filings for the issuers of 17 of the stablecoin products it identified in section XII.A.2.ii.a.1 as meeting the definitional criteria set forth in the GENIUS Act to be eligible as potential future PPSIs. Sixteen of these products had issuers who registered at least once as an MSB within the past three years. The number of annual SAR filings by these entities ranged from zero to over

4,000 per entity in calendar year 2025, the average was about 350, and the truncated average was 104.⁴¹⁴ In some cases, high filing counts may have also been attributable to the stablecoin issuer’s offering of other products and services in addition to its stablecoin offerings (resulting in a wider range of activity that could result in a SAR), so the truncated average is likely a closer estimate for the average rate of stablecoin-related SAR filing frequency for the typical future PPSI. While FinCEN also observed that some stablecoin issuers have historically filed CTRs, it notes that within the past five completed calendar years, only one of the stablecoin issuers the analysis in section XII.A.2.ii.a.1 identified as a potential future PPSI continued to file through the end of the sample period.

FinCEN found several pieces of anecdotal, qualitative, and quantitative information that corroborate the agency’s understanding of certain baseline market features and activities in the SARs filed by stablecoin issuers. In particular, the SAR narratives proved a rich source of information. For example, data about the stablecoin-issuing filers of BSA reports support FinCEN’s general observations about the structural complexity of potential future PPSIs as discussed above in section XII.A.2.ii.a. Of the stablecoin issuers with BSA filings, the average number of related but potentially distinct legal entities—as measured by the number of unique filer TINs per issuer of stablecoin products—associated with filing activity was more than one (approximately two), but some stablecoin issuers had as many as eight. In several cases, the legal entities filing SARs were distinct from the legal entities registering as MSBs, even though they were affiliated with the same issuer. FinCEN also examined Report of Foreign Bank and Financial Account (FBAR) filing activity in which these issuers were the subject, and found indications that a number of these issuers maintain offshore accounts which may be associated with separate, offshore entities.

These findings provide important insight into how a typical stablecoin issuers may operate. Generally, such issuers establish multiple legal aliases, often to serve separate functions. The legal entities responsible for identifying and reporting suspicious activity are

often separate from the legal entities responsible for facilitating money transmission as an MSB. However, based on the SAR filings that FinCEN reviewed, it seems clear that these functions operate in close coordination with one another. In addition, it appears plausible, based on BSA filing data, that stablecoin issuers may use offshore entities or accounts to achieve favorable tax treatment or additional legal flexibility.

In addition to filing BSA reports, including SARs about their customers, the potential future PPSIs that FinCEN identified were often the subject of various filing types, including SARs, themselves. While there were substantially fewer of these SAR filings about the respective stablecoin issuers than there were filings by those issuers, SARs that reported potential future PPSIs may serve as an additional indication of the illicit activity risks associated with stablecoins, as discussed above in section IV.D.

The SARs FinCEN reviewed that were filed by stablecoin issuers also speak to the incidence of what FinCEN and OFAC have discussed and referenced throughout as their expectations of certain current market practices and activities. In particular, a review of SAR narratives indicates that reporting stablecoin issuers commonly employ a variety of technologies to conduct due diligence in connection with customer relationships and to identify high-risk customers. Filers often identified suspicious customers based on documentation provided by the customer that appeared contradictory or falsified, indicating that these issuers currently obtain and carefully review substantial amounts of information collected by and from customers. From SAR filings, FinCEN observed that it appears to be common practice, at least among reporting stablecoin issuers, for customers to already be asked to provide identifying information at a level equivalent to or exceeding the minimum generally necessary to comply with the proposed rule. Reporting issuers also appear to use technology service providers to investigate linkages between customers and high-risk and/or sanctioned entities.

Some filings appear to have, in part, been informed by a concern about the apparent nature of the reported transaction activity, and in some cases transactions with no apparent lawful purpose or with certain identified high-risk on-chain addresses were flagged for investigation. In certain instances, issuers reported transaction patterns inconsistent with their customers’ reported location information that the

⁴¹⁴ The truncated average was calculated by removing the single largest outlier, which had over 4,000 filings, significantly more than the next highest value. This entity also offered other retail products in addition to their stablecoin offering, resulting in a number of SARs being filed unrelated to their stablecoin product.

reporting stablecoin issuers had identified and tracked. In several cases, SAR-filing stablecoin issuers reported subjecting high-risk customers to transaction freezes. In one instance, a SAR-filing stablecoin issuer reported having frozen the use of issued coins by a particular secondary market user in response to a law enforcement request. Reports such as these suggest that at least some stablecoin issuers currently have the ability to, and do, monitor customer activity including, in some cases, using geolocation technology and/or monitoring observable transactions on the secondary market, and these reporting issuers are also, in many cases, currently able to freeze the use of their stablecoin products.

4. Current Use of BSA Information by Law Enforcement and National Security Agencies

While results may not be published, FinCEN both routinely receives reports⁴¹⁵ and conduct surveys⁴¹⁶ that speak to the use and usefulness of BSA information to law enforcement and national security agencies. An older, but broadly analogous, publicly available report from the U.S. Government Accountability Office (GAO) found that in 2018, a majority of federal and state law enforcement agencies had direct access to FinCEN's BSA database (*i.e.*, 85 percent of federal agencies and 54 percent of state agencies), though fewer than one percent of local law enforcement agencies did.⁴¹⁷ FinCEN believes these survey results may underrepresent the extent to which local law enforcement may benefit from BSA information insofar as the GAO study could not directly account for the incidence of referrals to local law enforcement of matters not otherwise pursued by federal or state agencies directly. The study also surveyed 5,257 investigators, analysts, and prosecutors at six federal law enforcement agencies and found that these agencies used BSA data extensively, estimating that approximately 72 percent of personnel conducting investigations from 2015 to

2018 used BSA reports to support their work.⁴¹⁸

c. Current Sanctions Compliance Practices

As previously discussed in section XII.A.2.i.b, prior to the enactment of the GENIUS Act, no U.S. person was explicitly required to establish and maintain a sanctions compliance program. Nevertheless, in practice, industry participants, including U.S.-based stablecoin issuers, have long implemented risk-based sanctions compliance measures consistent with OFAC's publicly issued guidance. Specifically, OFAC's 2019 Compliance Framework⁴¹⁹ strongly encourages persons subject to U.S. jurisdiction—including foreign entities engaging in business in or with the United States, U.S. persons, or U.S.-origin goods or services—to adopt and maintain a risk-based sanctions compliance program. In current practice, these measures have been adopted to ensure compliance with binding U.S. sanctions obligations, even in the absence of a formal programmatic requirement. Additionally, in 2021, OFAC issued the *Virtual Currency Industry Guidance*,⁴²⁰ which adapted the five elements for a sanctions compliance program from the 2019 Compliance Framework for the digital assets industry and provided guidance on specific risk typologies that may arise within the industry. This guidance also highlighted best practices that can assist companies in the industry with sanctions compliance, such as the use of geolocation tools and transaction monitoring and investigation software. OFAC has also issued guidance specifically related to digital assets, including frequently asked questions (FAQs), that highlight OFAC's practices and expectations for individuals and entities operating in the digital assets industry.⁴²¹

Based on current market research, FinCEN and OFAC observe that in practice, sanctions compliance may be operationalized as an integrated component of what is commonly referred to as an institution's broader AML compliance framework. As a result, sanctions-related controls commonly share training, technology, personnel, and governance structures with AML compliance programs,

making it difficult, for purposes of this RIA, to meaningfully disaggregate certain costs attributable solely to current or future sanctions compliance requirements from broader AML/CFT market baseline activities. Consistent with FinCEN's risk-based AML framework, institutions generally already incorporate sanctions risk into enterprise-wide risk assessments, customer due diligence, transaction screening, internal controls, and escalation and remediation procedures that form part of the overall AML compliance program.⁴²²

As a matter of industry practice, sanctions compliance practices are also typically both conceptually risk based and, operationally, technology enabled. Such programs commonly incorporate screening technology during customer- or client-onboarding and, on an ongoing basis, screen against OFAC sanctions lists, as well as conduct due diligence designed to identify sanctions-related risks that may not explicitly be reflected in OFAC's lists, including indirect or layered exposure.⁴²³ As observed, sanctions screening typically involves a number of complex processes, and stablecoin issuers often adopt "on-chain" screening technologies and processes to ensure that all payments using stablecoins are compliant with U.S. sanctions. Institutions typically first screen customer information against OFAC-administered sanctions lists, including the SDN List, at the time of onboarding. Procedures usually involve ongoing sanctions screening and risk-based re-screening (for example, related to a historical lookback) to account for updated customer information, updates to OFAC sanctions lists, or changes in regulatory requirements. Screening techniques attempt to identify addresses, including physical, digital wallet, and IP addresses, and other relevant information with potential links (or indirect exposure) to sanctioned persons

⁴¹⁵ William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Public Law 116–283, 134 Stat. 3388 (Jan. 1, 2021), sec. 6201 (Annual reporting requirements).

⁴¹⁶ FinCEN, *Agency Information Collection Activities: Proposed Renewal; Comment Request; Renewal Without Change of the Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery*, 88 FR 30383 (May 11, 2023).

⁴¹⁷ See GAO, *Anti-Money Laundering: Opportunities Exist to Increase Law Enforcement Use of Bank Secrecy Act Reports, and Banks' Costs to Comply with the Act Varied*, GAO–20–574 (Sept. 2020), available at <https://www.gao.gov/assets/gao/20-574.pdf>. GAO conducted the survey from November 9, 2019, through March 16, 2020.

⁴¹⁸ Based on a response rate of approximately 57 percent.

⁴¹⁹ See OFAC, *2019 Compliance Framework*, *supra* note 285.

⁴²⁰ See OFAC, *Virtual Currency Industry Guidance*, *supra* note 286.

⁴²¹ See OFAC, *Questions on Virtual Currency*, available at <https://ofac.treasury.gov/faqs/topic/1626>.

⁴²² See FinCEN, *Information on Complying with the Customer Due Diligence (CDD) Final Rule*, available at <https://www.fincen.gov/resources/statutes-and-regulations/cdd-final-rule>; see also FinCEN, *Fact Sheet: Proposed Rule to Strengthen and Modernize Financial Institution AML/CFT Programs*, FIN–2024–FCT1 (Jun. 28, 2024), available at <https://www.fincen.gov/system/files/shared/Program-NPRM-FactSheet-508.pdf>; FinCEN, the Board, FDIC, NCUA, and OCC, *Interagency Statement on the Issuance of the AML/CFT Program Notices of Proposed Rulemaking* (Jul. 19, 2024), available at <https://www.fincen.gov/system/files/shared/Interagency-Statement-on-the-Issuance-of-the-AML-CFT-Program-Notices-of-Proposed-Rulemaking-FINAL.pdf>; see also FinCEN, *Anti-Money Laundering and Countering the Financing of Terrorism Programs*, 89 FR 55428 (July 3, 2024).

⁴²³ See OFAC, *Entities Owned by Blocked Persons (50% Rule)* (Aug. 13, 2024), available at <https://ofac.treasury.gov/faqs/topic/1521>.

or jurisdictions, often utilizing screening tools' "fuzzy logic" capabilities to account for common name variations and misspellings (e.g., "Crimea" versus "Krimia"). "Smart contracts" are a commonly utilized blockchain tool that, among other functions, may be programmed to automatically identify and prevent transactions attempted by sanctioned entities or rely on third-party data sources, such as oracles, for sanctions screening.⁴²⁴ Based on market research, FinCEN and OFAC find that while existing 'off-the-shelf' software is already available to meet many of these requirements, a future PPSI might

choose to create a bespoke system for its sanctions compliance needs.

3. Description of Proposed Requirements

For purposes of the RIA, FinCEN and OFAC considered the various components of the proposed rule with a view towards the specific features or elements that are expected to generate, either directly or indirectly, an economic benefit or cost, or lead to changes in market participant incentives in a way that may generate economic benefits or costs.⁴²⁵ For components of the proposed rule that FinCEN and OFAC analysis has not assigned a

quantified burden (in hours or dollars), the reason for doing so is briefly explained in the description of expected costs in section XII.A.4.ii.

To balance the completeness of the RIA with the desire for expositional clarity and ease of tractability between the proposed regulatory text and sections VI and VII (section-by-section analyses) and section XII. (regulatory impact analysis), FinCEN and OFAC have included table 2, to provide a mapping of the various components of the proposed rulemaking as presented in FinCEN and OFAC's respective section-by-section analyses to their analogous categorization in the RIA.

TABLE 2—OVERVIEW/MAPPING OF REGULATORY TEXT AND ANALYSES

Scope of affected entities	The proposed rule would . . .	Section VI and VII analysis	Considered in RIA sub-section(s)	Proposed regulatory text location
PPSIs	Amend the definition of "financial institution" to include "a permitted payment stablecoin issuer" for purposes of the BSA.	VI.C.1.i	XII.A.3.i and iii.a	31 CFR 1010.100(t)(11).
	Amend the definition of "money services business," by adding "a permitted payment stable coin issuer" to the list of entities excluded from the definition.	VI.C.1.ii	XII.A.3.i	31 CFR 1010.100(ff)(8).
	Amend the definition of "transaction," to add the issuance or redemption of a payment stablecoin as a type of transaction.	VI.C.1.iii	XII.A.3.i	31 CFR 1010.100(bbb)(1).
	Amend the definition of "transmittal order," to add a payment stablecoin as a subject of an order.	VI.C.1.iv	XII.A.3.i	31 CFR 1010.100(eee).
	Define the terms "digital asset," "distributed ledger," "lawful order," "payment stablecoin," "permitted payment stablecoin issuer," "primary Federal payment stablecoin regulator," "Federal qualified payment stablecoin issuer," "State payment stablecoin regulator," and "State qualified payment stablecoin issuer."	VI.C.1.v–xiii	XII.A.3.i	31 CFR 1010.100(ppp), (qqq), (rrr), (sss), (ttt), (uuu), (vvv), and (www).
	Delegate examination authority for PPSIs	VI.C.2	XII.A.3	31 CFR 1010.810(b)(11).
PPSIs with respect to their AML/CFT Program Requirements.	Require internal policies, procedures, and controls that (1) identify, assess, and document ML/TF risks through risk assessment processes; (2) mitigate ML/TF risks consistent with a PPSI's risk assessment processes; and (3) conduct ongoing customer due diligence.	VI.C.3.ii.a	XII.A.3.iii.a, XII.A.4.ii.a.1, XII.A.4.ii.a.4, XII.E.1.	31 CFR 1033.210(b)(1).
	Require that risk assessment processes (1) evaluate ML/TF risks from business activities; (2) consider AML/CFT Priorities; and (3) update promptly responsive to significant changes to ML/TF risks.	VI.C.3.ii.a	XII.A.3.iii.a, XII.A.4.ii.a.1, XII.E.1.	31 CFR 1033.210(b)(1)(i)(A), (B), and (C).
	Require independent testing of the AML/CFT program.	VI.C.3.ii.b	XII.A.3.iii.a, XII.A.4.ii.a.2	31 CFR 1033.210(b)(2).
	Require the designation of an AML/CFT officer, require that the designated individual is located in the United States, has not been convicted of a felony, and is subject to oversight and supervision by FinCEN and its designee, and is responsible for establishing and implementing the AML/CFT program and coordinating and monitoring day-to-day compliance.	VI.C.3.ii.c	XII.A.3.iii.a, XII.A.4.ii.a.1, XII.E.1.	31 CFR 1033.210(b)(3).
	Require a PPSI AML/CFT program to include an "ongoing employee training program."	VI.C.3.ii.d	XII.A.3.iii.a, XII.A.4.ii.a.3, XII.E.1.ii.a.	31 CFR 1033.210(b)(4).
	Require the AML/CFT program be written, made available upon request to FinCEN or its designee, and approved by the PPSI's board of directors, an equivalent governing body within the issuer, or appropriate senior management.	VI.C.3.iii	XII.A.3.iii.a, XII.A.4.ii.a.1, XII.E.1.	31 CFR 1033.210(d).
	Require any and all certifications submitted to the PPSI's primary Federal payment stablecoin regulator or State payment stablecoin regulator certifying that the PPSI has implemented an AML/CFT program be made available upon request to FinCEN or its designee.	VI.C.3.iv	XII.A.3.iii.a, XII.A.4.ii.a.1, XII.E.1.	31 CFR 1033.210(e).

⁴²⁴ See *supra* section IV.A, note 37.

⁴²⁵ See *infra* section XII.A.4.

TABLE 2—OVERVIEW/MAPPING OF REGULATORY TEXT AND ANALYSES—Continued

Scope of affected entities	The proposed rule would . . .	Section VI and VII analysis	Considered in RIA sub-section(s)	Proposed regulatory text location
PPSIs with respect to their Sanction Compliance Program Requirements.	Define the terms/phrases “AML/CFT enforcement action,” “AML/CFT requirement,” and “significant AML/CFT supervisory action.”.	VI.C.4.i	XII.A.3.i	31 CFR 1033.221(a).
	Provide that a PPSI with an AML/CFT program established in accordance with proposed 31 CFR 1033.210(b) would not be subject to an AML/CFT enforcement action or significant AML/CFT supervisory action absent a significant or systemic failure to implement said program within the meaning of proposed 31 CFR 1033.210(c), and provide that the proposed 31 CFR 1033.221(b)(1) provisions do not apply when there is a failure to establish an AML/CFT program within the meaning of proposed 31 CFR 1033.210(b).	VI.C.4.ii	XII.A.3.iii.a	31 CFR 1033.221(b).
	Provide that in determining to take, or in review of, an AML/CFT enforcement action or significant AML/CFT supervisory action, the Director would take into account factors under 31 U.S.C. 5318(h)(2)(B) and the PPSI's unique ability and efforts to advance AML/CFT priorities.	VI.C.4.iii	XII.A.3.iii.a	31 CFR 1033.221(d).
	Amend 31 CFR 1010.230 with respect to PPSIs' obligation to collect and verify beneficial ownership information about legal entity customers.	VI.C.5	XII.A.3.iii.c, XII.A.4.ii.a.4, XII.A.5.i.b, XII.E.1.	31 CFR 1010.230.
	Require “technical capabilities, policies, and procedures to block, freeze, and reject specific or impermissible transactions that violate Federal or State laws, rules, or regulations.”.	VI.C.6.i	XII.A.3.iii.b, XII.A.4.ii.a.5, XII.A.5.i.c.	31 CFR 1033.240(a).
	Require a PPSI to (1) have the technical capabilities to comply with the terms of any lawful order and (2) comply with the terms of any lawful order.	VI.C.6.ii	XII.A.3.iii.b, XII.A.4.ii.a.5,	31 CFR 1033.240(b).
	Require the filing of CTRs	VI.C.7	XII.A.3.iii.c, XII.A.4.ii.a.6, XII.E.1.	31 CFR 1033.310–315.
	Require the filing of SARs	VI.C.8.i–iii	XII.A.3.iii.c, XII.A.4.ii.a.6, XII.E.1.	31 CFR 1033.320(a), (b).
	Require the retention of copies of filed SARs and the underlying related documentation for a period of five years from the date of filing.	VI.C.8.iv	XII.A.3.iii.c, XII.A.4.ii.a.6, XII.E.1.	31 CFR 1033.320(c).
	Prohibit the disclosure a SAR or any information that would reveal the existence of a SAR.	VI.C.8.v	XII.A.3.iii.c	31 CFR 1033.320(d).
	Provide protection from liability for making required or voluntary reports of suspicious transactions, or for failures to provide notice of such disclosure to any person identified in the disclosure to the full extent provided by 31 U.S.C. 5318(g)(3).	VI.C.8.vi	XII.A.3.iii.c	31 CFR 1033.320(e).
	Require examination of compliance with their obligation to report suspicious transactions by FinCEN and its delegees.	VI.C.8.vii	XII.A.3.iii.c, XII.E.1	31 CFR 1033.320(f).
	Exclude secondary market transfers from a PPSI's SAR reporting obligations.	VI.C.8.viii	XII.A.3.iii.c, XII.A.4.ii.a.6, XII.E.1.	31 CFR 1033.320(g).
	Require the retention of appropriate records	VI.C.9.i	XII.A.3.iii.d, XII.A.4.ii.a.7, XII.E.1.	31 CFR 1033.410.
	Apply the information-sharing provisions of sections 314(a) and (b) of the USA PATRIOT Act to PPSIs.	VI.C.10	XII.A.3.iii.e, XII.A.4.ii.a.8, XII.E.1.	31 CFR 1033.520; 540
	Require compliance with special standards of diligence, prohibitions, and special measures under section 311 of the USA PATRIOT Act, including enhanced due diligence for correspondent and private banking accounts and some active special measures.	VI.C.11	XII.A.3.iii.f, XII.A.4.ii.a.9–10, XII.E.1.	31 CFR 1033.600–630; 31 CFR 1010.651; 653; 658–661; 663; and 664.
	Impose standard recordkeeping and reporting requirements as found in 31 CFR part 501, including requiring any and all certifications submitted to the PPSI's primary Federal payment stablecoin regulator or State payment stablecoin be provided to OFAC.	VII.A	XII.A.3.iv, XII.A.4.ii.a.1, XII.A.4.ii.a.7, XII.E.1.	31 CFR 502.102.
	Require senior management (1) review and approval of a PPSI's sanctions compliance program and (2) support for the sanctions compliance program's effective implementation.	VII.B.1	XII.A.3.iv, XII.A.4.ii.a.1, XII.E.1.	31 CFR 502.201(b)(1).

TABLE 2—OVERVIEW/MAPPING OF REGULATORY TEXT AND ANALYSES—Continued

Scope of affected entities	The proposed rule would . . .	Section VI and VII analysis	Considered in RIA sub-section(s)	Proposed regulatory text location
Federal Financial Institutions Regulatory Agencies (FFIRAs).	Require sanctions-related risk assessments by: (i) conducting holistic assessments of U.S. sanctions risks at appropriate intervals; (ii) using the risk assessments to inform the PPSI's operation of its sanctions compliance program, including revising internal controls and training as appropriate; and (iii) revising risk assessments as appropriate to account for any identified U.S. sanctions violations or deficiencies, new products, services, mergers, or acquisitions, and any other factors that may affect a PPSI's risk profile.	VII.B.2	XII.A.3.iv, XII.A.4.ii.a.1, XII.E.1.	31 CFR 502.201(b)(2).
	Require a system of risk-based internal controls, including technical capabilities.	VII.B.3	XII.A.3.iv, XII.A.4.ii.a.5, XII.A.4.ii.a.7, XII.A.5.ii.	31 CFR 502.201(b)(3).
	Require a system of risk-based internal controls, including written policies and procedures.	VII.B.3	XII.A.3.iv, XII.A.4.ii.a.1, XII.A.5.ii, XII.E.1.	31 CFR 502.201(b)(3).
	Require an independent testing or audit function, accountable to senior management, with sufficient resources, expertise, and authority to identify U.S. sanctions compliance-related weaknesses and deficiencies.	VII.B.4	XII.A.3.iv, XII.A.4.ii.a.3, XII.A.5.ii, XII.E.1.	31 CFR 502.201(b)(4).
	Require records of testing and auditing results and resulting updates or enhancements to the sanctions compliance program be maintained and provided upon request to OFAC.	VII.B.4	XII.A.3.iv, XII.A.4.ii.a.7, XII.E.2.	31 CFR 502.201(b)(4)(iv).
	Require a risk-based compliance training program	VII.B.5	XII.A.3.iv, XII.A.4.ii.a.2, XII.A.5.ii, XII.E.1.	31 CFR 502.201(b)(5).
	Defines the terms “knowingly,” “OFAC,” “payment stablecoin-related activity,” and “permitted payment stablecoin issuer; PPSI.”.	VII.C.1–3	XII.A.3.ii	31 CFR 301–304.
	Require an FFIRA consultation with the Director before any significant AML/CFT supervisory action pursuant to delegated authority is initiated.	VI.C.4.iii	XII.A.3.iii.a, XII.A.4.ii.b	31 CFR 1033.221(c)(1).
	Require, generally, an FFIRA to provide written notice to the Director of any intent to take a significant AML/CFT supervisory action pursuant to delegated authority at least 30 days in advance of the proposed action.			31 CFR 1033.221(c)(2)(i).
	Require, to the extent reasonably practicable, that an FFIRA respond to requests from the Director for additional information regarding a proposed significant AML/CFT supervisory action.			31 CFR 1033.221(c)(2)(ii).
FinCEN and its Delees	Require examination of PPSIs' compliance with their obligation to report suspicious transactions.	VI.C.8.vii	XII.A.3.iii.c, XII.A.4.ii.b	31 CFR 1033.320(f).

i. Proposed New and Amended FinCEN Definitions

As discussed in greater detail in section VI.C.1 above, FinCEN is proposing to amend four existing definitions and add nine new terms to the general definitions section of its regulations, 31 CFR 1010.100. FinCEN is proposing three additional definitions in connection with the proposed regulation and supervision of PPSI AML/CFT programs in 31 CFR part 1033. Where it is adding new terms, in large part, FinCEN's proposed definitions would embed the language of the GENIUS Act in FinCEN regulations. In a few instances, however, FinCEN is proposing to modify the statutory language.

As a general matter, definitions prescribe the scope of parties to whom, and products to which, a regulation applies and are therefore capable of generating economic effects as a consequence of the delineations they set forth. However, because FinCEN's proposed additions and changes to

definitions are necessary to effectuate the GENIUS Act's direction that PPSIs be subject to the BSA, or are otherwise intended to harmonize the GENIUS Act definitions with FinCEN's existing regulations, to improve readability, or to avoid confusion with other similar terms defined by FinCEN's regulations without changing the meaning of any defined terms, these components of the proposed rule are not expected to independently generate incremental direct economic effects. As such, these elements of the proposed rule are not separately considered in the section XII.A.4 discussion below. Public comment is invited on whether FinCEN should reconsider the potential standalone economic impact of the definitions, collectively or individually, in the context of and as proposed components of this NPRM.

ii. Proposed New OFAC Definitions

As discussed in greater detail in section VII.C above, OFAC is proposing to define four terms in the definitions

section of the new 31 CFR part 502. OFAC's proposed definitions of the terms “knowingly” and “OFAC” are consistent with other OFAC regulations. OFAC's proposed definition of “payment stablecoin-related activity” is scoped to cover the range of activities involving a PPSI's payment stablecoin from the time of issuance until the payment stablecoin's removal from circulation. Finally, OFAC's proposed definition of “permitted payment stablecoin issuer” is consistent with the definition of that term contained in the GENIUS Act, with minor modifications.

While OFAC recognizes that definitions can generate economic effects, OFAC does not expect these components of the proposed rule to independently generate incremental direct economic effects. OFAC's proposed definitions are necessary to effectuate and enforce the GENIUS Act's requirement that PPSIs maintain an effective sanctions compliance program, including by emphasizing that a PPSI's sanctions compliance obligations apply

to all activity involving its payment stablecoins,⁴²⁶ or are otherwise intended to harmonize the GENIUS Act definitions with OFAC's existing regulations. As such, these elements of the proposed rule are not separately considered in section XII.A.4 discussion below. Public comment is invited on whether OFAC should reconsider the potential standalone economics impact of the definitions, collectively or individually, in the context of and as proposed components of this NPRM.

iii. Proposed New FinCEN Requirements

a. AML/CFT Program-Related Proposed Requirements

As discussed in greater detail in section VI.C.3, the proposed rule includes new requirements for PPSIs to develop and implement AML/CFT programs. The proposed rule would require AML/CFT programs to reasonably manage and mitigate ML/TF risks through internal policies, procedures, and controls that are commensurate with those risks and ensure ongoing compliance with the BSA and its implementing regulations. The proposed rule would require PPSIs to reasonably manage and mitigate risks using internal policies, procedures, and controls based on their institution-specific ML/TF risks as identified by the risk assessment process(es) required. An effective, risk-based, and reasonably designed AML/CFT program would continue to incorporate the results of the applicable risk assessment process(es) through appropriate changes to internal policies, procedures, and controls to manage ML/TF risks on an ongoing basis as necessary. The procedures must also integrate and support the conduct of ongoing customer due diligence. The proposed rule would require PPSIs to conduct ongoing customer due diligence as part of their AML/CFT program obligations.⁴²⁷ The GENIUS Act requires that PPSIs are subject to due diligence requirements including enhanced due diligence where appropriate.⁴²⁸

The proposed rule provides PPSIs with the regulatory flexibility to consider innovative approaches to comply with BSA requirements as FinCEN aims to encourage instances where a PPSI finds it beneficial to consider and evaluate technological

innovation and, as warranted by the PPSI's risk profile, implement new technology or innovative approaches in combating financial crime. Additionally, PPSIs may find it beneficial to consider whether the AML/CFT program appropriately uses the financial institution's existing internal capabilities, technologies, product lines, and data. For example, if a PPSI's issuance or financial risk management team monitors the lifecycle of the PPSI's stablecoins for financial resilience, the PPSI may find it beneficial for its AML/CFT program to consider using similar technology or approaches in managing and mitigating its ML/TF risks.

The proposed rule also includes several other program requirements. The BSA requires AML/CFT programs to have an "independent audit function to test programs."⁴²⁹ Under the proposed rule, a PPSI would need to establish independent AML/CFT program testing to be conducted by the PPSI's personnel or an outside party.⁴³⁰ The GENIUS Act, 12 U.S.C. 5903(a)(5)(A)(i), and the BSA, 31 U.S.C. 5318(h)(1)(B), also require PPSIs to designate an AML/CFT officer. Under the proposed rule, PPSI's would be required to designate an individual, who is located in the United States and accessible to, subject to oversight and supervision by, FinCEN and its designee, and has not been convicted of certain felony offenses.⁴³¹ The AML/CFT officer would be responsible for establishing and implementing the AML/CFT program and coordinating and monitoring day-to-day compliance with the requirements and prohibitions of the BSA and FinCEN's implementing regulations.⁴³² The BSA additionally requires AML/CFT programs to have an "ongoing employee training program;"⁴³³ accordingly, the proposed rule would require PPSIs to have an ongoing employee training program.⁴³⁴

The proposed rule would require PPSIs to have a written AML/CFT program and would require the PPSI to make a copy of its written AML/CFT program available to FinCEN or its designee upon request. The proposed rule would also require that a PPSI's written AML/CFT program be approved by the PPSI's board of directors or an equivalent governing body within the PPSI, or appropriate senior management of the PPSI. The proposed rule specifies

that approval encompasses each of the components of the AML/CFT program.⁴³⁵ In addition, the proposed rule would require PPSIs to make available to FinCEN, or its designee, upon request any and all certifications submitted to the PPSI's primary Federal payment stablecoin regulator or State payment stablecoin regulator certifying that the PPSI has implemented an AML/CFT program.

FinCEN is proposing to require PPSIs to establish and maintain written procedures that are reasonably designed to identify and verify the beneficial owners of legal entity customers as part of a PPSI's AML/CFT program obligations.⁴³⁶ These requirements mirror existing BSA requirements that apply to many other financial institutions. The GENIUS Act requires that PPSIs be subject to "due diligence requirements." Collection of beneficial ownership information is a core element of effective due diligence.

The proposed rule also sets forth a supervision and enforcement framework. FinCEN expects proposed 31 CFR 1033.221(d) to affect PPSIs' incentives because it provides that in determining to take, or in review of, an AML/CFT enforcement action or significant AML/CFT supervisory action, the FinCEN Director would take certain factors into consideration, including facts and circumstances unique to the PPSI in question. In particular, § 1033.221(d)(2) would require the Director to consider the PPSI's demonstrable efforts to advance AML/CFT priorities such as its production of highly useful information, analytics, or other innovations. FinCEN expects that the proposed regulation could reasonably be expected to generate economic effects because it would likely change the scope or nature of activities undertaken and/or investments made.

b. Proposed Additional Technical Capabilities, Policies, and Procedures

The GENIUS Act requires that PPSIs have "technical capabilities, policies, and procedures to block, freeze, and reject specific or impermissible transactions that violate Federal or State laws, rules, or regulations."⁴³⁷ This is a novel requirement that does not currently apply to other types of financial institutions.⁴³⁸ GENIUS Act

⁴²⁶ As noted in section V.B, U.S. persons, including U.S. person stablecoin issuers, are and have always been subject to U.S. sanctions laws, including with respect to transactions occurring on the primary or secondary markets.

⁴²⁷ See *supra* section VI.C.3.ii.a.3.

⁴²⁸ 12 U.S.C. 5903(a)(5), 5903(a)(5)(A)(v).

⁴²⁹ See 31 U.S.C. 5318(h)(1)(D).

⁴³⁰ See *supra* section VI.C.3.ii.b.

⁴³¹ See *supra* section VI.C.3.ii.c.

⁴³² This individual is also commonly referred to as a "BSA officer." However, as discussed below, the particular labels that FinCEN or a PPSI may use to refer to this individual are immaterial.

⁴³³ See 31 U.S.C. 5318(h)(1)(C).

⁴³⁴ See *supra* section VI.C.3.ii.d.

⁴³⁵ See *supra* sections VI.C.3.iii–iv.

⁴³⁶ See *supra* section VI.C.5.

⁴³⁷ 12 U.S.C. 5903(a)(5)(A)(iv).

⁴³⁸ As noted in section V.B, however, U.S. persons, including U.S. financial institutions, are required to comply with U.S. sanctions laws, including obligations to block, reject, and report certain prohibited transactions.

also requires that PPSIs “issue payment stablecoins only if the issuer has the technological capability to comply, and will comply, with the terms of any lawful order.”⁴³⁹ The GENIUS Act defines “lawful order,” which states, in part, that a lawful order is an order that is subject to judicial review and is issued under Federal law that requires a person to “seize, freeze, burn or prevent the transfer of” payment stablecoins the person issued and specifies the payment stablecoins or account with reasonable particularity.⁴⁴⁰

Due to the overlap in terms between this requirement and the requirement that PPSIs be able to “block, freeze, and reject” specific transactions, under the proposed rule the regulatory text regarding the block/freeze/reject requirement also includes the requirement that PPSIs have capabilities, policies, and procedures in place to comply with lawful orders.⁴⁴¹

c. Proposed Currency Transaction and Suspicious Activity Reporting

The proposed rule includes reporting requirements related to currency transaction reporting.⁴⁴² Specifically, the proposal requires PPSIs to file CTRs for “each deposit, withdrawal, exchange of currency or other payment or transfer, by, through, or to such financial institution which involves a transaction in currency of more than \$10,000,” unless subject to an applicable exemption. As discussed in section VI.C.7 and section XII.A.2.iii.b.3, FinCEN recognizes that, presently, stablecoin issuers rarely transact in physical transfers of currency.

The GENIUS Act explicitly requires PPSIs to be subject to BSA requirements relating to “monitoring and reporting of any suspicious transaction relevant to a possible violation of law or regulation.” Under the BSA, FinCEN has authority to require any financial institution to report “any suspicious transaction relevant to a possible violation of law or regulation.” With limited exceptions, all financial institutions subject to the BSA are required to identify and report suspicious activity. These reports provide highly useful information that is leveraged by authorized users as part of criminal, tax, and regulatory investigations; risk assessments; and intelligence and counterintelligence activities. The proposed rule implements these requirements for

PPSIs.⁴⁴³ PPSIs would also be required to maintain copies of filed SARs and the underlying related documentation for a period of five years from the date of filing. The proposed rule also applies standards for SARs relating to confidentiality and liability.

d. Proposed Recordkeeping

The GENIUS Act requires that PPSIs be subject to laws relating to “retention of appropriate records.”⁴⁴⁴ Under the BSA, FinCEN has authority to impose on financial institutions obligations relating to requiring, retaining, and maintaining records.⁴⁴⁵ Pursuant to this authority, FinCEN has issued recordkeeping regulations, including those codified as 31 CFR part 1010, subpart D, which apply broadly to financial institutions subject to specified exceptions. These recordkeeping obligations enhance law enforcement’s ability to detect, investigate, and prosecute money laundering and other financial crimes by preserving an information trail about persons sending and receiving funds. This proposed rule would apply these recordkeeping regulations to PPSIs.⁴⁴⁶

The recordkeeping obligations would require PPSIs to create and retain certain records for extensions of credit in excess of \$10,000; and certain records of cross-border transfers of currency, monetary instruments, funds, checks, investment securities, and credit worth more than \$10,000. The proposal also requires financial institutions to collect and retain records for funds transfers and transmittals of funds in amounts of \$3,000 or more. Lastly, The Travel Rule requires financial institutions to transmit information on certain funds transfers and transmittals of funds to other financial institutions participating in the transfer or transmittal.

e. Special Information Sharing

The proposed rule would apply the information sharing provisions at § 1010.520 also known as 314(a) and § 1010.540 also known as 314(b) to PPSIs. The description of requirements in section VI.C.10 above is adopted by reference.

f. Special Standards of Diligence, Prohibitions, and Special Measures

Finally, the proposal would require that PPSIs be subject to some of the special standards of diligence, prohibitions, and special measures under section 311 of the USA PATRIOT Act, including enhanced due diligence for correspondent and private banking accounts and additional special measures.⁴⁴⁷ As discussed in section VI.C.11, FinCEN is not proposing to apply 31 CFR 1010.630 to PPSIs, which would prohibit correspondent accounts for foreign shell banks. Thus, this provision is not relevant to the cost of the proposed rule. The proposed rule would require PPSIs to comply with special measures issued pursuant to the sections 311, 9714(a), and 2313a to maintain the options available under these sections to protect the U.S. financial system from certain illicit finance threats.⁴⁴⁸

iv. Proposed OFAC Sanctions Compliance Program Requirements

The GENIUS Act requires that PPSIs maintain an “effective sanctions compliance program”⁴⁴⁹ and that regulations promulgated under the Act are “tailored to the size and complexity”⁴⁵⁰ of a PPSI. To implement this requirement, OFAC’s proposed rule would require PPSIs adopt a sanctions compliance program that includes, at a minimum, five key elements outlined in OFAC’s 2019 Compliance Framework:⁴⁵¹ (1) *senior management and organizational commitments*,⁴⁵² requiring that a PPSI’s senior management establish and maintain an effective sanctions compliance program as prescribed in the proposed rule; (2) *risk assessments*,⁴⁵³ requiring holistic assessments of sanctions risks at appropriate intervals that are utilized and revised as specified in the proposed rule; (3) *internal controls*,⁴⁵⁴ which are applicable to all payment stablecoin-related activity, whether on the primary or secondary market, that identify, block, and/or reject transactions that may violate or would violate U.S. sanctions and retains relevant records in accordance with OFAC regulations; (4) *an independent testing and auditing function*,⁴⁵⁵ accountable to senior

⁴⁴³ See *supra* section VI.C.8.

⁴⁴⁴ See 12 U.S.C. 5903(a)(5)(A)(ii).

⁴⁴⁵ See 12 U.S.C. 1953; 31 U.S.C. 5318(a)(2); see also 12 U.S.C. 5901(2) (defining “Bank Secrecy Act” to include 12 U.S.C. 1951 *et seq.*); 31 U.S.C. 5311(1) (stating purpose of the BSA includes requiring records that are highly useful for law enforcement and regulatory investigations and intelligence and counterintelligence activities).

⁴⁴⁶ See *supra* section VI.C.9.

⁴⁴⁷ See *supra* section VI.C.11.

⁴⁴⁸ See *supra* section VI.C.11.iii.

⁴⁴⁹ 12 U.S.C. 5903(a)(5)(A)(vi).

⁴⁵⁰ 12 U.S.C. 5903(a)(5)(B).

⁴⁵¹ See *supra* section VII.B; OFAC, 2019 Compliance Framework, *supra* note 285.

⁴⁵² See *supra* section VII.B.1.

⁴⁵³ See *supra* section VII.B.2.

⁴⁵⁴ See *supra* section VII.B.3.

⁴⁵⁵ See *supra* section VII.B.4.

⁴³⁹ 12 U.S.C. 5903(a)(6)(B).

⁴⁴⁰ See 12 U.S.C. 5901(16).

⁴⁴¹ See *supra* sections VI.C.6.ii.

⁴⁴² See *supra* section VI.C.7.

management, with sufficient resources, expertise, and authority; and (5) *training*,⁴⁵⁶ requiring PPSIs to establish and maintain a risk-based sanctions compliance training program for all relevant personnel and stakeholders.⁴⁵⁷

The GENIUS Act's requirement that PPSIs maintain an effective sanctions compliance program is a novel legal requirement that currently does not apply to other U.S. persons.⁴⁵⁸ Nevertheless, the five enumerated minimum elements for a sanctions compliance program included in the proposed rule reflect a well-established risk-based approach to sanctions compliance that OFAC has strongly encouraged and for which OFAC has issued publicly available guidance, including the 2019 Compliance Framework.⁴⁵⁹ Accordingly, apart from one new recordkeeping requirement discussed below, OFAC does not assess the required elements of a sanctions compliance program as proposed would impose novel incremental economic costs. OFAC's history of enforcing U.S. sanctions has shown that, as a matter of current industry practice, actors in the digital asset ecosystem—alongside numerous other U.S. persons—employ sanctions compliance practices that are typically risk based, technology enabled, and informed by the outlined OFAC guidance.

The proposed rule would impose certain recordkeeping requirements that extend beyond current obligations on U.S. persons pursuant to existing regulations administered by OFAC.⁴⁶⁰ First, the proposed rule would require a PPSI to maintain records of the results and enhancements that are made to a PPSI's sanctions compliance program in line with the testing and auditing mandated by the proposed rule.⁴⁶¹ Second, the proposed rule would require PPSIs to provide upon request to OFAC any and all certifications submitted to the PPSI's primary Federal payment stablecoin regulator or State payment stablecoin regulator certifying that the PPSI has implemented an effective sanctions compliance program.⁴⁶²

4. Anticipated Economic Effects

This section provides FinCEN and OFAC's analysis of the estimated benefits and costs of the proposed rule. While not all benefits and costs are readily quantifiable, in this analysis FinCEN and OFAC have sought to include an evaluation of certain foreseeable non-quantified economic benefits in addition to quantified costs to more comprehensively assess the potential net benefit of the proposed rule and select alternatives.

i. Expected Benefits

The proposed rule is anticipated to result in certain nonquantifiable benefits to covered PPSIs, law enforcement, national security, U.S. foreign policy objectives and the general public. As discussed in section XII.A.1, these benefits are expected to flow from the extent to which BSA and sanctions compliance program requirements reduce uncertainty, improve transparency, and increase adherence to legal requirements in the stablecoin industry.

The benefits assessed here are more difficult to quantify than the costs, but the proposed rule is nonetheless anticipated to add substantial value directly and indirectly through effects that can contribute to the detection and deterrence of money laundering and terrorist financing, and that support broader policy goals.

Significant direct benefits of the proposed rule are expected to accrue to the public sector, most notably to U.S. law enforcement and the national security community, and to the stablecoin industry itself. Further, the identification of illicit activity in, or malign uses of, the stablecoin industry that would not occur but for the application of specific program, sanctions compliance, technology, reporting, and recordkeeping obligations to payment stablecoin issuers would (1) result in more effective detection of illicit finance activity occurring through the industry and (2) contribute to deterrence. This would benefit society more generally through a range of economic, security, and other effects.

The proposed rule is also expected to benefit participants in the payment stablecoin industry by introducing greater regulatory clarity and industry-specific standards around AML/CFT and sanctions compliance program requirements. By introducing legal clarity around the status and requirements of certain issuers of payment stablecoins, the GENIUS Act and the proposed rule may reduce certain information asymmetries

between investors and stablecoin issuers. As discussed earlier, regulatory uncertainty often increases investors' perceptions of risk and reduces or otherwise distorts equilibrium levels of investment. Regulatory measures affecting digital assets in U.S. states have been found to be associated with significant increases in industry investment activity.⁴⁶³

In addition, the AML/CFT and sanctions compliance program requirements in the proposed rule would provide further benefit by addressing existing gaps and market externalities, with potentially significant implications for detection and deterrence. For instance, some anticipated results associated with the proposed rule include (1) implementing enhanced technology standards for PPSIs that are not currently applicable to MSBs or banks, (2) requiring non-IDI subsidiary PPSIs to collect more detailed information on legal entities who are their primary market customers, (3) setting clear standards for PPSIs that prevent stablecoin products from exploiting or being exploited by regulatory arbitrage or ambiguity, and (4) codifying sanctions compliance requirements. These changes would support law enforcement by ensuring the technological means to mitigate the use of illicit funds by criminal actors. These changes would indirectly benefit the public at large by reducing money laundering and sanction evasion activity, which can distort legitimate markets, countering the financing of terrorism and other illicit finance activity, and protecting national security.

In addition, the newly proposed requirement for PPSIs to establish and maintain an effective sanctions compliance program would increase transparency and accountability, closing certain potential avenues for sanctions evasion, and helping ensure consistent regulatory oversight.

ii. Expected Costs

This section assesses the potential incremental costs to PPSIs, government agencies, and the customers of PPSIs associated with the proposed rule, relative to the baseline over a three-year period in which a final rule would be

⁴⁵⁶ See *supra* section VII.B.5.

⁴⁵⁷ See OFAC, 2019 Compliance Framework, *supra* note 285.

⁴⁵⁸ A PPSI, by virtue of their status as a U.S. person would be required to comply with U.S. sanctions obligations applicable to U.S. persons under OFAC's existing regulations. See, e.g., 31 CFR 510.326, 555.313, 583.314.

⁴⁵⁹ See OFAC, 2019 Compliance Framework, *supra* note 285; OFAC, Virtual Currency Industry Guidance, *supra* note 286.

⁴⁶⁰ See 31 CFR part 501.

⁴⁶¹ See *supra* section VII.B.4.

⁴⁶² See *supra* section VII.A.

⁴⁶³ A BIS study found that a one-standard-deviation increase in digital asset regulatory comprehensiveness, as measured by the authors, was associated with a 30-percent increase in capital raised by crypto-related firms located in those jurisdictions. See Matteo Aquilina, Giulio Cornelli, and Marina Sanchez del Villar, "Regulation, Information Asymmetries and the Funding of New Ventures," *BIS Working Papers*, no. 1162, pp. 5–21 (Jan. 2024), available at <https://www.bis.org/publ/work1162.pdf>.

effective.⁴⁶⁴ For PPSIs, this includes incremental costs associated with the need to (1) establish and maintain a written AML/CFT program and an effective sanctions compliance program in accordance with the requirements of the proposed rule, (2) update training programs to contain sanctions compliance, (3) conduct ongoing CDD and BOI collection for legal entity customers, (4) store the results of the testing and auditing of the sanctions compliance program and implement required technology, and (5) comply with special measures. The section also includes discussion of other costs to PPSIs associated with requirements in the proposed rule that are not considered incremental. The analysis then estimates costs to customers of providing information to PPSIs that the proposed rule would require, and costs to the government to support and

enforce the totality of proposed requirements described herein. Given the substantial, but not complete, overlap in practice between an AML/CFT program and the proposed sanctions compliance program, the remainder of section XII.A.4.ii. ascribes and discusses certain expected costs to both FinCEN and OFAC requirements jointly where appropriate. For elements applicable only to FinCEN or OFAC requirements, only the relevant agency is included in that subsection.

In sum, FinCEN and OFAC expect the total incremental cost of the proposed rule for PPSIs to be approximately \$1.8 million in the first year (approximately \$24,983 per insured depository institution (IDI)-subsidiary PPSI and \$52,453 per non-IDI subsidiary PPSI), and \$1 million in each year thereafter (approximately \$10,249 per IDI-subsidiary PPSI and \$36,760 per non-IDI

subsidiary PPSI).⁴⁶⁵ However, the cost for smaller PPSIs is expected to be significantly less on average, approximately \$13,737 per IDI-subsidiary PPSI and \$22,987 per non-IDI subsidiary PPSI in the first year.⁴⁶⁶ FinCEN and OFAC estimate that up to 19 of the 50 potential PPSIs could be small;⁴⁶⁷ thus, the average first-year cost to the small PPSIs is estimated to range between \$261,011 and \$436,762. The cost to government is expected to be \$1.7 million in the year prior to the final rule's effective date, \$5.9 million in the first year, and \$2.9 million in each year thereafter. The cost to customers is expected to be approximately \$1.2 million annually. In total, the quantified economic costs of the proposed rule would amount to an average incremental expenditure of approximately \$6.5 million per year once a final rule became effective.

TABLE 3—QUANTIFIED INCREMENTAL COSTS OF THE PROPOSED RULE BY YEAR

Affected party	Year (– 1)	Year 1	Year 2	Year 3	3-Year average
PPSIs .....	.....	\$1,798,558	\$1,042,670	\$1,042,670	\$1,294,633
Government	1,713,930	5,871,244	2,938,297	2,938,297	3,915,946
New PPSI Customers .....	.....	1,245,800	1,245,800	1,245,800	1,245,800
Annual Incremental Costs	1,713,930	8,915,602	5,226,768	5,226,768	6,456,379

a. Costs for PPSIs

In this subsection, FinCEN and OFAC identify the costs associated with (1) program development and maintenance; (2) audit and independent testing; (3) training development and implementation; (4) customer due diligence; (5) addition technical capabilities, policies, and procedures; (6) BSA reporting; (7) recordkeeping and technology; (8) information sharing; (9) special standards of diligence; and (10) section 311 and other special measures. Some of these costs are expected to flow from requirements proposed by FinCEN, others from requirements proposed by OFAC, and others could not be meaningfully disaggregated and separately attributed given the nature of how the respective programs are expected to be jointly operationalized in an integrated fashion by future PPSIs. FinCEN and OFAC further anticipate that many of the costs articulated below

would not represent incremental costs uniquely attributable to the requirements of the proposed rule. Where relevant, FinCEN and OFAC have provided explanation below when the pro forma costs presented are expected to differ from the anticipated incremental costs of the respective proposed requirements.

1. Program Development and Maintenance

The proposed rule would require PPSIs to establish and maintain an effective AML/CFT program and an effective sanctions compliance program, described in sections VI.C.3 and VII.B, respectively. FinCEN and OFAC outline the impacts of these requirements on incremental costs below.

With respect to FinCEN requirements, PPSIs would be required to establish and maintain an effective AML/CFT program comprised of: (1) internal policies, procedures, and controls; (2)

an independent audit function; (3) a designated compliance officer; and (4) an ongoing employee training program. A PPSI's internal policies, procedures, and controls would need to be reasonably designed to identify, assess, and document the PPSI's ML/TF risks through risk assessment processes and mitigate the PPSI's ML/TF risks, consistent with the PPSI's risk assessment processes, including by allocating more attention and resources toward higher risk customers and activities rather than toward lower-risk customers and activities. PPSIs would be required to conduct independent testing to assess the PPSI's compliance with the AML/CFT statutory and regulatory requirements. A PPSI would be required to designate an individual responsible for establishing and implementing the AML/CFT program. A PPSI would be required to establish an ongoing employee training program. A PPSI would also be required to keep its

⁴⁶⁴ Note, the incremental costs presented in this subsection differ in several ways from the PRA recordkeeping and reporting costs presented in section XII.E below. The cost totals presented here reflect the estimated incremental costs that would result from this proposed rule, while the costs presented in section XII.E analysis include pro forma accounting of all costs associated with the PRA recordkeeping and reporting activities required

by the proposed rule, even if such activities are already being conducted by the respondents.

⁴⁶⁵ FinCEN estimates that the net present value of costs associated with a three-year time horizon is \$3.44 million (\$3.68 million) using a 7 percent (3 percent) discount rate, respectively. This equates to annualized costs of \$1.31 million (\$1.30 million) using the same discount rates.

⁴⁶⁶ See *infra* section XII.A.4.ii.a for a discussion of the basis for differential cost estimates by size. See specifically sections XII.A.4.ii.a.1, 4, and 7.

⁴⁶⁷ This estimate was obtained by applying the equivalent annual revenue threshold for small entities described and utilized in the IRFA below. See *infra* section XII.C.2.i.b.

risk-based internal policies, procedures, and controls, risk assessment processes, and employee training program current as the PPSI's risk profile changes.

The proposed rule would also require that PPSI's AML/CFT program be written, and that a PPSI, upon request, make available a copy of its written AML/CFT program to FinCEN or its designee. It would also require the PPSI's AML/CFT program be approved by the PPSI's board of directors or an equivalent governing body within the PPSI, or appropriate senior management.

PPSIs that do not already have an AML/CFT program in place would incur costs to establish such a program and have it approved by the PPSI's board of directors or an equivalent governing body within the PPSI, or appropriate senior management. A PPSI that already has a AML/CFT program would need to review and/or modify its program to ensure it complies with the requirements of the rule. In addition, all PPSIs would incur costs for maintaining, updating, storing, and producing upon request the written AML/CFT program.⁴⁶⁸

With respect to OFAC requirements, PPSIs would need to establish and maintain an effective sanctions compliance program. The program must be risk based and reasonably designed to ensure compliance with all applicable U.S. sanctions. Entities that do not have a sanctions compliance program in place would need to establish such a program, and those with a sanctions compliance program would need to review and, as necessary and appropriate, modify their programs to ensure they comply with the requirements of the final rule. In line with an organizational commitment to the compliance program, senior management would need to review and

approve the sanctions compliance program. Senior management would also be required to support the effective implementation of the sanctions compliance program, as previously described in section VII.B.1, by ensuring that it is appropriately resourced, supported, and integrated into a PPSI's operations. A key part of this program implementation is the establishment and maintenance of a system of risk-based internal controls, as described in section VII.B.3, including technical capabilities and written policies and procedures, to identify any activity prohibited by U.S. sanctions and take appropriate action, including blocking, rejecting, and reporting certain transactions in compliance with existing OFAC regulations.

In support of maintaining an effective sanctions compliance program, OFAC's proposed rule would require the conduct of holistic risk assessments at appropriate intervals, as outlined in VII.B.2. These periodic risk assessments are essential to a current and effective sanctions compliance program, including in terms of understanding risk and maintaining up-to-date internal controls and training programs. Internal controls and risk assessments are already a key element of standard sanctions compliance practices common among regulated actors and thus OFAC does not assess this requirement to incur incremental economic costs, despite being a novel explicit requirement.

In practice, FinCEN and OFAC expect that some elements of a PPSI's AML/CFT program may overlap with its sanctions compliance program. For instance, approval of the AML/CFT program would also likely include approval of the sanctions compliance program, and risk assessments could be conducted enterprise-wide to evaluate

risks stemming from both AML/CFT and sanctions compliance obligations. Thus, OFAC does not expect that most requirements associated with sanctions compliance program implementation would impose an incremental cost beyond the overall AML/CFT program implementation.

As discussed in section XII.A.2.ii.a, FinCEN and OFAC expect that most PPSIs would be U.S. persons that are likely successors to MSBs or affiliated with insured depository institutions, which already have AML/CFT program requirements and generally, in practice have systems to comply with sanctions similar to the ones that would be required to comply with the proposed rule. Thus, the incremental costs contemplated here are only those entailed by the need for PPSIs to review the regulation and make any changes or modifications to their AML/CFT or sanctions compliance programs. The modified program would then be approved and appropriate records retained to be produced upon request.

FinCEN and OFAC expect that on average, the incremental burden associated with establishing and maintaining a written AML/CFT and sanctions compliance program (including the time burden associated with storing and producing the relevant program records upon request) would take approximately 30 hours per PPSI in the first year and ten hours in each subsequent year. However, because MSBs and insured depository institutions already generally update their programs annually, FinCEN and OFAC only account for the first-year burden as an incremental cost. As presented in table 4, FinCEN and OFAC estimate an average incremental cost of \$3,737 per PPSI and a total incremental cost of \$186,870 in the first year associated with this activity.⁴⁶⁹

TABLE 4—ESTIMATED FIRST-YEAR INCREMENTAL COST TO ESTABLISH AND MAINTAIN A WRITTEN AML/CFT PROGRAM

Hours per PPSI	Cost per PPSI	Number of PPSIs	Total cost
30	\$3,737	50	\$186,870

⁴⁶⁸ This includes both producing the program and any program certifications upon request. *See supra* sections VI.C.3.iii and iv.

⁴⁶⁹ Throughout this analysis, FinCEN and OFAC apply an hourly wage rate that is a general composite hourly wage rate (\$87.61) scaled by a private sector benefits factor of 1.42 (\$124.58 = \$87.61 × 1.42). This incorporates Bureau of Labor Statistics (BLS) mean wage data associated with six occupational codes (11–1010: Chief Executives; 11–3021: Computer and Information Systems

Managers; 11–3031: Financial Managers; 13–1041: Compliance Officers; 23–1010: Lawyers and Judicial Law Clerks; 43–3099: Financial Clerks, All Other) for each of the nine groupings of NAICS industry codes that FinCEN and OFAC determined are most directly comparable to its 11 categories of potentially affected financial institutions as delineated in 31 CFR parts 1020 to 1030. *See* BLS, *May 2024—National industry-specific and by ownership*, available at <https://www.bls.gov/oes/tables.htm>. Given that many occupations provide benefits beyond wages (e.g., insurance and paid

leave), FinCEN and OFAC apply the private sector benefit factor to the unloaded wage rate to reflect the total cost to the employer. The benefit factor is the ratio of total compensation (which includes wages and benefits) to wages. Total compensation = 43.94 and Wages and salaries = 30.90 (1.42 = 43.94 ÷ 30.90) as of June 2024, based on the private industry workers series data downloaded from BLS, *Employer Costs for Employee Compensation* data, available at https://www.bls.gov/news.release/archives/ecec_09102024.pdf.

2. Audit and Independent Testing

FinCEN and OFAC also expect PPSIs to face costs associated with independent testing of their AML/CFT program and sanctions compliance program and associated systems.⁴⁷⁰ Because such testing often relates closely to the technology services financial institutions typically have in place for these compliance functions, the costs for such testing are considered jointly with technology implementation. In concordance with previous FinCEN analysis on this topic,⁴⁷¹ FinCEN and OFAC expect the cost of independent testing to be comparable to the cost of technology implementation. However, because MSBs and banks are already subject to audit and testing requirements, these costs are not included in the estimate of novel incremental costs of the proposed rule.

To ensure the integrity of PPSIs' sanctions compliance programs and internal controls, as outlined in VII.B.4., OFAC's proposed rule would also require that PPSIs maintain an independent testing or audit function to examine the effectiveness of their sanctions compliance program, including their internal controls. PPSIs would also need to utilize the results of such tests and audits to identify and implement any needed changes to its sanctions compliance program. In practice, OFAC expects that PPSIs would conduct any AML/CFT and sanctions compliance program testing or audits jointly.

3. Training Development and Implementation

The proposed rule would require a PPSI to provide ongoing employee training as part of its AML/CFT program and to establish and maintain a risk-based compliance training program as part of its sanctions compliance program in accordance with the requirements as described in sections VI.C.3.ii.d and VII.B.5, respectively. FinCEN and OFAC outline the expected economic impacts of these requirements on incremental costs below.

With respect to FinCEN requirements, a PPSI's AML/CFT program must include an ongoing employee training program.⁴⁷² The training should generally cover the PPSI's internal policies, procedures, and controls, which in turn reflect the results of the PPSI's risk assessment processes, the latest AML/CFT regulatory requirements, and other relevant information. While the proposed rule does not prescribe the frequency with which the training should occur, PPSIs should conduct the training as frequently as they deem necessary based on their unique, individual ML/TF risk profiles and the specific roles and responsibilities of the persons receiving the training.

As described in section VII.B.5, OFAC's proposed rule would require a PPSI to establish and maintain a risk-based compliance training program that is conducted at least annually, provided to all relevant personnel and

stakeholders, appropriately tailored to each trainee's role and responsibilities, and based appropriately on the PPSI's risk assessment and risk profile.⁴⁷³ Additionally, OFAC would require that a PPSI's compliance training program be modified to reflect risk assessments findings and identified deficiencies as well as designed to include easily accessible resources and materials for all.

Although these are separate requirements, it is common for financial institutions to include sanctions in their AML/CFT training. FinCEN and OFAC expect that PPSIs would face limited costs in training development, implementation, and execution for employees relative to other financial institutions like traditional large banks because stablecoin issuers typically operate under a capital-intensive model with fewer employees.⁴⁷⁴ Because overall AML/CFT training requirements already exist for MSBs and banks, this proposed requirement would only impose a small incremental cost associated with updating training to contain sanctions compliance. Table 5 provides an estimate of the one-time costs associated with establishing and maintaining the employee training program in the first year. Because annual ongoing costs associated with training programs already exist for MSBs and banks, FinCEN and OFAC do not assign additional incremental costs in subsequent years attributed to the proposed rule.

TABLE 5—ESTIMATED FIRST-YEAR INCREMENTAL COSTS TO ESTABLISH AND MAINTAIN AN ONGOING EMPLOYEE TRAINING PROGRAM

Hours per PPSI	Cost per PPSI	Number of PPSIs	Total cost
8	\$997	50	\$49,832

4. Customer Due Diligence

The proposed rule would require PPSIs to conduct ongoing CDD as part of their AML/CFT program. Specifically, PPSIs would be required to (1) understand the nature and purpose of customer relationships for the purpose of developing a customer risk profile; and (2) conduct ongoing monitoring to identify and report suspicious transactions and, on a risk basis, to maintain and update customer

information, including information regarding the beneficial owners of a legal entity customer. This section estimates the cost to PPSIs of CDD activities and the collection of BOI from legal entity customers.

Because ongoing CDD is a risk-based activity not inherently tied to the number of customers a PPSI has, FinCEN estimates a fixed annual burden of 50 hours per PPSI. This estimate reflects similar costs expected to accrue

to other financial institution types subject to CDD requirements as proposed in another FinCEN rulemaking.⁴⁷⁵ Using the annual average of 650 new customers per PPSI, as discussed in section XII.A.2.ii.d.2, this estimate equates to nearly five minutes per customer. However, as CDD activities need not be applied to every customer if doing so would be inconsistent with an allocation of resources that prioritizes higher risk,

⁴⁷⁰ See *supra* sections VI.C.3.ii.b and VII.B.4.

⁴⁷¹ In 2024, FinCEN's analysis of AML/CFT software implementation and testing, based on a 2020 study by the GAO, estimated independent AML/CFT testing for financial institutions to cost approximately \$17,000, which was 1.37 times more costly than AML/CFT software implementation. See

FinCEN, *Financial Crimes Enforcement Network: Anti-Money Laundering/Countering the Financing of Terrorism Program and Suspicious Activity Report Filing Requirements for Registered Investment Advisers and Exempt Reporting Advisers*, 89 FR 72230 (Sept. 4, 2024), at table 5.3.

⁴⁷² See *supra* section VI.C.3.ii.d.

⁴⁷³ See *supra* section VII.B.5.

⁴⁷⁴ FinCEN and OFAC invite comment on whether these are accurate assumptions.

⁴⁷⁵ See the 2026 NPRM, FinCEN, *Anti-Money Laundering and Countering the Financing of Terrorism Programs*, at section X.E.2 of that NPRM.

this merely serves as an illustrative estimation. In practice, FinCEN expects PPSIs might allocate a fixed amount of effort and resources to the review of customers ranked by identified risk, meaning that some customers would experience significant review, while

others may not experience any in a given year. In addition, because ongoing CDD is already required of banks, this proposed requirement is not expected to result in incremental costs for IDI-subsidary PPSIs. As presented in table 6, for 20 non-IDI subsidiary PPSI, the

incremental cost of this requirement amounts to an annual per-firm burden of 50 hours, a total burden of 1,000 hours, a per-firm cost of \$6,229, and a total cost of \$124,580.

TABLE 6—ESTIMATED ANNUAL INCREMENTAL COSTS ASSOCIATED WITH ONGOING CDD FOR NON-IDI SUBSIDIARY PPSIS

Hours per PPSI	Cost per PPSI	Number of PPSIs	Total cost
50	\$6,229	20	\$124,580

In addition to ongoing CDD, PPSIs would be required to collect and verify BOI of new accounts opened by legal entity customers.⁴⁷⁶ These would represent new requirements not currently applicable to MSBs and are therefore considered by FinCEN to result in incremental costs for non-IDI subsidiary PPSIs. A PPSI may obtain the required identifying information by either obtaining a prescribed certification form from the individual opening the account on behalf of the legal entity customer or by obtaining the required information directly from the individual. PPSIs would be required to retain records used to identify each beneficial owner of a legal entity customer for five years after the date the account is closed.

Some of the activities a PPSI would undertake to satisfy CDD requirements are difficult to meaningfully separate

from similar and complementary activities that would be undertaken to satisfy a PPSI's CIP requirements, which the GENIUS Act directs to be imposed on PPSIs. Therefore, some burden elements associated with collecting customer information that serves both CIP and CDD purposes would also be accounted for in the regulatory analysis accompanying such a CIP-specific proposal. However, the cost of beneficial ownership verification, which extends beyond the basic customer information collection requirements that would be contained in a PPSI CIP NPRM, are estimated below.

FinCEN anticipates a population of approximately 20 non-IDI subsidiary PPSIs that are not currently subject to any BOI collection requirement for new customers.⁴⁷⁷ BOI collection would be required only for new primary market customers. FinCEN anticipates the

additional BOI collection for new customers would require 15 minutes (0.25 hours) on average per customer. PPSIs are expected to have an average of 650 new customers per year,⁴⁷⁸ and virtually all of these are expected to be legal entities. Thus, as presented in table 7, FinCEN conservatively estimates that BOI collection would result in an annual incremental cost of \$20,244 per non-IDI subsidiary PPSI, resulting in a total incremental cost of \$404,885 per year. For small PPSIs, the number of expected primary market customers is expected to be closer to 100, or 65 new customers annually. Thus, the anticipated cost for small PPSIs is expected to be substantially less than the average presented here (approximately \$2,024 per PPSI). As this section does not apply to OFAC related requirements, no additional OFAC associated costs were considered here.

TABLE 7—ESTIMATED ANNUAL INCREMENTAL COST OF BOI COLLECTION FOR LEGAL ENTITY CUSTOMERS

Number of new customers	Hours per customer	Hours per PPSI	Cost per PPSI	Number of PPSIs	Total cost
650	0.25	162.5	\$20,244	20	\$404,885

5. Additional Technical Capabilities, Policies, and Procedures

The proposed rule would require PPSIs to have technical capabilities, policies, and procedures to block, freeze, and reject specific or impermissible transactions that violate Federal or State laws, rules, or regulations, described in VI.C.5.i. The requirement would apply to both a PPSI's primary market and secondary market activity. The proposed rule would also require PPSIs to have the technological capability to comply, and to comply with the terms of any lawful

order, described in VI.C.5.ii. Although these are separate obligations, FinCEN expects that PPSIs may use the same technological capability to comply with both. FinCEN also expects that stablecoin issuers may already have in place technical capabilities and policies and procedures relating to taking action regarding impermissible transactions and adhering to lawful orders because of existing legal requirements, including complying with OFAC sanctions and court orders.⁴⁷⁹

For these reasons, the expected economic costs of the proposed

additional requirements with respect to technical capabilities, policies, and procedures are not itemized separately or incrementally, but are instead considered to be included in the costs associated with the internal policies, procedures, and controls component of establishing and maintaining an AML/CFT program and the broader general technology costs of the proposed rule.

6. BSA Reporting

The proposed rule would require PPSIs to file BSA reports, namely CTRs and SARs.

compliance with existing OFAC regulations. While the technological ability to block, freeze, and reject specific transactions would be a new requirement, OFAC expects that most or all PPSIs would already have this capability as a part of standard business practices.

⁴⁷⁶ See *supra* VI.C.5.

⁴⁷⁷ See *supra* section XII.A.2.ii.a.

⁴⁷⁸ See *supra* section XII.A.2.ii.d.2.

⁴⁷⁹ With respect to OFAC requirements, as described in section VII.B.3, under the proposed

rule, OFAC would require a PPSI to establish and maintain risk-based controls, including technical capabilities and written policies and procedures, to identify any activity prohibited by U.S. sanctions and take appropriate action, including blocking, rejecting, and reporting certain transactions in

CTRs

As proposed, the rule would require a PPSI to file CTRs on transactions in currency of more than \$10,000, unless subject to an applicable exemption, described in section VI.C.7. However, FinCEN recognizes that, presently, stablecoin issuers rarely engage in physical transfers of currency, and anticipate that because this would likely also be the case for future PPSIs, the costs of actually filing CTRs are expected to be *de minimis*. In addition, because CTR filing requirements already exist for IDIs and MSBs, FinCEN does not consider the costs of the proposed CTR filing obligation to represent a change in requirements. Consequently, there is nothing to which a novel incremental cost could attach.⁴⁸⁰

SARs

The proposed rule would require PPSIs to file SARs for any suspicious primary market transaction relevant to a possible violation of law or regulation, described in section VI.C.8. In addition, PPSIs would be required to maintain a copy of any SAR filed and the supporting documentation for a period of five years from the date of filing. Supporting documentation would need to be made available to FinCEN and the prescribed law enforcement and regulatory authorities, upon request.

Based on an analysis of SAR filings between 2021 and 2025 discussed in section XII.A.2.iii.b, FinCEN estimates that PPSIs would each file an average of 100 SARs per year, although some may file significantly more than that. To

estimate the range of costs associated with SAR filing, FinCEN contemplated a range of potential filing scenarios, with a low end of 100 and a high end of 1,000. FinCEN anticipates that each SAR filing would take approximately 90 minutes (1.5 hours). Based on market data, FinCEN estimates a distribution where five out of 50 PPSIs would have stylized high reporting obligations in connection with more widely used products with more, and more complex, SAR filings, and 45 out of 50 would have stylized low reporting obligations with fewer, less complex SAR filings.⁴⁸¹ Table 8 presents this distribution, which results in a weighted annual average of 190 filings per PPSI, resulting in an annual burden of 285 hours per PPSI.⁴⁸²

TABLE 8—ESTIMATED ANNUAL SAR BURDEN ASSOCIATED WITH FILED REPORTS

Number of filings	Hours per filing	Total hours	Number of PPSIs
100	1.5	150	45
1,000	1.5	1,500	5

Based on survey responses reported in a 2018 Bank Policy Institute report, of the suspicious activity alerts that are turned into full case investigations (*i.e.*, alerts that are not considered false positives and involve additional documentation, which are hereafter

referred to as “cases”), approximately 42 percent were turned into SARs.⁴⁸³ Therefore, for each case filed as a SAR, approximately 1.4 cases were not filed. FinCEN estimates that each unfiled case would take approximately 30 minutes (0.5 hours). Using the distribution

described above, FinCEN estimates a weighted annual average of 266 unfiled cases per PPSI, resulting in an additional annual burden of 133 hours per PPSI.

TABLE 9—ESTIMATED ANNUAL SAR BURDEN ASSOCIATED WITH UNFILED CASES

Number of filings	Number of unfiled cases	Hours per unfiled case	Total hours	Number of PPSIs
100	140	0.5	70	45
1,000	1,400	0.5	700	5

While these time estimates are used to provide a sense of the costs associated with SAR reporting for PPSIs, because FinCEN assumes that as the relevant counterfactual all future PPSIs would otherwise still have SAR filing requirements either as an MSB or because of bank affiliation, this proposed requirement is not expected to present a novel incremental cost to PPSIs.⁴⁸⁴

7. Recordkeeping and Technology

The proposed rule would require PPSIs be subject to recordkeeping under

the BSA and under OFAC regulations, described in sections VI.C.9 and VII.A, respectively. FinCEN and OFAC outline the impacts of these requirements on incremental costs below.

With respect to FinCEN requirements, PPSIs would be required to create and retain certain records for extension of credit in excess of \$10,000; and certain records of cross-border transfers of currency, monetary instruments, funds, checks, investment securities, and credit worth more than \$10,000. PPSIs would be required to maintain records related to any order issued under § 1010.370(a)

for up to five years. PPSIs would also be required to comply with the Recordkeeping Rule which would require PPSIs to collect and retain records for funds transfers and transmittals of funds in amounts of \$3,000 or more, and the Travel Rule which would require PPSIs to transmit information on certain funds transfers and transmittals of funds to other financial institutions participating in the transfer or transmittal.

In practice, FinCEN expects that PPSIs would extend credit infrequently and therefore expect the primary burden

⁴⁸⁰ There are no OFAC associated costs considered here because this section does not apply to OFAC related requirements.

⁴⁸¹ Among the products and issuers FinCEN examined, as discussed in section XII.A.2.iii.b, the top five largest potential PPSI issuers (each with reserve assets of over \$300 million) filed

approximately 88 percent of the total SARs observed by FinCEN.

⁴⁸² FinCEN and OFAC request public comment on the accuracy and completeness of this estimate.

⁴⁸³ See Bank Policy Institute, *Getting to Effectiveness—Report on U.S. Financial Institution Resources Devoted to BSA/AML & Sanctions*

Compliance (Oct. 29, 2018), table 1, p. 6, available at https://bpi.com/wp-content/uploads/2018/10/BPI_AML_Sanctions_Study_vF.pdf.

⁴⁸⁴ This section does not apply to OFAC related requirements and so OFAC associated costs are not considered here.

from these proposed requirements to stem from compliance with the Recordkeeping Rule and the Travel Rule. Cumulatively, FinCEN estimates the annual recordkeeping burden per PPSI for these requirements would be approximately 20 hours. However, because these requirements already exist for banks and MSBs, FinCEN does not contemplate this as an incremental cost attributable to the proposed rule.

With respect to OFAC requirements, the proposed rule includes a new requirement that would require PPSIs to maintain records of the results and enhancements from the testing and auditing components of their sanction compliance programs, in addition to standard recordkeeping requirements for U.S. persons pursuant to part 501 of title 31.⁴⁸⁵ This newly proposed recordkeeping requirement would apply

only to the results of the testing and auditing of the sanctions compliance program component. However, OFAC acknowledges that in practice, many firms may opt to store the results of their overarching AML/CFT program test, of which sanctions compliance is an inseparable part. The average annual cost of this specific recordkeeping activity, which is distinct from the joint costs, is approximated in table 10.

TABLE 10—ESTIMATED INCREMENTAL ANNUAL RECORDKEEPING COST

Hours per PPSI	Cost per PPSI	Number of PPSIs	Total cost
2	\$249	50	\$12,458

FinCEN and OFAC also conservatively estimate a joint incremental general technology cost associated with AML/CFT and sanctions compliance obligations under the proposed rule. Based on market research and given the wide range of customers that PPSIs interact with,⁴⁸⁶ FinCEN and OFAC estimate that such technology costs, which may include licensing fees

for specialized software, would range from approximately \$10,000 to \$20,000 per firm in the first year, and about \$5,000 to \$10,000 annually thereafter (depending on firm size). For purposes of cost estimation FinCEN and OFAC conservatively assign each PPSI a \$20,000 cost in the first year, for a maximum total incremental cost of \$1 million annually for 50 PPSIs. In

subsequent years, FinCEN and OFAC estimate they would each incur an annual cost of \$10,000. This includes the cost of technology implementation, annual transaction screening, and recordkeeping.⁴⁸⁷ These costs are outlined in Table 11. Smaller PPSIs are expected to experience costs at the lower ends of the ranges mentioned above.

TABLE 11—ESTIMATED INCREMENTAL ANNUAL TECHNOLOGY COST

Years	Cost per PPSI	Estimated number of PPSIs	Total cost
1	\$20,000	50	\$1,000,000
2+	10,000	50	500,000

8. Information Sharing

The proposed rule would apply the information sharing provisions at § 1010.520, also known as 314(a), and § 1010.540, also known as 314(b), to PPSIs, described in section VI.C.10. Section 1010.520 requires a financial institution to search its records upon receipt of a request from FinCEN and provide information in return. Section 1010.540 is a voluntary information sharing tool of which a financial institution may, but is not required, to avail itself.

Because banks and MSBs are already required to comply with section 314(a), FinCEN does not contemplate this as an incremental cost. In addition, FinCEN generally only transmits 314(a) requests to a limited subset of the financial institutions that are required to comply with 314(a) requirements in any given year. Historically, the proportion of potentially affected financial institutions required to provide a response in a given year has remained below three percent.⁴⁸⁸ The subjects of 314(a) requests are individuals and entities suspected by law enforcement

of engaging in money laundering or terrorist financing. Most PPSIs' primary market customers are financial institutions or other legal entities which have generally not been the subject of 314(a) requests. Because PPSIs nevertheless may receive 314(a) requests in the future that require a response, FinCEN assigns a nominal annual burden for this activity of one hour, commensurate with the expectation that PPSIs may be less likely to maintain accounts or conduct transactions with individuals or entities that are the subject of 314(a) requests.

TABLE 12—ESTIMATED ANNUAL COST ASSOCIATED WITH 314(A) REQUESTS

Hours per PPSI	Cost per PPSI	Number of PPSIs	Total cost
1	\$125	50	\$6,229

⁴⁸⁵ See *supra* section VII.B.4.

⁴⁸⁶ See *supra* section XII.A.2.ii.d.2.

⁴⁸⁷ FinCEN and OFAC request public comment on the accuracy and completeness of this estimate.

⁴⁸⁸ See FinCEN, *Agency Information Collection Activities; Proposed Renewal; Comment Request;*

Renewal Without Change on Information Sharing Between Government Agencies and Financial Institutions, 90 FR 47125 (Sept. 30, 2025).

Under section 314(b), PPSIs would be able to share information about transactions involving the proceeds of specified unlawful activities. This would be a voluntary information sharing tool of which a financial institution may, but would not be required to, avail itself. For this reason, FinCEN does not attribute an incremental burden to activity conducted under section 314(b).⁴⁸⁹

9. Special Standards of Diligence

As described in section VI.C.11.ii, under the proposed rule, PPSIs would

be subject to special standards of diligence. PPSIs would be required to maintain due diligence programs for correspondent accounts for foreign financial institutions and banks and for private banking accounts. These programs would include policies, procedures, and controls that are reasonably designed to detect and report any known or suspected money laundering or suspicious activity conducted through or involving such correspondent or private banking accounts.

FinCEN estimates the annual hourly burden of maintaining and updating the due diligence program for such correspondent or private banking accounts would be approximately two hours for each regulated entity—one hour to maintain and update the program and one hour to obtain the approval of senior management.⁴⁹⁰ However, because these requirements already exist for banks and MSBs, FinCEN does not contemplate this as an incremental cost.⁴⁹¹

TABLE 13—ESTIMATED ANNUAL COSTS TO ESTABLISH AND MAINTAIN AN ENHANCED DUE DILIGENCE PROGRAM

	Hours per PPSI	Cost per PPSI	Number of PPSIs	Total cost
2		\$249	50	\$12,458

10. Section 311 and other Special Measures

The proposed rule would require that PPSIs comply with special measures issued pursuant to section 311 of the USA PATRIOT Act, 2313a of the Fentanyl Sanctions Act, and section 9714(a) of the Combating Russian Money Laundering Act. To date, FinCEN has issued several final rules pursuant to section 311 imposing the fifth special measure to prohibit covered financial institutions from opening or maintaining a correspondent account for, or on behalf of, specified entities.⁴⁹² Future PPSIs would be expected to incur burden in complying with this component of the proposed rule insofar as they would both (1) need to establish and maintain the ability to comply with future impositions of special measures

and (2) ensure compliance with all existing section 311 final rules.

For purposes of burden estimation, and taking into account the intended scope of the defined term “correspondent account” as presented in section VI.C.11.i, FinCEN conservatively assumes that all projected 50 future PPSIs would be equally likely to maintain foreign correspondent accounts and incur costs associated with the proposed obligation to comply with the various types of special measures. Borrowing from the approach FinCEN utilized in the most recent 60-day notice renewing existing section 311 OMB control numbers,⁴⁹³ FinCEN continues to apply a graduated burden model with an anticipated cost profile that declines sharply in the years following the first effective year of a given special measure. Thus, for future non-IDI subsidiary PPSIs, who would be

expected to face an immediate, full start-up burden (because they are less familiar with the special measures described above), FinCEN assigns a first-year average burden of eight hours per expected future non-IDI subsidiary PPSIs and 0.5 hours for each of the 30 expected future IDI-subsidary PPSIs. FinCEN then applies the same graduated declining burden model as employed in its section 311 60-day notice, estimating that in subsequent years, all 50 expected future PPSIs would incur an average annual burden of approximately 18-minutes each. Because these requirements already exist for IDIs, FinCEN does not consider the costs presented in table 14 as novel incremental costs for future IDI-subsidary PPSIs; however, the costs presented in table 15 would be considered an incremental new burden for PPSIs that are not IDI subsidiaries.⁴⁹⁴

TABLE 14—ESTIMATED COSTS ASSOCIATED WITH SPECIAL MEASURES FOR IDI-SUBSIDIARY PPSIS

Year	Hours per PPSI	Cost per PPSI	Number of PPSIs	Total cost
1	0.5	\$62	30	\$1,869
2+	0.3	37	30	1,121

TABLE 15—ESTIMATED INCREMENTAL COSTS ASSOCIATED WITH SPECIAL MEASURES FOR NON-IDI SUBSIDIARY PPSIS

Year	Hours per PPSI	Cost per PPSI	Number of PPSIs	Total cost
1	8	\$997	20	\$19,933

⁴⁸⁹ This section does not apply to OFAC related requirements and as such there were no OFAC associated costs to consider here.

⁴⁹⁰ FinCEN requests public comment on the accuracy and completeness of this estimate.

⁴⁹¹ As this section does not apply to OFAC related requirements, no additional OFAC associated costs were considered here.

⁴⁹² See *supra* section VI.C.11.iii.

⁴⁹³ FinCEN, *Agency Information Collection Activities; Proposed Renewal; Comment Request:*

Renewal Without Change of Information Collection Requirements in Connection With the Imposition of Special Measures, 90 FR 57279 (Dec. 10, 2025).

⁴⁹⁴ OFAC is not making a proposal under this section and as such, there are no OFAC associated costs to be considered here.

TABLE 15—ESTIMATED INCREMENTAL COSTS ASSOCIATED WITH SPECIAL MEASURES FOR NON-IDI SUBSIDIARY PPSIS—Continued

Year	Hours per PPSI	Cost per PPSI	Number of PPSIs	Total cost
2+	0.3	37	20	747

b. Government

To implement the proposed rule, FinCEN expects to incur certain operating costs that would include approximately \$1.7 million in the year prior to the final rule's effective date, \$5.9 million in the first effective year of the final rule, and approximately \$2.9 million in the average subsequent year. These estimates include anticipated expenses related to stakeholder outreach and informational support, compliance monitoring, and potential enforcement activities as well as certain incremental increases to pre-existing technological and IT infrastructure, administrative and logistic expenses, primarily related to data collection and analysis.

FinCEN acknowledges that this treatment of cost estimates implicitly assumes that increased resources commensurate with any novel operating costs would exist. If this assumption does not hold, then operating costs associated with this rule may impose certain economic costs on the public in the form of opportunity costs from the agency's forgone alternative activities and those activities' attendant benefits. Benchmarking against FinCEN's appropriated budget for BSA administration and analysis in fiscal year 2025 (\$190,193,000),⁴⁹⁵ the corresponding opportunity cost could resemble forgoing up to 3.1 percent (1.5 percent) of current activities annually in the first year (each subsequent year) in which a final rule was effective. However, to the extent that activities FinCEN would undertake as a function of the proposed rule would functionally substitute for or otherwise replace foregone activities, such an estimate likely overstates the potential economic costs to FinCEN and, consequently, the public.

FinCEN notes that these estimates do not include the potential costs borne by other regulators or entities who might foreseeably be engaged in informational outreach, examinations or related supervisory actions or enforcement activities as a consequence of the proposal. Such regulators and entities include the primary Federal payment

stablecoin regulators and the IRS. FinCEN acknowledges that the cost estimates here would therefore understate the burden of activities required to promote compliance with the rules as proposed and the full scope of government costs.

As described above in section, the proposed rule would introduce consultation requirements for primary Federal payment stablecoin regulators before initiating significant AML/CFT supervisory actions. FinCEN anticipates that the proposed consultation process is likely to have direct economic effects on both FinCEN and the primary Federal payment stablecoin regulators. The proposed process could also reasonably be expected to have indirect effects on the PPSIs subject to supervision and examination to the extent that the consultative process is successful in better aligning supervisory and enforcement activities with the efficient establishment and maintenance of AML/CFT programs. Finally, while further downstream economic effects may also flow to the general public from this improved alignment, these effects would be third order at best, and difficult to distinguish from the effects of other incremental components of the proposed rule. Thus, despite acknowledging that economic effects of the proposed regulatory changes applicable to primary Federal payment stablecoin regulators may reach to PPSIs and the general public, they are not itemized or further considered in the respective discussions of expected economic effects on these specific parties.

OFAC does not expect to incur additional operating expenses to implement the proposed rule. While OFAC's Enforcement Division will be responsible for investigating and enforcing potential violations of the proposed rule, OFAC expects that these efforts would be folded into their existing enforcement responsibilities and that investigations into violations of the sanctions compliance program requirement would occur in conjunction with investigations into violations of other U.S. sanctions regulations. As noted in section V.B, OFAC already considers the existence, nature, and adequacy of a subject person's risk-based sanctions compliance program

when determining the appropriate administrative action to take in response to an apparent violation of U.S. sanctions.⁴⁹⁶ As FinCEN notes above, OFAC acknowledges that these estimates do not include the potential costs borne by other regulators, or entities who might foreseeably be engaged in informational outreach, examinations (such as those by the IRS), or related supervisory actions or enforcement activities as a consequence of the proposed rule.

c. PPSI Customers

As discussed earlier in this analysis,⁴⁹⁷ based on the median value of customers, FinCEN and OFAC expect that the typical PPSI would have approximately 100 legal entity clients that it interacts with directly. However, some PPSIs are expected to have substantially more than this, and FinCEN and OFAC apply an average of 1,000 customers per PPSI. In total, FinCEN and OFAC do not expect the aggregate number of direct PPSI customers to exceed 300,000. However, FinCEN and OFAC estimate that a substantial portion of these may be affiliates of a single counterparty or associated with non-U.S. entities. FinCEN and OFAC estimate that the number of affected U.S. businesses is no more than 10,000.

As described earlier,⁴⁹⁸ these businesses belong to several industrial categories, including digital asset exchanges, specialized digital commodities traders, and other types of investment and securities related businesses. Aside from digital asset exchanges, FinCEN expects that nearly all of these firms would be part of the NAICS classifications under industry code 523 ("Securities, Commodity Contracts, and Other Financial Investments and Related Activities"). Based on this assessment, FinCEN and OFAC applied the associated standard wage rate to estimate the costs of PPSI customers' time.⁴⁹⁹

⁴⁹⁶ 31 CFR part 501, Appendix A.

⁴⁹⁷ See *supra* section XII.A.2.ii.d.2.

⁴⁹⁸ See *id.*

⁴⁹⁹ Because FinCEN and OFAC expect most primary market customers to be legal entities in the financial sector, it applies the standard wage rate, which is broadly reflective of expected wage costs for a wide range of financial institutions. This

⁴⁹⁵ See, FinCEN, *Congressional Budget Justification FY 2026*, available at <https://home.treasury.gov/system/files/266/11.-FinCEN-FY-2026-CJ.pdf>.

While FinCEN and OFAC estimate that a significant portion of these entities may be subsidiaries of a single counterparty or connected to non-U.S. entities, PPSIs would still be responsible for verifying the identities of all connected counterparties in order to meet program obligations. FinCEN and OFAC expect that each customer would be required to spend approximately one hour to collect, review, and transmit the required customer identification information to the stablecoin issuing counterparty

(specifically, information about beneficial ownership). Table 16 provides a summary of the expected costs to these customers. FinCEN and OFAC estimate that PPSI customers, which are mostly financial institutions engaged in trading a broad range of stablecoin products as part of their investment portfolios, or exchanges seeking to provide off-chain liquidity to retail customers for a similarly broad range of stablecoin products, will likely initiate at least one new primary market relationship each year, although this

frequency may fluctuate. In order to generate a conservative estimate, FinCEN and OFAC assume for purposes of this analysis that all primary market participants would be required to provide this information once during the course of business in a given year when interacting with a new stablecoin issuer, while acknowledging significant uncertainty around this estimate. FinCEN and OFAC request public comment on this assumption.

TABLE 16—ESTIMATED ANNUAL COST TO CUSTOMERS OF PROVIDING REQUIRED IDENTIFICATION MATERIALS

Total number of customers	Hours per customer	Cost per customer	Total cost
10,000	1	\$125	\$1,245,800

5. Consideration of Policy Alternatives

In developing the proposed rule, FinCEN and OFAC considered several policy alternatives, including alternatives that would, if adopted, imply differences in the cost profile of the requirements, particularly for small entities. FinCEN and OFAC invite comment on these alternatives, and on any other alternatives that were not considered here.

i. FinCEN Alternatives

a. Size-Related Alternatives

First, FinCEN considered modifying the proposed rule's requirements for small entities or establishing an asset threshold for certain proposed compliance obligations. As discussed in more detail in the IRFA analysis (section XII.C.2.i.b below), FinCEN utilizes a threshold of \$200 million in total reserve assets to define small PPSIs that are not IDI subsidiaries. FinCEN considered using this threshold as a tailoring benchmark, whereby PPSIs under the threshold might have been afforded burden accommodations in the form of additional time to transition, or additional time to undertake certain required activities, potentially differential reporting thresholds, or other modifications to AML/CFT program standards designed to reduce compliance cost. However, FinCEN opted against this alternative. Creating

some category of PPSI for small issuers that would entail lessened AML/CFT requirements would conceivably result in the targeting of these PPSIs by illicit actors seeking to circumvent regulatory scrutiny. Additionally, FinCEN's analysis indicates that most technology services that enable AML/CFT functions as described here are highly scalable, allowing small PPSIs to readily identify and employ more cost-effective options.

b. Alternative Information Requirements

FinCEN separately considered a version of the proposed rule that would have required PPSIs to collect, and customers to provide, additional information beyond what this NPRM would require. For example, in addition to the proposed rule's requirement that future PPSIs collect the name, date of birth, address, and government-issued identification number for the beneficial owners of a legal entity customer (as defined under 31 CFR 1010.230, but generally meaning one executive officer and all individuals with 25 percent or more equity interest in the entity), FinCEN considered further requiring PPSIs to collect customers' blockchain wallet addresses associated with the legal entity, incorporation or tax documents, or certain identifying financial information such as account numbers. However, FinCEN opted not to require these items for several reasons. First, many issuers already collect this

additional information in the ordinary course of business, and are best situated to determine what, if any, additional information is necessary to make risk-based decisions about a customer. Secondly, the absence of this information does not exempt an issuer from the responsibility to assess the risk associated with a customer or their transactions, and therefore it is the imperative of the issuer to determine whether or not such additional information is necessary to conduct risk-based screening and analysis. FinCEN concluded that it would strike a more appropriate balance of anticipated benefits to expected costs to refrain from imposing a unilateral requirement that such additional information be collected in every instance and that instead it would be more economically efficient to defer in these aspects to the discretion of the PPSI's risk-based determinations. In declining to pursue this alternative, FinCEN also took into consideration that it may also comport more closely with the GENIUS Act requirement that Treasury issue regulations tailored to the size and complexity of the PPSI to limit the information requirements as proposed. FinCEN requests comment on the extent to which this assessment comports with market expectations and practices.

hourly wage rate is a general composite hourly wage rate (\$87.61) scaled by a private sector benefits factor of 1.42 (\$124.58 = \$87.61 × 1.42). This incorporates BLS mean wage data associated with six occupational codes (11–1010: Chief Executives; 11–3021: Computer and Information Systems Managers; 11–3031: Financial Managers; 13–1041: Compliance Officers; 23–1010: Lawyers and Judicial Law Clerks; 43–3099: Financial Clerks, All Other) for each of the nine groupings of NAICS

industry codes that FinCEN determined are most directly comparable to its 11 categories of potentially affected financial institutions as delineated in 31 CFR parts 1020 to 1030. See BLS, *May 2024—National industry-specific and by ownership*, available at <https://www.bls.gov/oes/tables.htm>. Given that many occupations provide benefits beyond wages (e.g., insurance and paid leave), FinCEN applies the private sector benefit factor to the unloaded wage rate to reflect the total

cost to the employer. The benefit factor is the ratio of total compensation (which includes wages and benefits) to wages. Total compensation = 43.94 and Wages and salaries = 30.90 (1.42 = 43.94 ÷ 30.90) as of June 2024, based on the private industry workers series data downloaded from BLS. BLS, *Employer Costs for Employee Compensation data*, available at https://www.bls.gov/news.release/archives/ecec_09102024.pdf.

c. Block, Freeze, and Reject Alternative

FinCEN separately and additionally considered providing a more detailed regulation related to the requirement for PPSIs to have the technical capability, policies, and procedures to block, freeze, and reject specific or impermissible transactions that violate Federal or State laws, rules, or regulations. For example, FinCEN could have provided details on the specific technical capability, policies, and procedures that would be required or required a PPSI to take proactive action related to this requirement. This might have required a PPSI to act if it had a reason to know the transaction was impermissible. However, FinCEN decided against these alternatives. Providing a more detailed regulation could have limited how a PPSI could comply with this requirement. FinCEN decided it was important for PPSIs to have the flexibility to implement new technology, best practices, and adapt to changing laws, rules, or regulations. FinCEN also considered that proposing a more proactive requirement could increase the compliance burden for PPSIs. In sum, FinCEN's decision not to pursue a proposed rule that included this alternative formulation was informed by its belief that the alternative would not strike a preferable balance between the anticipated benefits and the expected costs or be as economically efficient as the more flexible formulation proposed. FinCEN is requesting comment on the extent to which this assessment comports with market expectations.

ii. OFAC Alternatives

Additionally, OFAC considered basing the minimal elements for a sanctions compliance program on FinCEN's current AML program requirements for banks at 31 CFR 1020.210. For example, that alternative regulatory foundation would require: (1) a system of internal controls to assure ongoing sanctions compliance; (2) independent testing for compliance to be conducted by the PPSI's personnel or by an outside party; (3) designation of an individual or individuals responsible for coordinating and monitoring day-to-day compliance; (4) training for appropriate personnel; and (5) appropriate risk-based procedures for conducting ongoing customer due diligence. Although these requirements are similar in substance to the proposed rule, OFAC chose to instead align the proposed minimal elements of a sanctions compliance program with existing OFAC guidance, particularly the 2019 Compliance Framework.

The 2019 Compliance Framework has been a cornerstone of OFAC's regular public outreach to all regulated industries. Likewise, the compliance guidance and expectations detailed in the 2019 Compliance Framework consistently form the basis of OFAC's published guidance (e.g., sanctions advisories, compliance communiqués, and frequently asked questions). Consequently, the sanctions compliance community is already highly familiar with the proposed rule's requirements as consistent with existing OFAC guidance. Additionally, FinCEN's AML requirements at 31 CFR 1020.210 and OFAC's existing regulations differ in applicable scope; the former center on traditional banks, whereas the latter apply to all U.S. persons. The 2019 Compliance Framework's focus on U.S. persons, rather than financial institutions, is therefore better aligned with future PPSI's obligations as U.S. persons under the GENIUS Act. Finally, the 2019 Compliance Framework is grounded in the principle of a risk-based approach to sanctions compliance. This foundation supports PPSI flexibility and discretion in how to meet the GENIUS Act's requirement of an effective sanctions compliance program within the context of maintaining the five minimal elements in the proposed rule. This flexibility not only accounts for the development and implementation of new technology but also is consistent with the GENIUS Act's direction that regulations be tailored to the size and complexity of the PPSI.⁵⁰⁰ OFAC is requesting comment on the extent to which this assessment comports with market expectations and practices.

B. Executive Orders 12866, 13563, and 14192

E.O. 12866 directs agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, and public health and safety effects; distributive impacts; and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. E.O. 13563 also recognizes that some benefits are difficult to quantify and provides that, where appropriate and permitted by law, agencies may consider and discuss qualitatively values that are difficult or impossible to quantify.

⁵⁰⁰ See 12 U.S.C. 5903(a)(5)(B).

This proposed rule has been designated a "significant regulatory action"; accordingly, it has been reviewed by OMB.

E.O. 14192, entitled "Unleashing Prosperity Through Deregulation," was issued on January 31, 2025. Section 3(c) of the order requires that any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least ten prior regulations.

If finalized as proposed, this action is expected to be considered an E.O. 14192 regulatory action.

C. Regulatory Flexibility Analysis

When an agency issues a proposed rulemaking, the RFA requires the agency either to provide an IRFA or certify that the proposed rule would not have a significant economic impact on a substantial number of small entities. Because the proposed rule may have a significant economic impact on a substantial number of certain types of PPSIs that may qualify as small entities, FinCEN and OFAC undertook the following analysis. In the event that FinCEN and OFAC have potentially overestimated the anticipated economic burden of the proposed rule, and certification would instead be more appropriate, comments to this effect—including studies, data, or other evidence—are invited.

1. The Proposed Rule: Objectives, Description, and Legal Basis

The proposed rule would implement FinCEN's regulations that prescribe BSA obligations and OFAC's sanctions compliance program requirement for PPSIs as described in sections VI, VII, and XII.A.3.

The GENIUS Act, enacted on July 18, 2025, the legal basis for the proposed rule, creates a regulatory framework for PPSIs in the United States.⁵⁰¹ The GENIUS Act provides a comprehensive framework for the regulation of payment stablecoins.⁵⁰² The GENIUS Act outlines the reserve, capital, liquidity, and risk management requirements for PPSIs and tasks the Board, FDIC, NCUA, and OCC, as well as any State payment stablecoin regulators, with implementing those requirements and establishing a process and framework for the licensing, regulation, examination, and supervision of PPSIs.⁵⁰³

The proposed rule seeks to implement the GENIUS Act by requiring that PPSIs

⁵⁰¹ See GENIUS Act, Pub. L. 119–27.

⁵⁰² See *id.*

⁵⁰³ See *supra* section II.A.

“be treated as a financial institution for purposes of the Bank Secrecy Act, and as such, shall be subject to all Federal laws applicable to financial institutions located in the United States relating to economic sanctions, prevention of money laundering, customer identification, and due diligence.”⁵⁰⁴

The GENIUS Act directs the Secretary of the Treasury to issue regulations, tailored to the size and complexity of the PPSI, implementing the AML/CFT and sanctions compliance requirements directed by the GENIUS Act.⁵⁰⁵

2. The Expected Impact on Small Entities

i. Defining Small Affected Entities

The impact of the rule on small entities varies across the three distinct types of PPSIs: those that are

subsidiaries of banks (including credit unions); those that are Federal qualified payment stablecoin issuers (FQPSIs);⁵⁰⁶ and State qualified payment stablecoin issuers (SQPSIs).⁵⁰⁷ FinCEN has incorporated the OCC, FDIC, Board, and NCUA’s RFA analyses with respect to their nexuses with these respective types and limited its own further analysis below to the remaining potential future PPSIs that it anticipates. As the proposed rulemaking may also impact the small entities that are customers of PPSIs, this population was also subject to IRFA requirements and is included in section XII.C.2.i.d.

a. Small PPSIs Regulated by the Agencies

As discussed in section II.A, the GENIUS Act tasks the OCC, Board,

FDIC, and NCUA (the “Agencies”) with implementing reserve, capital, liquidity, and risk management requirements for PPSIs. The OCC, FDIC, and NCUA have recently published other NPRMs necessary to implement the GENIUS Act.⁵⁰⁸ Because each of these proposed rules has already provided the operational definition of “small” used to scope the respective estimated populations of small IDs that would also be relevant for the RFA analysis in this proposed rule, FinCEN and OFAC are adopting those analyses and estimates by reference. Table 17 provides a summary of the incorporated estimates below.

TABLE 17—RFA POPULATIONS REPORTED BY THE AGENCIES^a

Agency	Total population	Number of small institutions	Percentage small
FDIC	2,772	2,064	74.5%
Board	702	440	62.7
OCC	997	609	61.1
NCUA			^b 19

^aData is based on consultation with the Agencies. See also FDIC, *Approval Requirements for Issuance of Payment Stablecoins by Subsidiaries of FDIC-Supervised Insured Depository Institutions*, 90 FR 59409 (Dec. 19, 2025); NCUA, *Investments in and Licensing of Permitted Payment Stablecoins Issuers*, 91 FR 6531 (Feb. 12, 2026); OCC, *Implementing the Guiding and Establishing National Innovation for U.S. Stablecoins Act for the Issuance of Stablecoins by Entities Subject to the Jurisdiction of the Office of the Comptroller of the Currency*, 91 FR 10202 (Mar. 2, 2026).

b. Other PPSIs

The SBA publishes annual size thresholds defining small businesses by their classification under categories of the NAICS. While there is currently no NAICS category specifically for stablecoin issuers, FinCEN and OFAC anticipate that they would most appropriately fit within several broader categories of financial institution. Most stablecoin issuers meet the definition of MSBs, and therefore belong either to Financial Transactions Processing, Reserve, and Clearinghouse Activities (522320) (most appropriate for those that engage in money transmitting), or Other Activities Related to Credit Intermediation (522390). The SBA-defined threshold for a small business in these categories is \$47 million and \$28.5 million in gross receipts, respectively. In addition, because digital assets may sometimes be classified as commodities, some stablecoin issuers might otherwise be categorized under

NAICS code 523160 as Commodity Contracts Intermediation. The SBA-defined threshold for a small business in this category is \$47 million in gross receipts. Among these categories, the most appropriate designation for stablecoin issuers, due to their role as money transmitters, is Financial Transactions Processing, Reserve, and Clearinghouse Activities (522320), with an SBA-defined threshold for a small business of \$47 million in annual gross receipts.

However, because the number of potential future PPSIs (as defined under the GENIUS Act) is small relative to the number of total firms in this NAICS category, and because most stablecoin issuers generate revenue in a manner unlike other MSBs, FinCEN and OFAC considered that an alternative threshold might be better suited to identify a “small entity” based on the current distribution and characteristics of entities in the stablecoin industry.

Specifically, an asset-based threshold is a standard better suited to identifying genuinely small stablecoin issuers. As discussed earlier, stablecoin issuers primarily generate revenue through capital appreciation and other investment returns on their reserve holdings rather than receipts from the sale of goods or services. Moreover, a stablecoin issuer’s investment returns may be attributable primarily to fluctuations in interest rates and other market factors, meaning that a stablecoin issuer may produce vastly different returns over time with virtually no change in size. Accordingly, we do not believe that the gross receipts standard provides an appropriate means for FinCEN and OFAC to identify small stablecoin issuers for purposes of the RFA.

To determine an appropriate asset-based threshold, FinCEN and OFAC developed a profile of the stablecoin sector, which includes all affected

⁵⁰⁴ 12 U.S.C. 5903(a)(5)(A).

⁵⁰⁵ See 12 U.S.C. 5903(a)(5)(B); see also *supra* note 15 (discussing GENIUS Act delegation to Directors of FinCEN and OFAC).

⁵⁰⁶ 12 U.S.C. 5901(11). FinCEN proposes to define this category in its regulations using essentially the same language as the statute. See *supra* section VI.C.1.xi.

⁵⁰⁷ 12 U.S.C. 5901(31). FinCEN proposes to define this category in its regulations using essentially the

same language as the statute. See *supra* section VI.C.1.xiii.

⁵⁰⁸ See *supra* note 11. See also *infra* section XII.C.3.

stablecoin issuers as well as small businesses. Stablecoin issuers generally earn revenue using their reserve funds in a way similar to many other types of asset managers. Therefore, total reserve fund assets (“total assets”) is a good measure by which to define “small entities” in this industry, similarly to the way banks or investment companies are often measured. As discussed in section XII.A.2.ii.a, FinCEN and OFAC examined public data on the issuers of over 350 stablecoin products using publicly available data from several sources, which included metrics on the circulating value of each product. Because every USD fiat currency-backed stablecoin issued is backed by an equivalent value in USD, the circulating value is a good indication of the size of the stablecoin issuer’s reserve fund total assets.

Taken as a whole, stablecoin issuers managed a total of about \$300 billion in total assets as of 2025, with about \$250 billion of this value being held by issuers of products likely to be eligible for status as a payment stablecoin under

the Act. Among the stablecoin issuers reviewed, the mean total asset value was about \$5.6 billion. However, the distribution of assets across stablecoin issuer is highly skewed, with a significant concentration of assets at the very largest stablecoin issuers. Accordingly, the median value was significantly less than the mean, about \$14 million.

FinCEN and OFAC estimate that over 99 percent of potential payment stablecoin total assets are held by the top five stablecoin issuers. Table 18 provides a summary of total asset thresholds by percentile based on public data about the total circulating value of issuer’s associated stablecoins. Considering this concentration, FinCEN and OFAC propose using a threshold value of \$200 million in total assets to define a small PPSI, which is roughly the 80th percentile value. FinCEN and OFAC request public comment on the suitability of this threshold. This value also falls close to the mean total asset value for issuers below the top five percent of firms. Using the proposed

\$200 million total asset threshold would represent less than one percent of total assets in the industry as being held by small entities but would encompass 84 percent of likely payment stablecoin issuers for which data could be obtained (approximately 40 entities, 19 of which were identified as potential PPSIs). This results in a distribution of small entities which is fairly robust to the threshold; doubling the threshold \$400 million would result in an identical distribution and halving it to \$100 million would result in the exclusion of six issuers, resulting in 71 percent of stablecoin issuers being below the threshold. Eighty-four percent of stablecoin issuers falling below the threshold is consistent with the distributions of other similarly concentrated finance-related industries.

In considering the adoption of a \$200 million total asset threshold to designate PPSI size for RFA purposes, FinCEN and OFAC considered the following population distribution information for stablecoin issuers:

TABLE 18—STABLECOIN ASSET THRESHOLD ANALYSIS (ALL STABLECOINS)

Percentile	Net asset threshold	Percentage of issuers below (%)	Percentage of aggregate net assets below (%)
10th	\$300,660	11	0.0002
20th	887,584	18	0.0007
30th	3,952,000	22	0.0021
40th	10,260,054	36	0.0172
50th	13,670,000	47	0.0420
60th	33,446,620	58	0.0788
70th	62,497,337	67	0.1571
80th	173,946,000	78	0.3486
90th	734,997,872	87	0.7767
100th	173,113,000,000	98	32.3282

c. Small SQPSIs

At this time there is insufficient data to separately forecast a population of potential future SQPSIs. It is therefore not possible to assess the proportion of that potential future population that would be considered small for purposes of this analysis or assess the appropriateness of an additional alternative definition of “small” uniquely applicable to SQPSIs with any meaningful degree of certainty. Comments and data are invited to assist FinCEN and OFAC in analyzing the potential effects of the proposed requirements on SQPSIs, generally, and small SQPSIs in particular.

d. Small Entity PPSI Customers

Additionally, as discussed in section XII.A.2.ii.d.2, FinCEN and OFAC expect

that the proposed rule, if adopted, may impose costs on the primary market customers of future PPSIs that are legal entities because these PPSI customers would need to collect and provide information to their respective PPSIs, who would have initiated the requests for customers’ information as a consequence of the need to satisfy certain requirements in the proposed rule. FinCEN and OFAC anticipate that many of these affected PPSI customers would be digital asset exchanges, specialized digital commodities traders, and other types of investment and securities-related firms, at least some of whom may be small businesses for purposes of the RFA. As described earlier,⁵⁰⁹ FinCEN and OFAC estimate

that there are approximately 300,000 primary market customers that could, in the future, interact directly with PPSIs, of which the number of affected customers that may be U.S. businesses is expected to be no more than 10,000. As described earlier,⁵¹⁰ these businesses belong to several categories, including digital asset exchanges, specialized digital commodities traders, and other types of investment and securities related businesses, the majority of which would be classified under NAICS code 523 (“Securities, Commodity Contracts, and Other Financial Investments and Related Activities”). Table 19 summarizes FinCEN and OFAC’s analysis of the most recent vintage of Census Bureau data

⁵⁰⁹ See *supra* section XII.A.2.ii.d.2.

⁵¹⁰ *Id.*

corresponding to this NAICS code, which indicates that small business comprise the majority of the industries

that are expected to be the primary market customers of future PPSIs.

TABLE 19—DESCRIPTION OF PPSI CUSTOMER SMALL ENTITIES

Primary market customer type	Approximate number of customers	NAICS code	SBA small-business threshold	Percentage considered small ^a	Average annual revenue of small entities ^b
Digital Exchanges	300	523210	\$47 million	70% (about 210 firms)	\$5.85 million.
Other Investment Firms ...	10,000	523	\$47 million	97.7% (about 9,770 firms).	\$1.55 million.

^a To estimate the number of small entities in this sector, FinCEN and OFAC used the U.S. Census Bureau, 2022 Statistics of U.S. Businesses Data by Enterprise Receipts Size, available at <https://www.census.gov/data/tables/2022/econ/susb/2022-susb-annual.html> ("2022 SUSB Data"). FinCEN and OFAC counted the proportion of small businesses in NAICS code 523 with less than \$50 million in annual receipts (the closest available threshold). For Digital Exchanges, FinCEN used internal data.

^b Revenue data for NAICS code 523 and Digital Exchanges was collected from the 2022 SUSB Data and internal data.

ii. Estimating the Economic Impact on Small Future PPSIs

a. Small IDI Subsidiaries

As in section XII.C.2.i.a, FinCEN and OFAC are adopting by reference the applicable RFA analyses performed by the OCC, FDIC, and NCUA. FinCEN and OFAC are relying on the data provided and determinations already made by the Agencies with respect to the characteristics of expected future PPSIs under their jurisdictions because such agencies are better positioned to understand the nature of their regulated entities in a manner that could reasonably inform future expectations.⁵¹¹ As discussed in the Agencies' analyses, there is a general anticipation that future PPSIs that would be IDI subsidiaries would not be able to qualify as small by virtue of the dollar amount of their own offering/issuance. Additionally, it is not clear that the subsidiary of an institution that is not itself small would be eligible to obtain an independent designation as small. For these reasons, it may be unlikely that a small IDI-subsubsidiary PPSI could exist. FinCEN and OFAC are requesting comment on (1) the reasonableness of an expectation that a future small IDI-subsubsidiary PPSI might exist and, if so (2) the expected significance of the proposed rule's economic impact on such a small entity.

b. Other PPSIs

To examine the expected impact of the proposed rule on small entities, FinCEN and OFAC used two steps: the first step estimates the total number of small entities affected by the proposed rule, and the second step estimates the significance of this impact on those entities.

1. Estimated Number of Small Potential PPSIs

The SBA definition of "small entity" at 13 CFR 121.201 includes businesses, nonprofits, and small government entities with less than 50,000 residents. It is worth noting that some stablecoin issuers are organized as nonprofit entities and are included in this count.

Based on analysis of the distribution of data described above,⁵¹² FinCEN and OFAC are proposing a "small entity" definition that corresponds closely to the 80th percentile threshold, which was rounded to \$200 million for convenience in the proposed rule. The proposed \$200 million threshold would capture approximately 84 percent of stablecoin issuers, which together hold approximately one percent of aggregate average total assets.

Using the same methods discussed earlier,⁵¹³ FinCEN and OFAC identified 25 potential future PPSIs from among these stablecoin issuers, and among these, approximately 19 had fewer than \$200 million in total circulating stablecoin product values.

2. Expected Effect on FQPSIs

To contextualize the relative significance of costs associated with the proposed rule for small stablecoin issuing entities, FinCEN and OFAC used the estimates of total assets described earlier to estimate likely revenues for such issuers.⁵¹⁴ As referenced earlier,⁵¹⁵ stablecoin issuers generally derive revenue from investment returns on their reserve holdings. As stated in the Act, PPSIs are permitted to invest reserve funds in several different types of asset class, including government backed securities. Based on prevailing interest rates, FinCEN and OFAC

estimated that stablecoin issuers were likely to receive returns of about five percent on invested funds. While actual returns may fluctuate and fall below or above this estimate, this value represents an average for estimation purposes. To validate this assumption, FinCEN reviewed actual reported revenue values. While five percent of total assets was generally within the same order of magnitude as actual reported revenue, actual revenues often exceeded five percent.

Returns more than prevailing rates for government-issued fixed income securities can be due to several factors. First, issuers often "over collateralize" their products, meaning that they hold larger reserve portfolios than are required to redeem every coin at par value. This practice helps protect from market fluctuations and affords issuers greater flexibility during times of financial stress. In such cases, stablecoin issuers have reserve portfolios that are larger than the circulating value of their products, leading to returns in excess of those implied by multiplying their circulating value by prevailing rates of return for common reserve investments. Stablecoin issuers may also invest excess reserves in higher-yielding products or loans whose rates of return exceed those of government-backed securities. In addition to this, several other factors might lead to larger returns. For example, stablecoin issuers may offer certain fee-based services to customers, and may account for certain unrealized gains as revenue, increasing reported revenue levels.

Bearing these factors in mind, FinCEN and OFAC retained five percent of total assets as a reasonable benchmark for revenue. This parameter was chosen to retain an estimate of revenue that does not minimize costs or possible fluctuations in returns. By using a conservative but realistic estimate,

⁵¹² See *supra* section XII.C.2.i.b.

⁵¹³ *Id.*

⁵¹⁴ *Id.*

⁵¹⁵ *Id.*

⁵¹¹ See *supra* table 17 endnote a.

FinCEN and OFAC avoid underestimating the relative impact of compliance costs associated with the proposed rule. FinCEN and OFAC request comment on this benchmark.

In section XII.A.4.ii.a, FinCEN and OFAC discussed the expected costs of compliance with the proposed rule for PPSIs. In that section, the first-year incremental cost for a small PPSI was estimated to be approximately \$13,737

per IDI-subsidary PPSI and \$22,987 per non-IDI subsidiary PPSI, and approximately \$5,249 per IDI-subsidary PPSI and \$13,540 per non-IDI subsidiary PPSI in each year thereafter.

Table 20 presents FinCEN and OFAC's estimates of the share of small entity PPSIs that would experience significant impact as a result of the estimated first-year incremental compliance costs with the proposed rule

and the anticipated average compliance costs each year thereafter. FinCEN and OFAC request public comment on the general accuracy of these estimates of the impact to small entities. In an effort to avoid understating the effect on small entities, FinCEN and OFAC conservatively base the calculation on the estimated costs for small non-IDI subsidiary PPSIs.

TABLE 20—EXPECTED TOTAL COSTS OF PROPOSED REQUIREMENTS AS A SHARE OF MODELED ANNUAL REVENUE

Cost year	Modeled AML/ CFT program cost	Percentage of small entities for which Year-1 AML/CFT program costs exceed 1% of modeled revenue	Percentage of small entities for which Year-1 AML/CFT program costs exceed 3% of modeled revenue
1	\$23,000	71	61
2+	13,700	68	39

c. Small Entity PPSI Customers

While a substantial number of the firms that FinCEN and OFAC anticipate would be required to provide customer information to the PPSIs they wish to engage in direct transactions with, the cost of provisioning this information is expected to be *de minimis* relative to the average revenue of these firms.⁵¹⁶ Based on the estimated costs as described in section XII.A.4.ii.c and the average annual revenue values in table 19, the expected cost to legal entity customers by type are .002 percent and .008 percent of revenue, respectively. Therefore, while a substantial number of businesses may be providing information to issuers, FinCEN and OFAC do not contemplate that this requirement would constitute a significant effect when considered in relation to their overall financial positions.

3. Other Matters: Duplicate, Overlapping, Conflicting, and Alternative Requirements

FinCEN and OFAC are unaware of any existing Federal regulations that would overlap or conflict with the proposed rule. While FinCEN and OFAC are mindful of concurrent GENIUS Act rulemakings that are related to the proposed requirements in this rulemaking, neither FinCEN nor OFAC anticipate a conflict between those proposed rules and this NPRM. As previously discussed in section XII.A.2.i.d, the Agencies' proposed rules will require a prospective PPSI to include in its registration submission a

certification that the prospective PPSI has established and maintains the programs proposed in this NPRM. The Agencies' proposed rules would also require a PPSI that has been granted its registration to continue to provide re-certification of its AML/CFT program and its sanctions compliance program on an annual basis in the years following initial registration. Because the certification requirements are ancillary to the actual program establishments and ongoing maintenance that the certifications attest to, FinCEN and OFAC do not anticipate conflict with concurrently proposed regulations.

The following sections reiterate FinCEN specific alternatives that were previously discussed in section XII.A.5.i related to the expected costs and potential benefits to small entities.

As previously referenced in section XII.A.5.i.a, FinCEN considered exempting from or modifying requirements for small entities. In that section, FinCEN opted against this exclusion for several reasons. Firstly, because PPSI status is a voluntary designation, small entities wishing to otherwise adhere to another regulatory standard have certain abilities to do so, and thereby not incur the full burdens associated with the proposed PPSI requirements even without seeking and obtaining an exemption from the Secretary. Secondly, creating some category of PPSI for small issuers that would entail lessened AML/CFT requirements would conceivably result in the targeting of these PPSIs by illicit actors seeking to circumvent regulatory scrutiny. Lastly, FinCEN's analysis indicates that most technology services

that enable AML/CFT functions as described here are highly scalable, allowing small PPSIs to readily identify and employ more cost-effective options.

In addition, as discussed in greater detail in section XII.A.5.b, FinCEN also considered adopting additional BOI reporting requirements for new legal entity customers. Because many primary market customers of potential PPSIs are themselves small businesses, such a requirement that expanded reporting requirements beyond the information that is already provided in the ordinary course of business may have presented an incremental cost for some number of these small entities. However, as discussed in that section, FinCEN opted not to augment these requirements for several reasons. First, many stablecoin issuers already collect this additional information in the course of business, and are best situated to determine what, if any, additional information is necessary to make risk-based decisions about a customer. Secondly, the absence of this information does not exempt an issuer from the responsibility to assess the risk associated with specific customers or their transactions, and thus it is the prerogative of the issuer to determine whether or not such additional information is necessary to conduct risk-based screening and analysis. By not pursuing this regulatory alternative, the requirements FinCEN is proposing instead would impose lower costs on both small PPSIs and PPSI customers that are small entities.

D. Unfunded Mandates Reform Act

The UMRA requires that an agency prepare a statement before promulgating a rule that may result in expenditure by

⁵¹⁶ This cost is estimated to be less than \$200 per firm. See section XII.A.4.ii.c.

In addition, PPSIs would be required to identify and verify beneficial owners of new accounts opened by legal entity customers. The PPSI may obtain the required identifying information by either obtaining a prescribed certification form from the individual opening the account on behalf of the legal entity customer, or by obtaining from the individual the information required by the form by another means, provided the individual certifies to the

best of the individual's knowledge the accuracy of the information.

PPSIs must maintain a record of customers' identifying information and a description of any document relied on for verification, including a description of any non-documentary methods and results of any measures undertaken, and the resolutions of substantive discrepancies. PPSIs would be required to retain such records used to identify each beneficial owner for five years after the date the account is closed and would also be required to retain records used to verify the identity of each beneficial owner for five years after the record is made.

FinCEN estimates this activity would take an average of 0.25 hours per new customer. Given an average of 650 new customers per year, this would result in an annual burden of 162.5 hours per PPSI.

d. Recordkeeping and Reporting Burden Associated With CTRs

As discussed in section VI.C.7, entities subject to the AML/CFT program requirements of the BSA are obligated to file CTRs. Because stablecoin issuance and redemption is typically a digital-only business, FinCEN considers costs associated with filing CTRs to be *de minimis* for regulated entities. Therefore, FinCEN assigns zero cost to this requirement, but includes it here for pro forma completeness.

e. Recordkeeping and Reporting Burden Associated With SARs

Under the proposed rule, PPSIs would be required to conduct ongoing monitoring of customers' transactions and file SARs when appropriate. In addition, PPSIs would be required to maintain copies of filed SARs and the underlying related documentation for a period of five years from the date of filing. FinCEN utilized the findings in a recent Bank Policy Institute report on the number of suspicious activity alerts that turned into cases (*i.e.*, alerts that are not considered false positives) and concluded in the filing of a SAR (approximately 42 percent) to infer that for each case filed as a SAR, approximately 1.4 cases were not filed.⁵²⁶ While there is no requirement to report or retain unfiled suspicious activity alerts, FinCEN considers this activity to be part of the overall burden of SAR reporting and recordkeeping.

FinCEN estimates that PPSIs would file a weighted annual average of 190

SAR filings and have 266 unfiled cases. With an estimated hourly burden of 1.5 hours per SAR filing and 0.5 hours per unfiled case, together, these activities are estimated to take 418 hours annually per PPSI.

f. Recordkeeping Burden Associated With Proposed Recordkeeping and Travel Rule Requirements

The proposed rule would require PPSIs to comply with certain recordkeeping obligations, including recording and maintaining originator and beneficiary information for certain transactions. As discussed in section XII.A.4.ii.a.7, FinCEN expects the primary burden from these requirements to stem from compliance with proposed requirements related to the Recordkeeping and Travel Rules which are codified at 31 CFR 1010.410(e) and (f), respectively. The Recordkeeping and Travel Rules respectively require financial institutions to collect and retain records for funds transfers and transmittals of funds in amounts of \$3,000 or more and to transmit information on certain funds transfers and transmittals of funds to other financial institutions participating in the transfer or transmittal. Cumulatively, FinCEN estimates the annual recordkeeping burden per PPSI for these requirements would be approximately 20 hours.

g. Recordkeeping Burden Associated With Information Sharing

The proposed rule would require PPSIs to implement the information sharing procedures contained in section 314(a) of the USA PATRIOT Act. Section 314(a) requires financial institutions, upon FinCEN's request, to search their records to determine whether they have maintained an account or conducted a transaction with a specified individual, entity, or organization that a law enforcement agency has certified is suspected, based on credible evidence, of engaging in terrorist activity or money laundering. FinCEN estimates the annual hourly burden of complying with the requirements under section 314(a) would be approximately one hour for each regulated entity.

h. Recordkeeping Burden Associated With Special Standards of Diligence Requirements

Under the proposed rule, PPSIs would be required to apply enhanced due diligence for correspondent and private banking accounts. The scope of the annual PRA burden and cost estimates in this renewal is limited to maintaining and updating the due diligence

programs as part of current AML/CFT program requirements.

Due to the practical challenges of obtaining the total number of correspondent accounts maintained for foreign financial institutions subject to general due diligence requirements, the number of correspondent accounts maintained for foreign banks subject to enhanced due diligence requirements, and the number of private banking accounts, the scope of the annual PRA burden is limited to the annual burden of (1) establishing and maintaining a due diligence program as part of the AML/CFT program for foreign correspondent accounts and private banking accounts, and (2) securing approval of the program by an appropriate level of senior management.

FinCEN estimates the annual hourly burden of establishing and maintaining the due diligence program for foreign correspondent accounts and private banking accounts and obtaining program approval at two hours per PPSIs. This estimate covers the burden of (1) establishing and maintaining the due diligence program to take into consideration any regulatory changes and any potential modifications required by changes in the types of foreign correspondent accounts or private banking accounts maintained, or by changes in the operations or organizational structure of the foreign financial institutions for which a covered financial institution maintains accounts, as well as changes to the organizational structure of private banking accounts (one hour), and (2) presenting the updated due diligence program to the appropriate level of senior management of the financial institution for approval (one hour).

i. Recordkeeping Burden Associated With Special Measure Requirements

As discussed in section VI.C.11.iii, the rule proposes that PPSIs be required to comply with special measures issued pursuant to the sections 311, 9714(a), and 2313a to maintain the options available under these sections to protect the U.S. financial system from certain illicit finance threats. FinCEN assumes that all 50 PPSIs would have foreign correspondent accounts and would therefore incur costs associated with the special measures under section 311.

Consistent with the approach outlined in FinCEN's recent 60-day notice,⁵²⁷ FinCEN estimates the average burden for the 20 non-IDI subsidiary PPSIs

⁵²⁶ See Bank Policy Institute, *Getting to Effectiveness—Report on U.S. Financial Institution Resources Devoted to BSA/AML & Sanctions Compliance*, *supra* note 483.

⁵²⁷ FinCEN, *Agency Information Collection Activities; Proposed Renewal; Comment Request: Renewal Without Change of Information Collection Requirements in Connection With the Imposition of Special Measures*, 90 FR 57279 (Dec. 10, 2025).

would be approximately eight hours in the first year for general recordkeeping activities. FinCEN assumes that the 30 IDI-subsidary PPSIs would leverage the special measure processes that are already in place and would therefore each incur only a 0.5-hour burden in the

first year. FinCEN assumes that in subsequent years, all 50 PPSIs would incur an annual 18-minute burden associated with notification.

j. Total Annual Burden

Tables 21 and 22 present the annual burden hours per respondent and total

annual burden hours for all affected PPSIs for year one and years two and three, respectively.⁵²⁸ FinCEN estimates a three-year annual burden of 672 hours per PPSI⁵²⁹ and a three-year average annual burden of 33,577 hours for all 50 PPSIs.

TABLE 21—YEAR-1 BURDEN HOUR ESTIMATES

Provision	Hours per response	Number of responses	Hours per respondent	Number of respondents	Total burden hours
Establishing and maintaining the written AML/CFT program (including program approval, storing the program, and producing it upon request)	30	1	30	50	1,500
Ongoing customer due diligence	50	1	50	50	2,500
BOI-related customer due diligence	0.25	650	162.5	50	8,125
Recordkeeping and reporting of CTRs	0	0	0	50	0
Recordkeeping and reporting of SARs	1.5	190	285	50	14,250
Recordkeeping of unfiled suspicious activity cases	0.5	266	133	50	6,650
Recordkeeping and Travel Rule requirements	20	1	20	50	1,000
Information sharing requirements (314(a))	1	1	1	50	50
Establishing and maintaining the enhanced due diligence program (including program approval)	2	1	2	50	100
Special measures (non-IDI subsidiary PPSIs)	8	1	8	20	160
Special measures (IDI-subsidary PPSIs)	0.5	1	0.5	30	15
Total				50	34,350

TABLE 22—YEARS-2+ BURDEN HOUR ESTIMATES

Provision	Hours per response	Number of responses	Hours per respondent	Number of respondents	Total burden hours
Establishing and maintaining the written AML/CFT program (including program approval, storing the program, and producing it upon request)	10	1	10	50	500
Ongoing customer due diligence	50	1	50	50	2,500
BOI-related customer due diligence	0.25	650	162.5	50	8,125
Recordkeeping and reporting of CTRs	0	0	0	50	0
Recordkeeping and reporting of SARs	1.5	190	285	50	14,250
Recordkeeping of unfiled suspicious activity cases	0.5	266	133	50	6,650
Recordkeeping and Travel Rule requirements	20	1	20	50	1,000
Information sharing requirements (314(a))	1	1	1	50	50
Establishing and maintaining the enhanced due diligence program (including program approval)	2	1	2	50	100
Special measures	0.3	1	0.3	50	15
Total			664	50	33,190

iii. Estimated Annual Cost

Tables 23 and 24 present the average annual cost per respondent and total annual cost for all affected PPSIs for

year one and years two and three, respectively. FinCEN estimates the three-year average annual cost of recordkeeping and reporting

requirements under the proposed rule to be approximately \$4.2 million, with a three-year average annual cost of \$83,660 per PPSI.

TABLE 23—TOTAL COST IN YEAR 1

Provision	Hours per respondent	Average cost per respondent	Total burden hours	Total cost
Establishing and maintaining the written AML/CFT program (including program approval, storing the program, and producing it upon request)	30	\$3,737	1,500	\$186,870

⁵²⁸ Hourly burden figures presented in tables 22 and 23 are rounded to the nearest hundredth of an hour for presentation purposes. Total burden figures are produced using unrounded figures for accuracy.

⁵²⁹ FinCEN notes that because, in its approach to calculating expected time burdens, different burden estimates apply to PPSIs of various (1) types (*e.g.*, whether a PPSI is a subsidiary of an IDI or not) and (2) sizes, average values may not meaningfully

represent the economic burden that any single, particular PPSI may expect to incur.

TABLE 23—TOTAL COST IN YEAR 1—Continued

Provision	Hours per respondent	Average cost per respondent	Total burden hours	Total cost
Ongoing customer due diligence	50	6,229	2,500	311,450
BOI-related customer due diligence	162.5	20,244	8,125	1,012,213
Recordkeeping and reporting of CTRs	0	0	0	0
Recordkeeping and reporting of SARs	285	35,505	14,250	1,775,265
Recordkeeping of unfiled suspicious activity cases	133	16,569	6,650	828,457
Recordkeeping and Travel Rule requirements	20	2,492	1,000	124,580
Information sharing requirements (314(a))	1	125	100	6,229
Establishing and maintaining the enhanced due diligence program (including program approval)	2	249	100	12,458
Special measures (non-IDI subsidiary PPSIs)	8	997	160	19,933
Special measures (IDI-subsidary PPSIs)	0.5	62	15	1,869
Total			34,350	4,279,323

TABLE 24—TOTAL COST IN YEAR 2

Provision	Hours per respondent	Average cost per respondent	Total burden hours	Total cost
Establishing and maintaining the written AML/CFT program (including program approval, storing the program, and producing it upon request)	10	\$1,246	500	\$62,290
Ongoing customer due diligence	50	6,229	2,500	311,450
BOI-related customer due diligence	162.5	20,244	8,125	1,012,213
Recordkeeping and reporting of CTRs	0	0	0	0
Recordkeeping and reporting of SARs	285	35,505	14,250	1,775,265
Recordkeeping of unfiled suspicious activity cases	133	16,569	6,650	828,457
Recordkeeping and Travel Rule requirements	20	2,492	1,000	124,580
Information sharing requirements (314(a))	1	125	100	6,229
Establishing and maintaining the enhanced due diligence program (including program approval)	2	249	100	12,458
Special measures	0.3	37	15	18,869
Total	664	82,696	33,190	4,134,810

iv. Summary of Burden and Cost Estimates

Estimated Number of Respondents: 50 PPSIs.

Estimated Average Aggregate Annual Recordkeeping and Reporting Burden: 33,577 hours.

Estimated Average Aggregate Annual Recordkeeping and Reporting Cost: \$4.18 million.

2. OFAC

In accordance with requirements of the PRA, 44 U.S.C. 3506(c)(2)(A), and its implementing regulations, 5 CFR part 1320, the following information concerning the collection of information as it relates to the proposed PPSI sanctions compliance program requirements is presented to assist those persons wishing to comment on the information collections.⁵³⁰

OFAC will submit a request for a new OMB control number for some of the specific, new information collection and recordkeeping requirements for PPSIs to maintain an effective sanctions

compliance program under this proposed rulemaking to implement the GENIUS Act. OFAC is proposing a new part 502 to chapter V of the CFR entitled the “Payment Stablecoin Effective Sanctions Compliance Program Regulations” to effectuate the GENIUS Act’s effective sanctions program requirement. The proposed information collection covered by this notice includes some of the requirements for an effective sanctions compliance program to be maintained by PPSIs. Even though the proposed sanctions compliance program prescribed five categories of requirement, only two are expected to engender recordkeeping burdens for purposes of the PRA: (1) internal controls (including maintaining written policies and procedures and certification of PPSI status) and (2) maintaining the records of results from testing and auditing and any enhancements identified for the sanctions compliance program will be covered by this information collection. Because a recordkeeping burden associated with the internal controls requirements of the anti-money

laundering/counter-terrorist financing (AML/CFT) program is already accounted for under FinCEN’s requested new OMB control number 1506–[XXXX], no additional burden is assigned here to avoid double counting activities that may have substantial functional overlap. The only cost and burden calculation itemized below pertains to the requirement to maintain the records of the results of, and any enhancements made following the testing and auditing mandated by the proposed rule for a PPSI’s sanctions compliance program.

i. Description of Impacted Financial Institutions and OMB Control Numbers

The likely respondents and recordkeepers affected by the information collections covered by this authority are PPSIs. OFAC’s current annual assessment of burden considers the number and type of information collection and recordkeeping requirements necessary for record retention under testing and auditing controls to maintain an effective sanctions compliance program for

⁵³⁰ See *infra* section XII.E.3.

PPSIs. The submissions covered by this information collection will be reviewed by the U.S. Department of the Treasury and may be used for sanctions reconsiderations and other regulatory or administrative actions by OFAC under its authorities.

OFAC will submit a request for a new OMB control number for the new recordkeeping requirements for testing and auditing for PPSIs to maintain a sanctions compliance program under this proposed rulemaking to implement the GENIUS Act. The internal controls burden is part of broader overall AML/CFT internal controls and are therefore accounted for under FinCEN's requested new OMB control number 1506-[XXXX].

ii. Estimated Annual Burden Hours

OFAC estimates that the average time for information collection for the recordkeeping requirements under the sanctions compliance program testing and auditing elements to be 100 hours for the industry.

iii. Estimated Annual Cost

The estimated total annual reporting burden associated with the information collections authorized under this authority is expected to cost approximately \$12,458 for the industry.

iv. Summary of Burden and Cost Estimates

The estimated total annual reporting burden associated with the information collections authorized under this authority is expected to cost approximately \$12,458 for the industry. Under this information collection, the estimated annual frequency of retaining record for audit and testing is once per year. OFAC's estimate for the number of unique entities annually is approximately 50 PPSIs. OFAC estimates that the average time for information collection and recordkeeping requirements to be 100 hours for industry.

3. General Request for Comments Under the Paperwork Reduction Act

Comments submitted in response to this proposed rule will be summarized and included in a request for OMB approval. All comments will become a matter of public record. FinCEN and OFAC invite comments on: (1) whether the collection of information is necessary for the proper performance of the mission of FinCEN and OFAC, including whether the information shall have practical utility; (2) the accuracy of FinCEN and OFAC'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 reporting persons, including through the use of technology; and (5) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services required to provide information.

F. Additional Requests for Comment

1. This RIA utilizes an assumption of presumed compliance with baseline regulatory requirements. Is there any reason to alternatively expect that the proposed rule, if adopted as a final rule, would independently alter the likelihood that a previously non-complaint entity would newly seek to come into compliance? If so, how would this alter the current expected balance of benefits to costs of the rule as proposed? Please provide data, studies, or anecdotal evidence that FinCEN and OFAC should take into consideration.

2. The assumption that all potential PPSIs would either be (1) affiliated with depository institutions as a subsidiary or as part of consortium or (2) successors to entities already registered as MSBs is foundational to FinCEN and OFAC's assessment of the incremental changes the proposed rule would introduce. Is this assumption reasonable? Additionally, is the projected distribution of 60 percent IDI-subsidary PPSIs and 40 percent non-IDI subsidiary PPSIs reasonable? If not, are there specific sources of empirical evidence or data that would suggest these assumptions should be revised? Please provide data, studies, or anecdotal evidence that would support the suggested alternative assumptions.

3. FinCEN and OFAC's estimate of the population of potential PPSIs incorporates certain assumptions about the willingness and/or likelihood of current stablecoin issuers to change certain features of their present product offerings to meet PPSI product requirements. Are there concerns about the reasonableness of this approach? Please provide data, studies, or any other information that might inform a more accurate assessment of how likely current stablecoin issuers are to change PPSI-disqualifying features or launch alternative products.

4. FinCEN and OFAC assume a total affected population of approximately 50 PPSIs on average in each of the first three years of an effective final rule. Are FinCEN and OFAC's implied assumptions regarding market entry and attrition rates and the resulting population estimate reasonable? If not, please provide data, studies, or reports that would enhance FinCEN and

OFAC's ability to estimate the expected size of the affected population.

5. The RIA in this NPRM does not include a forecasted population of potential future SQPSIs as a specific category of PPSIs due to limitations in data availability. Please provide data, studies, or anecdotal evidence that would enable analysis of the potential effects of the proposed requirements on SQPSIs, generally, and small SQPSIs in particular.

6. Stablecoin issuers, or potential stablecoin issuers, can seek PPSI status through various paths, including as a subsidiary of a depository institution, an uninsured national bank, or as another subtype of FQPSI or as a SQPSI. How likely are stablecoin issuers to choose each path?

7. FinCEN and OFAC formed certain expectations about the number of primary market customers a typical PPSI would have based on data regarding current stablecoin issuers. Are there other sources of data or other methods to more accurately estimate how many unique primary market customers a typical issuer of payment stablecoin-like products interacts with? What costs do these stablecoin issuers face in collecting customer information from these entities? How many of these customers are new to the issuer on an annual basis?

8. FinCEN and OFAC have conservatively assumed that the majority of future PPSI customers would either be financial institutions that trade a broad range of stablecoin products as part of their investment portfolios or digital asset exchanges that provide off-chain liquidity to retail customers for a similarly broad range of stablecoin products, and that these PPSI customers would each need to provide information about themselves to a PPSI once per year. How reasonable are these assumptions and expectations? How many new issuing/redeeming relationships do current primary market customers for payment stablecoin-like products typically initiate on an annual basis?

9. Are there other distinct, identifiable subpopulations of the general public that could reasonably be expected to be directly affected by the proposed rules and should have been separately considered in the RIA? To what extent could their exclusion have substantive effects on the RIA's assessment of economic impact? Please provide data, studies, or reports that would enhance FinCEN or OFAC's ability to identify and quantify such effects.

10. FinCEN and OFAC imposed certain conservative assumptions about the incremental costs of implementing

technology to block, freeze, and reject stablecoin transactions, while recognizing in their assessment of current market practices that the proposed requirements would not represent an incremental cost for many stablecoin issuers who appear to already have this technology. How common is this technology to stablecoin issuers? How costly is it, and do costs recur on an annual basis? Is there a substantive difference in costs to obtain and/or retrofit such technology after a stablecoin has already been issued?

11. Please provide data on the number of hours or specific costs associated with current stablecoin issuers' review of suspicious activity and SAR reporting. How generalizable are the data points provided to expected future PPSIs?

12. FinCEN and OFAC assume that many stablecoin issuers may have incentives to become PPSIs but did not have sufficient information to quantify these when analyzing the expected benefits of the proposed rule. Please describe any incentives that would be driving factors in a stablecoin issuer's decision to apply for PPSI status and, if applicable and to the extent feasible, include the expected magnitude of anticipated financial or economic benefit to the stablecoin issuer and comment on the generalizability to other similar issuers.

13. Are there any additional cost categories associated with establishment and maintenance of the proposed AML/CFT programs and/or the proposed sanctions compliance program that FinCEN and OFAC have failed to consider? If so, please describe. To what extent would a failure to separately consider these costs affect the conclusions of the RIA?

14. FinCEN and OFAC assumed that many of the same resources would be utilized by PPSIs to provide and complete the sanctions compliance program-specific training and AML/CFT training that the proposed rules would require. Is this a reasonable assumption? If not, please provide data, studies, or anecdotal evidence that would support an alternative assumption.

15. FinCEN and OFAC's assessment of economic impact assumes future PPSIs would incur lower training implementation costs relative to other financial institutions with larger employee bases and broader arrays of clients, like traditional banks or broker-dealers. Is this a reasonable assumption? If not, please provide data, studies, or anecdotal evidence that would support an alternative assumption.

16. FinCEN and OFAC request comment on the alternative policy

options presented and their anticipated economic effect.

17. The economic expectation that the proposed rule may have a significant economic impact on a substantial number of certain types of potentially affected small entities is sensitive to key assumptions about how potentially affected financial institutions would respond to the proposed requirements. FinCEN and OFAC request comment on whether it would instead be more reasonable to certify that the proposed rule would not have a significant economic impact on a substantial number of small entities.

18. FinCEN and OFAC are requesting comment on the reasonableness of an expectation that, in the future, small IDI-subsidary PPSI would exist. Are there data, studies, or anecdotal information that would suggest these kinds of PPSIs should be expected? If so, please comment on the expected population size and the anticipated significance of the proposed rule's economic impact on such small entities.

19. In the IRFA, FinCEN and OFAC utilized a threshold of less than \$200 million in total reserve assets to define a small non-bank payment stablecoin issuer. Please comment on the general soundness of this approach and/or suggest additional methodologies to the extent that an alternative approach would have been more appropriate.

20. In the IRFA, FinCEN and OFAC estimated firms' revenue for non-IDI subsidiary potential PPSIs as five percent of total reserve assets. Please comment on the general soundness of this approach and/or suggest additional methodologies to the extent that an alternative approach would have been more appropriate.

21. FinCEN and OFAC do not anticipate that the proposed rule would result in novel incremental aggregate expenditures by State, local, or Tribal governments, or by the private sector of \$193 million or more in any one year. Is there any empirical evidence that could be used to support expectations to the contrary? If so, what studies, data, or anecdotal evidence should have been taken into consideration?

22. Which states are likely to take action in response to this proposed rule, and what actions are states likely to take? Please provide data, studies, reports, or anecdotal evidence that would enhance FinCEN and OFAC's ability to identify and quantify such effects.

23. Should FinCEN reconsider the potential for standalone incremental economic effects attributable to the definitions as proposed in section VI.C.1, collectively or individually, in

the context of the requirements proposed in this NPRM? If so, please describe the effects anticipated and their expected economic significance.

24. Are FinCEN's analyses of the average costs for each component the AML/CFT framework as outlined in section XII.A.4.ii.a an accurate reflection of the costs faced by current issuers of products that resemble future payment stablecoins? If not, are there specific sources of empirical evidence or data that would suggest these burden estimates should be revised? Please provide data, studies, or anecdotal evidence that would support any suggested revisions. Are there reasons to expect that the cost profile for future PPSIs would substantively differ from the cost profile for current comparable stablecoin issuers?

25. FinCEN assumed that some PPSIs would interact with foreign banking entities as primary market customers and may therefore incur costs associated with special standards of diligence and/or the imposition of certain special measures and therefore conservatively assigned the related expected compliance burden to all expected future PPSI in its cost models. Is this a reasonable approach? If not, what share of stablecoin issuers should be expected to interact with foreign entities as primary market customers? Please provide data, studies, or anecdotal evidence that would enhance FinCEN's ability to estimate the affected population.

26. Are there any additional, distinct categories of cost associated with the establishment and maintenance of an AML/CFT program or otherwise associated with ensuring compliance with the proposed AML/CFT program requirements that FinCEN should have articulated and separately taken into consideration? If so, please discuss the extent to which failure to include such considerations would materially alter FinCEN's conclusions or expectations of economic impact.

27. Please provide comments on the policy alternatives FinCEN considered. In particular, do FinCEN's expectations about the anticipated balance of costs to benefits of the alternatives considered relative to the rule, as proposed, comport with market expectations?

28. For the purposes of this economic analysis, is it appropriate for OFAC to estimate the incremental effects of the proposed rule based on the presumption of full compliance by U.S. persons with sanctions law as currently administered by OFAC?

29. Should OFAC reconsider the potential for standalone incremental economic effects attributable to the

definitions as proposed in section VII.C, collectively or individually, in the context of the requirements proposed in this NPRM? If so, please describe the effects anticipated and their expected economic significance.

30. OFAC considers that in practice, regulated persons do not typically maintain sanctions compliance as a standalone function but operationalize sanctions compliance as an integrated component of an entity's broader AML compliance framework, and therefore combine the costs associated with sanctions compliance with AML frameworks. Is this a reasonable assumption?

31. OFAC estimated that retaining records for both audit activities and enhancements made to sanctions compliance programs would require only a couple of hours annually. How reasonable is this estimate?

32. Are there any additional, distinct categories of cost associated with the establishment and maintenance of a sanctions compliance program or otherwise associated with ensuring compliance with the proposed rule that OFAC should have articulated and separately taken into consideration? If so, please describe.

33. OFAC's analysis notes that its proposed rule will not create incremental costs for primary market customers of PPSIs. Is OFAC's analysis reasonable? If not, please provide defensible methods or data, studies, or anecdotal evidence that OFAC could use to estimate the economic burden its proposed rule would have on direct customers of PPSIs.

List of Subjects

31 CFR Part 502

Administrative practice and procedure, Banks, Banking, Blocking of assets, Credit, Foreign trade, Payment stablecoins, Penalties, Permitted payment stablecoin issuer, Reporting and recordkeeping requirements, Sanctions, Securities, Services.

31 CFR Part 1010

Administrative practice and procedure, Authority delegations (Government agencies), Banks, banking, Brokers, Business and industry, Citizenship and naturalization, Commodity futures, Crime, Currency, Electronic filing, Federal savings associations, Foreign persons, Holding companies, Indian—law, Indians, Insurance companies, Intergovernmental relations, Investigations, Law enforcement, Penalties, Reporting and recordkeeping requirements, Small businesses, Securities, Terrorism.

31 CFR Part 1033

Administrative practice and procedure, Banks, banking, Business and industry, Electronic filing, Foreign persons, Investigations, Law enforcement, Reporting and recordkeeping requirements, Terrorism.

For the reasons stated in the preamble, the Office of Foreign Assets Control proposes to amend 31 CFR chapter V and the Financial Crimes Enforcement Network proposes to amend 31 CFR chapter X as follows:

Title 31—Money and Finance: Treasury

CHAPTER V—OFFICE OF FOREIGN ASSETS CONTROL, DEPARTMENT OF THE TREASURY

■ 1. Add part 502 to read as follows:

PART 502—PERMITTED PAYMENT STABLECOIN ISSUER EFFECTIVE SANCTIONS COMPLIANCE PROGRAM REGULATIONS

Subpart A—General Provisions

Sec.

502.101 Relation of this part to other laws and regulations.

502.102 Records and reports.

502.103 Procedures.

502.104 Paperwork Reduction Act notice.

Subpart B—Effective Sanctions Compliance Program Requirements

Sec.

502.201 Effective sanctions compliance program requirements for permitted payment stablecoin issuers.

502.202 [Reserved]

Subpart C—General Definitions

Sec.

502.301 Knowingly.

502.302 OFAC.

502.303 Payment stablecoin-related activity.

502.304 Permitted payment stablecoin issuer; PPSI.

Subpart D—Penalties

Sec.

502.401 Penalties.

502.402 Referral to United States Department of Justice; administrative collection measures.

Authority: 3 U.S.C. 301; 12 U.S.C. 5901–5916; 18 U.S.C. 2339B; 19 U.S.C. 3901–3913; 21 U.S.C. 1901–1908; 31 U.S.C. 321(b); 50 U.S.C. 1701–1706, 4301–4341; Pub. L. 101–410, 104 Stat. 890, as amended (28 U.S.C. 2461 note).

Subpart A—General Provisions

§ 502.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exceptions of part 501 of this chapter, which includes recordkeeping and reporting requirements and other procedures that

apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the provisions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to other parts of this chapter excuses any requirement of this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation excuses any requirement of this part.

§ 502.102 Records and reports.

(a) For provisions relating to required records and reports, see part 501, subpart C, of this chapter. Recordkeeping and reporting requirements imposed by part 501 of this chapter with respect to requirements contained in this part are considered requirements arising pursuant to this part.

(b) A permitted payment stablecoin issuer shall provide upon request to OFAC, or its designee, any and all certifications submitted to its primary Federal payment stablecoin regulator or State payment stablecoin regulator that the permitted payment stablecoin issuer has implemented an economic sanctions compliance program pursuant to 12 U.S.C. 5904(i)(1).

§ 502.103 Procedures.

For procedures relating to administrative decisions, rulemaking, and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart E, of this chapter.

§ 502.104 Paperwork Reduction Act notice.

OFAC is seeking approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) for a new OMB control number for the specific, new recordkeeping requirements for permitted payment stablecoin issuers that are required to maintain an effective sanctions compliance program under this proposed rule. Other information collection and recordkeeping requirements pursuant to any OFAC sanctions program are approved by OMB under control number 1505–0164 and contained in § 501.901 of this chapter. An agency may not conduct or sponsor a collection of information unless it displays a valid control number assigned by OMB.

Subpart B—Effective Sanctions Compliance Program Requirements

§ 502.201 Effective sanctions compliance program requirements for permitted payment stablecoin issuers.

(a) Each permitted payment stablecoin issuer (PPSI) is required to maintain an effective sanctions compliance program (SCP).

(b) An effective SCP is one that is risk-based and reasonably designed to ensure compliance with all applicable U.S. sanctions. It shall include, at a minimum:

(1) *Senior management and organizational commitment.* A PPSI's senior management shall review and approve the SCP and support the SCP's effective implementation, including by ensuring the SCP, at a minimum:

(i) Applies to all payment stablecoin-related activity;

(ii) Has sufficient resources, including necessary investments in human capital, expertise, and information technology to carry out the activities described in paragraphs (b)(2) through (b)(5) of this section;

(iii) Is fully integrated into the PPSI's ongoing stablecoin-related operations;

(iv) Routinely provides risk updates, including testing results, to senior management and other appropriate stakeholders within the organization; and

(v) Provides sufficient authority and autonomy to the PPSI's compliance function to manage effectively U.S. sanctions risks for the entire organization.

(2) *Risk assessments.* Each PPSI shall:

(i) Conduct holistic assessments of U.S. sanctions risks at appropriate intervals. Such assessments should analyze all payment stablecoin-related activity and consider, among other relevant factors, a PPSI's customer base, its size and complexity, direct and indirect points of contact with foreign persons or persons residing in foreign jurisdictions, and specific products and services.

(ii) Use its risk assessments to inform the operation of its SCP, including by revising internal controls and training as appropriate; and

(iii) Revise risk assessments as appropriate to account for any identified U.S. sanctions violations or deficiencies; new products, services, mergers, or acquisitions; and any other factors that may affect the PPSI's risk profile.

(3) *Internal Controls.* Each PPSI shall:

(i) Establish and maintain a system of risk-based internal controls, including technical capabilities and written policies and procedures, applicable to all payment stablecoin-related activity,

whether on the primary or secondary market, that:

(A) Identifies any payment stablecoin-related activity that is or may be prohibited by U.S. sanctions;

(B) Blocks or rejects, as applicable, any payment stablecoin-related activity that violates or would violate U.S. sanctions;

(C) Provides reports to OFAC as required, including those described in § 502.102(b) and part 501 of this chapter; and

(D) Retains relevant records in accordance with OFAC recordkeeping obligations, including those described in part 501 of this chapter.

(ii) Document the internal controls described in paragraph (b)(3)(i) of this section in writing and clearly communicate them to all relevant personnel and stakeholders; and

(iii) Routinely review and revise the internal controls described in paragraph (b)(3)(i) by:

(A) Taking timely and appropriate action to remediate any identified gaps or deficiencies; and

(B) Ensuring the internal controls effectively address current, new, amended, or updated U.S. sanctions authorities and applicable U.S. sanctions risks, which may include addressing risks identified in the PPSI's risk assessments or in advisories, alerts, or notices issued by the Department of the Treasury or other relevant U.S. government agencies.

(4) *Testing and Auditing.* Each PPSI shall:

(i) Establish and maintain an independent testing or audit function, accountable to senior management, with sufficient resources, expertise, and authority to identify U.S. sanctions compliance-related weaknesses and deficiencies;

(ii) Ensure that qualified personnel routinely perform comprehensive, independent, and objective testing or auditing of the effectiveness of the SCP and its functions;

(iii) Utilize test and audit results as appropriate to identify and implement any needed updates or enhancements to the SCP; and

(iv) Maintain, and provide upon request to OFAC, records of the results and enhancements described in paragraph (b)(4)(iii) of this section.

(5) *Training.* Each PPSI shall establish and maintain a risk-based sanctions compliance training program that is:

(i) Performed at least annually and with a frequency appropriate to the PPSI's risk assessments and risk profile;

(ii) Provided to all relevant personnel and stakeholders;

(iii) Appropriately tailored to each trainee's role and responsibilities;

(iv) Modified to reflect risk assessment findings and identified deficiencies, including testing and audit findings or following identified violations of U.S. sanctions; and

(v) Designed to include easily accessible resources and materials for all relevant personnel and stakeholders.

§ 502.202 [Reserved]

Subpart C—General Definitions

§ 502.301 Knowingly.

The term *knowingly*, with respect to conduct, a circumstance, or a result, means that a person has actual knowledge, or should have known, of the conduct, the circumstance, or the result.

§ 502.302 OFAC.

The term *OFAC* means the Department of the Treasury's Office of Foreign Assets Control.

§ 502.303 Payment stablecoin-related activity.

The term *payment stablecoin-related activity* includes issuing, trading, holding, transacting, transferring, redeeming, or any other activity involving a payment stablecoin issued by a permitted payment stablecoin issuer from the time of issuance until the payment stablecoin's removal from circulation, whether on the primary or secondary market, including through redemption or by any other means.

§ 502.304 Permitted payment stablecoin issuer; PPSI.

The term *permitted payment stablecoin issuer* or *PPSI* means an individual, partnership, company, corporation, association, trust, estate, cooperative organization, or other business entity, incorporated or unincorporated, that is formed in the United States and is:

(a) A subsidiary of either an insured depository institution, as defined in section 3 of the Federal Deposit Insurance Act, 12 U.S.C. 1813, or an insured credit union, as defined in section 101 of the Federal Credit Union Act, 12 U.S.C. 1752, that has been approved to issue payment stablecoins, as defined in section 2(22) of the GENIUS Act, by a primary Federal payment stablecoin regulator, as defined in section 2(25) of the GENIUS Act;

(b) A Federal qualified payment stablecoin issuer, as defined in section 2(11) of the GENIUS Act; or

(c) A State qualified payment stablecoin issuer, as defined in section 2(31) of the GENIUS Act.

Subpart D—Penalties**§ 502.401 Penalties.**

(a) *Material Violations.* A permitted payment stablecoin issuer (PPSI) that materially violates the requirement to maintain an effective sanctions compliance program (SCP), as described in § 502.201, shall be liable for a civil penalty of not more than \$100,000 for each day during which the violation continues.

(b) *Knowing Violations.* In addition to the penalties described in paragraph (a) of this section, a PPSI who knowingly violates the requirement to maintain an effective SCP, as described in § 502.201 of this chapter, shall be liable for a civil penalty of not more than an additional \$100,000 for each day during which the violation continues.

§ 502.402 Referral to United States Department of Justice; administrative collection measures.

In the event that the violator does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to the Director of the Office of Foreign Assets Control, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a federal district court.

Title 31—Money and Finance: Treasury
CHAPTER X—FINANCIAL CRIMES
ENFORCEMENT NETWORK, DEPARTMENT
OF THE TREASURY

PART 1010—GENERAL PROVISIONS

■ 2. The authority citation for part 1010 is revised to read as follows:

Authority: 12 U.S.C. 1829b, 1951–1959, and 5901–5916; 31 U.S.C. 5311–5314 and 5316–5336; title III, sec. 314, Pub. L. 107–56, 115 Stat. 307; sec. 2006, Pub. L. 114–41, 129 Stat. 458–459; sec. 701, Pub. L. 114–74, 129 Stat. 599; sec. 6403, Pub. L. 116–283, 134 Stat. 3388.

■ 3. Revising § 1010.100 by:

- a. Revising and republishing paragraph (t)(9) and (t)(10);
- b. Adding paragraph (t)(11);
- c. Revising and republishing paragraph (ff)(8)(ii) and (ff)(8)(iii);
- d. Adding paragraph (ff)(8)(iv);
- e. Revising and republishing paragraph (bbb)(1);
- f. Revising and republishing paragraph (eee); and
- g. Adding paragraphs (nnn), (ooo), (ppp), (qqq), (rrr), (sss), (ttt), (uuu), (vvv), (www), and (xxx).

The revisions, republications, and additions read as follows:

§ 1010.100 General definitions.

* * * * *

(t) * * *

(9) An introducing broker in commodities;

(10) A mutual fund; or

(11) A permitted payment stablecoin issuer.

* * * * *

(ff) * * *

(8) * * *

(ii) A person registered with, and functionally regulated for examined by, the SEC or the CFTC, or a foreign financial agency that engages in financial activities that, if conducted in the United States, would require the foreign financial agency to be registered with the SEC or CFTC;

(iii) A permitted payment stablecoin issuer; or

(iv) A natural person who engages in an activity identified in paragraphs (ff)(1) through (ff)(5) of this section on an infrequent basis and not for gain or profit.

* * * * *

(bbb) * * *

(1) Except as provided in paragraph (bbb)(2) of this section, transaction means a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, security, contract of sale of a commodity for future delivery, option on any contract of sale of a commodity for future delivery, option on a commodity, purchase or redemption of any money order, payment or order for any money remittance or transfer, purchase or redemption of casino chips or tokens, or other gaming instruments, an issuance or redemption of a payment stablecoin, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.

* * * * *

(eee) *Transmittal order.* The term transmittal order includes a payment order and is an instruction of a sender to a receiving financial institution, transmitted orally, electronically, or in writing, to pay, or cause another financial institution or foreign financial agency to pay, a fixed or determinable amount of money or payment stablecoin to a recipient if:

* * * * *

(nnn) [Reserved]

(ooo) [Reserved]

(ppp) *Digital asset.* Any digital representation of value that is recorded

on a cryptographically secured distributed ledger.

(qqq) *Distributed ledger.* A technology in which data is shared across a network that creates a public digital ledger of verified transactions or information among network participants and cryptography is used to link the data to maintain the integrity of the public ledger and execute other functions.

(rrr) *Lawful order.* A lawful order is any final and valid writ, process, order, rule, decree, command, or other requirement issued or promulgated under Federal law, issued by a court of competent jurisdiction or by an authorized Federal agency pursuant to its statutory authority, that:

(1) Requires an individual, partnership, company, corporation, association, trust, estate, cooperative organization, or other business entity, incorporated or unincorporated, to seize, freeze, burn, or prevent the transfer of payment stablecoins it issued;

(2) Specifies the payment stablecoins or accounts subject to blocking with reasonable particularity; and

(3) Is subject to judicial or administrative review or appeal as provided by law.

(sss) *Payment stablecoin.*

(1) *In general.* A digital asset (i) that is, or is designed to be, used as a means of payment or settlement; and (ii) the issuer of which:

(A) Is obligated to convert, redeem, or repurchase for a fixed amount of monetary value, not including a digital asset denominated in a fixed amount of a monetary value; and

(B) Represents that such issuer will maintain, or create the reasonable expectation that it will maintain, the digital asset at a stable value relative to the value of a fixed amount of monetary value.

(2) *Exceptions.* A payment stablecoin does not include a digital asset that:

(i) Is a national currency;

(ii) Is a deposit (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), including a deposit recorded using distributed ledger technology; or

(iii) Is a security, as defined in section 2 of the Securities Act of 1933 (15 U.S.C. 77b), section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c), or section 2 of the Investment Company Act of 1940 (15 U.S.C. 80a–2).

(3) For purposes of this definition the term—

(i) *National currency* means each of the following—

(A) A Federal Reserve note (as the term is used in the first undesignated paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 411)); or

(B) A medium of exchange currently authorized or adopted by a domestic or foreign government, including a monetary unit of account established by an intergovernmental organization or by agreement between two or more countries that is:

- (1) Standing to the credit of an account with a Federal Reserve Bank;
- (2) Issued by a foreign central bank; or
- (3) Issued by an intergovernmental organization pursuant to an agreement by two or more governments; and

(ii) *Monetary value* means national currency or deposit (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) denominated in a national currency.

(ttt) *Permitted payment stablecoin issuer*. An individual, partnership, company, corporation, association, trust, estate, cooperative organization, or other business entity, incorporated or unincorporated formed in the United States that is:

- (1) (i) A subsidiary of an insured depository institution that has been approved to issue payment stablecoins by a primary Federal payment stablecoin regulator; or

(ii) A subsidiary of an insured credit union that has been approved to issue payment stablecoins by a primary Federal payment stablecoin regulator;

(2) A Federal qualified payment stablecoin issuer; or

- (3) A State qualified payment stablecoin issuer.

(uuu) *Primary Federal payment stablecoin regulator*.

- (1) For a subsidiary of an insured depository institution, as described in paragraph (ttt)(1)(i) of this section, the appropriate Federal banking agency of such insured depository institution;

(2) For an insured credit union or a subsidiary of an insured credit union, as described in paragraph (ttt)(1)(ii), the National Credit Union Administration;

- (3) For a State chartered depository institution, not covered in subparagraph (1), the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, or the Board of Governors of the Federal Reserve System; or

(4) For a Federal qualified payment stablecoin issuer, the Office of the Comptroller of the Currency.

(vvv) *Federal qualified payment stablecoin issuer*. An entity that is approved by the Office of the Comptroller of the Currency under 12 U.S.C. 5904 to issue payment stablecoins and is either—

- (1) A nonbank entity;
- (2) An uninsured national bank; or
- (3) A Federal branch.

(www) *State payment stablecoin regulator*. A State agency that has the

primary regulatory and supervisory authority in such State over entities that issue payment stablecoins. For purposes of this definition, the term State includes each State and each Territory and Insular Possession.

(xxx) *State qualified payment stablecoin issuer*. An entity that:

- (1) Is legally established under the laws of a State or Territory and Insular Possession and approved to issue payment stablecoins by a State payment stablecoin regulator; and

(2) Is not an uninsured national bank chartered by the Office of the Comptroller of the Currency pursuant to title LXII of the Revised Statutes; a Federal branch, or an insured depository institution (as described in paragraph (ttt)(1) of this section), or a subsidiary, of such national bank, Federal branch, or insured depository institutions.

■ 4. In § 1010.230, revise and republish paragraphs (b)(2) and (c) to read as follows:

§ 1010.230 Beneficial ownership requirements for legal entity customers.

* * * * *

(b) * * *

(2) Verify the identity of each beneficial owner identified to the covered financial institution, according to risk-based procedures to the extent reasonable and practicable. At a minimum, these procedures must contain the elements required for verifying the identity of customers that are individuals under § 1020.220(a)(2) of this chapter (for banks); § 1023.220(a)(2) of this chapter (for brokers or dealers in securities); § 1024.220(a)(2) of this chapter (for mutual funds); § 1026.220(a)(2) of this chapter (for futures commission merchants or introducing brokers in commodities); or for permitted payment stablecoin issuers procedures that enable the permitted payment stablecoin issuer to form a reasonable belief that it knows the true identity of each individual, including procedures that contain the elements of § 1020.220(a)(2); provided, that in the case of documentary verification, the financial institution may use photocopies or other reproductions of the documents listed in paragraph (a)(2)(ii)(A)(1) of § 1020.220 of this chapter (for banks); § 1023.220 of this chapter (for brokers or dealers in securities); § 1024.220 of this chapter (for mutual funds); § 1026.220 of this chapter (for futures commission merchants or introducing brokers in commodities), or for permitted payment stablecoin issuers for an individual, an unexpired government-issued identification evidencing nationality or

residence and bearing a photograph or similar safeguard, such as a driver's license or passport; and for a person other than an individual (such as a corporation, partnership, or trust), documents and any amendments thereto showing the existence of the entity, such as certified articles of incorporation, a government-issued business license, a partnership agreement, or a trust instrument. A covered financial institution may rely on the information supplied by the legal entity customer regarding the identity of its beneficial owner or owners, provided that it has no knowledge of facts that would reasonably call into question the reliability of such information.

(c) *Account*. For purposes of this section, *account* has the meaning set forth in § 1020.100(a) of this chapter (for banks); § 1023.100(a) of this chapter (for brokers or dealers in securities); § 1024.100(a) of this chapter (for mutual funds); § 1026.100(a) of this chapter (for futures commission merchants or introducing brokers in commodities); and for permitted payment stablecoin issuers a formal relationship between a customer and a permitted payment stablecoin issuer established to provide or engage in services, dealings, or other financial transactions.

* * * * *

■ 5. In § 1010.410:

- a. Removing the word “or” at the end of paragraph (e)(6)(i)(H) and (I);
- b. Revising and republishing paragraph (e)(6)(i)(J); and
- c. Adding paragraph (e)(6)(i)(K).

The removal, revisions, republications, and additions read as follows:

§ 1010.410 Records to be made and retained by financial institutions.

* * * * *

(e) * * *

(6) * * *

(i) * * *

(J) A mutual fund; or

(K) A permitted payment stablecoin issuer; and

■ 6. In § 1010.605:

- a. Revising and republishing (c)(2)(i), (ii), (iii), and (iv);
- b. Adding paragraph (c)(2)(v);
- c. Removing the word “and” at the end of paragraph (e)(1)(iii);
- d. Revising and republishing (e)(1)(iv); and
- e. Adding paragraph (e)(1)(v).

The revisions, republications, and additions read as follows:

§ 1010.605 Definitions.

* * * * *

(c) * * *

(2) * * *

(i) As applied to banks (as set forth in paragraphs (e)(1)(i) through (v) of this section):

(A) * * *

(ii) As applied to brokers or dealers in securities (as set forth in paragraph (e)(1)(ii) of this section) means any formal relationship established with a broker or dealer in securities to provide regular services to effect transactions in securities, including, but not limited to, the purchase or sale of securities and securities loaned and borrowed activity, and to hold securities or other assets for safekeeping or as collateral;

(iii) As applied to futures commission merchants and introducing brokers (as set forth in paragraph (e)(1)(iii) of this section) means any formal relationship established by a futures commission merchant to provide regular services, including, but not limited to, those established to effect transactions in contracts of sale of a commodity for future delivery, options on any contract of sale of a commodity for future delivery, or options on a commodity;

(iv) As applied to mutual funds (as set forth in paragraph (e)(1)(iv) of this section) means any contractual or other business relationship established between a person and a mutual fund to provide regular services to effect transactions in securities issued by the mutual fund, including the purchase or sale of securities; and

(v) As applied to permitted payment stablecoin issuers (as set forth in paragraph (e)(1)(v) of this section) means any formal relationship established by a permitted payment stablecoin issuer to provide regular services, dealings, and other financial transactions.

* * * * *

(e) * * *

(1) * * *

(iv) A mutual fund; and

(v) A permitted payment stablecoin issuer.

■ 7. In § 1010.651:

■ a. Removing the word “and” at the end of paragraph (a)(3)(i);

■ b. Revising and republishing (a)(3)(ii); and

■ c. Adding paragraph (a)(3)(iii).

The revisions, republications, and additions read as follows:

§ 1010.651 Special measures against Burma.

(a) * * *

(3) * * *

(ii) An investment company (as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-5)) that is an open-end company (as defined in section 5 of the Investment Company Act (15 U.S.C. 80a-5)) and that is

registered, or required to register, with the Securities and Exchange Commission pursuant to that Act; and

(iii) A permitted payment stablecoin issuer.

■ 8. In § 1010.653:

■ a. Removing the word “and” at the end of paragraph (a)(3)(ix);

■ b. Revising and republishing (a)(3)(x); and

■ c. Adding paragraph (a)(3)(xi).

The revisions, republications, and additions read as follows:

§ 1010.653 Special measures against Commercial Bank of Syria.

(a) * * *

(3) * * *

(x) A mutual fund, which means an investment company (as defined in section 3(a)(1) of the Investment Company Act of 1940 (“Investment Company Act”) (15 U.S.C. 80a-3(a)(1))) that is an open-end company (as defined in section 5(a)(1) of the Investment Company Act (15 U.S.C. 80a-5(a)(1))) and that is registered, or is required to register with the Securities and Exchange Commission pursuant to the Investment Company Act; and

(xi) A permitted payment stablecoin issuer.

■ 9. In § 1010.810, add paragraph (b)(11) to read as follows:

§ 1010.810 Enforcement.

* * * * *

(b) * * *

(11) To the appropriate primary Federal payment stablecoin regulator with respect to permitted payment stablecoin issuers regularly examined by the primary Federal payment stablecoin regulator for safety and soundness.

■ 10. Add part 1033 to read as follows:

PART 1033—RULES FOR PERMITTED PAYMENT STABLECOIN ISSUERS

Sec.

Subpart A—General Provisions

1033.100 Definitions.

1033.110 Severability.

Subpart B—Programs

1033.200 General.

1033.210 Anti-money laundering/countering the financing of terrorism program requirements for permitted payment stablecoin issuers.

1033.220 [Reserved]

1033.221 Supervision and enforcement.

1033.230 [Reserved]

1033.240 Additional technical capabilities, policies, and procedures for permitted payment stablecoin issuers.

Subpart C—Reports Required To Be Made By Permitted Payment Stablecoin Issuers

1033.300 General.

1033.310 Reports of transaction in currency.

1033.311 Filing obligations.

1033.312 Identification required.

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1033.320 Reports by permitted payment stablecoin issuers of suspicious transactions.

Subpart D—Records Required To Be Maintained By Permitted Payment Stablecoin Issuers

1033.400 General.

1033.410 Recordkeeping.

Subpart E—Special Information Sharing Procedures To Deter Money Laundering and Terrorist Activity

1033.500 General.

1033.520 Special information sharing procedures to deter money laundering and terrorist activity for permitted payment stablecoin issuers.

1033.530 [Reserved]

1033.540 Voluntary information sharing among financial institutions.

Subpart F—Special Standards of Diligence; Prohibitions, and Special Measures for Permitted Payment Stablecoin Issuers

1033.600 General.

1033.610 Due diligence programs for correspondent accounts for foreign financial institutions.

1033.620 Due diligence programs for private banking accounts.

1033.630 Prohibition on correspondent accounts for foreign shell banks; records concerning owners of foreign banks and agents for service of legal process.

Authority: 12 U.S.C. 1829b, 1951–1959, and 5901–5916; 31 U.S.C. 5311–5314 and 5316–5336; title III, sec. 314, Pub. L. 107–56, 115 Stat. 307; sec. 701, Pub. L. 114–74, 129 Stat. 599.

Subpart A—General Provisions

§ 1033.100 Definitions.

Refer to § 1010.100 of this chapter for general definitions not noted in this part. To the extent there is a differing definition in § 1010.100 of this chapter, the definition in this section is what applies to part 1033. Unless otherwise indicated, for purposes of this part:

(a) [Reserved]

(b) [Reserved]

(c) [Reserved]

§ 1033.110 Severability.

If any provision of this part, or any provision of §§ 1010.100, 1010.230, 1010.410, 1010.605, 1010.651, 1010.653, or 1010.810 of this chapter referencing permitted payment stablecoin issuers, is held to be invalid, or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions, or application of such other provisions to other persons or circumstances, that can be given effect without the invalid provision or application.

Subpart B—Programs

§ 1033.200 General.

Permitted payment stablecoin issuers are subject to the program requirements set forth and cross-referenced in this subpart. Permitted payment stablecoin issuers should also refer to subpart B of part 1010 of this chapter for program requirements contained in that subpart which apply to permitted payment stablecoin issuers.

§ 1033.210 Anti-money laundering/countering the financing of terrorism program requirements for permitted payment stablecoin issuers.

(a) *In general.* A permitted payment stablecoin issuer has an effective AML/CFT program and complies with the requirements of 31 U.S.C. 5318(h)(1) and this section if the permitted payment stablecoin issuer:

(1) Establishes an AML/CFT program in accordance with paragraph (b) of this section; and

(2) Maintains an AML/CFT program by implementing the AML/CFT program in accordance with paragraph (c) of this section.

(b) *Program establishment.* A permitted payment stablecoin issuer establishes an AML/CFT program in accordance with this paragraph if the permitted payment stablecoin issuer:

(1) Establishes a risk-based set of internal policies, procedures, and controls that are reasonably designed to ensure compliance with the Bank Secrecy Act and this chapter and to:

(i) Identify, assess, and document the permitted payment stablecoin issuer's money laundering, terrorist financing, and other illicit finance activity risks through risk assessment processes that:

(A) Evaluate the money laundering, terrorist financing, and other illicit finance activity risks of the permitted payment stablecoin issuer's business activities, including its products, services, distribution channels, customers, and geographic locations;

(B) Review and, as appropriate, incorporate the AML/CFT Priorities; and

(C) Are updated promptly upon any change that the permitted payment stablecoin issuer knows or has reason to know significantly changes the permitted payment stablecoin issuer's money laundering, terrorist financing, and other illicit finance activity risks;

(ii) Mitigate the permitted payment stablecoin issuer's money laundering, terrorist financing, and other illicit finance activity risks consistent with the risk assessment processes required under paragraph (b)(1)(i) of this section, including by directing more attention

and resources toward higher-risk customers and activities, consistent with the risk profile of the permitted payment stablecoin issuer, rather than toward lower-risk customers and activities; and

(iii) Conduct ongoing customer due diligence, including to:

(A) Understand the nature and purpose of customer relationships for the purpose of developing a customer risk profile; and

(B) Conduct ongoing monitoring to identify and report suspicious transactions and, on a risk basis, to maintain and update customer information (including information regarding the beneficial owners of legal entity customers, as defined in § 1010.230 of this chapter);

(2) Establishes independent AML/CFT program testing to be conducted by permitted payment stablecoin issuer personnel or by an outside party;

(3) Designates an individual, who is (i) located in the United States, (ii) accessible to, and subject to oversight and supervision by FinCEN and its designee, (iii) responsible for establishing and implementing the AML/CFT program and coordinating and monitoring day-to-day compliance, and (iv) has not been convicted of a felony offense involving insider trading, embezzlement, cybercrime, money laundering, financing of terrorism, or financial fraud may be designated as the responsible individual under this paragraph; and

(4) Establishes an ongoing employee training program.

(c) *Program implementation.* A permitted payment stablecoin issuer implements an AML/CFT program in accordance with this paragraph if the permitted payment stablecoin issuer implements, in all material respects, the AML/CFT program required under paragraph (b) of this section.

(d) *Written AML/CFT program and approval.* A permitted payment stablecoin issuer's AML/CFT program must be written, and it must be approved by the permitted payment stablecoin issuer's board of directors, an equivalent governing body within the permitted payment stablecoin issuer, or appropriate senior management. The permitted payment stablecoin issuer must make a copy of its AML/CFT program available to FinCEN or its designee upon request.

(e) *AML/CFT program certifications.* A permitted payment stablecoin issuer shall make available to FinCEN, or its designee, upon request any and all certifications submitted to its primary Federal payment stablecoin regulator or State payment stablecoin regulator that

the permitted payment stablecoin issuer has implemented an AML/CFT program pursuant to 12 U.S.C. 5904(i)(1).

§ 1033.220 [Reserved]

§ 1033.221 Supervision and enforcement.

(a) *Definitions.* For purposes of this section:

(1) *AML/CFT enforcement action* means any formal or informal action taken by FinCEN that seeks to penalize, remedy, prevent, or respond to noncompliance with past or ongoing violations of, or past or ongoing deficiencies relating to, an AML/CFT requirement. The term includes—

(i) A cease-and-desist order, consent order, or memorandum of understanding; or

(ii) The assessment of a civil money penalty.

(2) *AML/CFT requirement* means a requirement of the Bank Secrecy Act, 12 U.S.C. 5903(a)(5)(A)(i)–(v), 12 U.S.C. 5903(a)(6)(B), 12 U.S.C. 5903(f)(1)(A), or this chapter.

(3) *Significant AML/CFT supervisory action* means any written communication or other formal supervisory determination issued by FinCEN or a primary Federal payment stablecoin regulator when acting pursuant to authority delegated under this chapter that, in either case—

(i) Identifies one or more alleged deficiencies, weaknesses, violations of law, or unsafe or unsound practices or conditions relating to an AML/CFT requirement;

(ii) Communicates supervisory expectations to a permitted payment stablecoin issuer regarding actions or remedial measures required to correct the deficiency, weakness, violation, or practice or condition; and

(iii) Contemplates significant or programmatic actions or remedial measures to be taken by the permitted payment stablecoin issuer.

The term does not include examiner observations, suggestions, or other informal comments.

(b) *FinCEN enforcement and supervision policy.*

(1) *In general.* Except with respect to a significant or systemic failure to implement the AML/CFT program in accordance with § 1033.210(c), a permitted payment stablecoin issuer that has established an AML/CFT program in accordance with § 1033.210(b) will not be subject to:

(A) An AML/CFT enforcement action related to the requirements of 31 U.S.C. 5318(h)(1) or 31 CFR 1033.210 by FinCEN; or

(B) A significant AML/CFT supervisory action related to the

requirements of 31 U.S.C. 5318(h)(1) or 31 CFR 1033.210 by FinCEN or by a primary Federal payment stablecoin regulator when acting pursuant to authority delegated under this chapter.

(2) *Program establishment violations.* Nothing in this paragraph (b) may be construed to restrict an AML/CFT enforcement action by FinCEN, or a significant AML/CFT supervisory action by FinCEN or a primary Federal payment stablecoin regulator when acting pursuant to authority delegated under this chapter with respect to any failure to establish an AML/CFT program in accordance with § 1033.210(b).

(3) *Criminal enforcement.* Nothing in this paragraph (b) may be construed to affect criminal enforcement liability under the Bank Secrecy Act.

(c) *FinCEN consultation.*

(1) *Consultation and consideration requirement.* Before initiating a significant AML/CFT supervisory action, a primary Federal payment stablecoin regulator when acting pursuant to authority delegated under this chapter will provide the Director, FinCEN an opportunity to review the action and consider any input offered by the Director, FinCEN on the action, which may include any view as to the effectiveness of the permitted payment stablecoin issuer's AML/CFT program.

(2) *Notice requirement.* To provide the Director, FinCEN an opportunity to provide a view under paragraph (c)(1) of this section, a primary Federal payment stablecoin regulator when acting pursuant to authority delegated under this chapter will:

(i) Send written notice, to the Director, FinCEN of its intent to take that action at least 30 days before taking the action (unless a shorter period of time is necessary, in the sole discretion of the primary Federal payment stablecoin regulator, to remedy, prevent, or respond to an unsafe or unsound practice or condition), accompanied by the relevant AML/CFT information underlying the proposed action, including the relevant portions of the draft report or enforcement action, the relevant examination workpapers supporting the proposed action, and the relevant AML/CFT information submitted by the permitted payment stablecoin issuer to the primary Federal payment stablecoin regulator, other than information over which the permitted payment stablecoin issuer may claim privilege under Federal or State law; and

(ii) Respond to the extent reasonably practicable to requests for additional information from the Director, FinCEN regarding the proposed action.

(d) *FinCEN considerations.* In determining whether to take an AML/CFT enforcement action or significant AML/CFT supervisory action, or when reviewing a proposed action by a primary Federal payment stablecoin regulator under paragraph (c) of this section or applicable regulations under title 12 of the Code of Federal Regulation, the Director, FinCEN shall consider:

(1) The factors under 31 U.S.C. 5318(h)(2)(B), as applicable to actions concerning the AML/CFT program requirements under § 1033.210;

(2) The extent (if any) to which the permitted payment stablecoin issuer, where appropriate in light of its size, complexity, and risk profile, has advanced the AML/CFT priorities by providing highly useful information to law enforcement authorities or national security officials, conducting proactive analytics, or performing other innovative activities producing demonstrable outputs evincing the effectiveness of the permitted payment stablecoin issuer's AML/CFT program (including effective use of artificial intelligence, federated learning, and other advanced monitoring tools); and

(3) Any other factor the Director, FinCEN deems appropriate, including the permitted payment stablecoin issuer's size, complexity, and risk profile, and, as relevant, where the permitted payment stablecoin issuer's low-risk customers or limited business activities naturally limits the extent to which the permitted payment stablecoin issuer can meaningfully contribute to AML/CFT priorities.

§ 1033.230 [Reserved]

§ 1033.240 Additional technical capabilities, policies, and procedures for permitted payment stablecoin issuers.

(a) Permitted payment stablecoin issuers shall have the technical capabilities, policies, and procedures to block, freeze, and reject specific or impermissible transactions that violate Federal or State laws, rules, or regulations. The required technical capabilities, policies and procedures must account for transactions occurring by, at, or through the permitted payment stablecoin issuer, as well as transactions by third parties, including where a transaction results in an interaction with a permitted payment stablecoin issuer's smart contract.

(b) Permitted payment stablecoin issuers shall (1) have the technical capabilities to comply with the terms of any lawful order and (2) comply with the terms of any lawful order. A permitted payment stablecoin issuer's

technical capabilities to comply with the terms of any lawful order must account for lawful orders requiring an issuer to comply with terms regarding an issuer's payment stablecoins held by a third party, including in an account not with or controlled by a permitted payment stablecoin issuer, and transactions by third parties, including where a transaction results in an interaction with a permitted payment stablecoin issuer's smart contract.

Subpart C—Reports Required To Be Made By Permitted Payment Stablecoin Issuers

§ 1033.300 General.

Permitted payment stablecoin issuers are subject to the reporting requirements set forth and cross-referenced in this subpart. Permitted payment stablecoin issuers should also refer to subpart C of part 1010 of this chapter for reporting requirements contained in that subpart which apply to permitted payment stablecoin issuers.

§ 1033.310 Reports of transactions in currency.

The reports of transactions in currency requirements for permitted payment stablecoin issuers are located in subpart C of part 1010 of this chapter and this subpart.

§ 1033.311 Filing obligations.

Refer to § 1010.311 of this chapter for reports of transactions in currency filing obligations for permitted payment stablecoin issuers.

§ 1033.312 Identification required.

Refer to § 1010.312 of this chapter for identification requirements for reports of transactions in currency filed by permitted payment stablecoin issuers.

§ 1033.313 Aggregation.

Refer to § 1010.313 of this chapter for reports of transactions in currency aggregation requirements for permitted payment stablecoin issuers.

§ 1033.314 Structured transactions.

Refer to § 1010.314 of this chapter for rules regarding structured transactions for permitted payment stablecoin issuers.

§ 1033.315 Exemptions.

Refer to § 1010.315 of this chapter for exemptions from the obligation to file reports of transactions in currency for permitted payment stablecoin issuers.

§ 1033.320 Reports by permitted payment stablecoin issuers of suspicious transactions.

(a) *General.* (1) Every permitted payment stablecoin issuer shall file with

FinCEN, to the extent and in the manner required by this section, a report of any suspicious transaction relevant to a possible violation of law or regulation. A permitted payment stablecoin issuer may also file with FinCEN, by using the Suspicious Activity Report specified in paragraph (b)(1) of this section, or otherwise, a report of any suspicious transaction that it believes is relevant to the possible violation of any law or regulation, but whose reporting is not required by this section.

(2) A transaction, as clarified by paragraph (g) of the section, requires reporting under this section if it is conducted or attempted by, at, or through the permitted payment stablecoin issuer; it involves or aggregates funds or other assets of at least \$5,000; and the permitted payment stablecoin issuer knows, suspects, or has reason to suspect that the transaction (or a pattern of transactions of which the transaction is a part):

(i) Involves funds derived from illegal activity or is intended or conducted in order to hide or disguise funds or assets derived from illegal activity (including, without limitation, the ownership, nature, source, location, or control of such funds or assets) as part of a plan to violate or evade any Federal law or regulation or to avoid any transaction reporting requirement under Federal law or regulation;

(ii) Is designed, whether through structuring or other means, to evade any requirements of this chapter or any other regulations promulgated under the Bank Secrecy Act;

(iii) Has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the permitted payment stablecoin issuer knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction; or

(iv) Involves use of the permitted payment stablecoin issuer to facilitate criminal activity.

(3) A permitted payment stablecoin issuer and other financial institutions may have separate obligations to report suspicious activity with respect to the same transaction pursuant to other provisions of this chapter. In those instances, no more than one report is required to be filed by the permitted payment stablecoin issuer and other financial institution(s) involved in the transaction, provided that the report filed contains all relevant facts, including the name of each financial institution and the words “joint filing” in the narrative section, and each

institution maintains a copy of the report filed, along with any supporting documentation.

(b) *Filing and notification procedures*—(1) *What to file.* A suspicious transaction shall be reported by completing a Suspicious Activity Report (SAR) and collecting and maintaining supporting documentation as required by paragraph (c) of this section.

(2) *Where to file.* The SAR shall be filed with FinCEN in accordance with the instructions to the SAR.

(3) *When to file.* A SAR shall be filed no later than 30 calendar days after the date of the initial detection by the reporting permitted payment stablecoin issuer of facts that may constitute a basis for filing a SAR under this section. If no suspect is identified on the date of the initial detection, a permitted payment stablecoin issuer may delay filing a SAR for an additional 30 calendar days to identify a suspect, but in no case shall reporting be delayed more than 60 calendar days after the date of such initial detection.

(4) *Mandatory notification to law enforcement.* In situations involving violations that require immediate attention, such as suspected terrorist financing or ongoing money laundering schemes, a permitted payment stablecoin issuer shall immediately notify by telephone an appropriate law enforcement authority in addition to filing timely a SAR.

(5) *Voluntary notification to the Financial Crimes Enforcement Network or a Primary Federal Payment Stablecoin Regulator.* A permitted payment stablecoin issuer wishing to voluntarily report suspicious transactions that may relate to terrorist activity may call the Financial Crimes Enforcement Network’s Financial Institutions Hotline at 1–866–556–3974 in addition to filing timely a SAR if required by this section. The permitted payment stablecoin issuer may also, but is not required to, contact its primary Federal payment stablecoin regulator to report in such situations.

(c) *Retention of records.* A permitted payment stablecoin issuer shall maintain a copy of any SAR filed by the permitted payment stablecoin issuer or on its behalf (including joint reports), and the original (or business record equivalent) of any supporting documentation concerning any SAR that it files (or that is filed on its behalf) for a period of five years from the date of filing the SAR. Supporting documentation shall be identified as such and maintained by the permitted payment stablecoin issuer and shall be deemed to have been filed with the

SAR. A permitted payment stablecoin issuer shall make all supporting documentation available to FinCEN or any Federal, State, or local law enforcement agency, or any Federal regulatory authority that examines the permitted payment stablecoin issuer for compliance with the Bank Secrecy Act, upon request.

(d) *Confidentiality of SARs.* A SAR, and any information that would reveal the existence of a SAR, are confidential and shall not be disclosed except as authorized in this paragraph (d). For purposes of this paragraph (d) only, a SAR shall include any suspicious activity report filed with FinCEN pursuant to any regulation in this chapter.

(1) *Prohibition on disclosures by permitted payment stablecoin issuers—*

(i) *General rule.* No permitted payment stablecoin issuer, and no current or former director, officer, employee, or agent of any permitted payment stablecoin issuer, shall disclose a SAR or any information that would reveal the existence of a SAR. Any permitted payment stablecoin issuer, and any current or former director, officer, employee, or agent of any permitted payment stablecoin issuer, that is subpoenaed or otherwise requested to disclose a SAR or any information that would reveal the existence of a SAR shall decline to produce the SAR or such information, citing this section and 31 U.S.C. 5318(g)(2)(A)(i), and shall notify FinCEN of any such request and the response thereto.

(ii) *Rules of construction.* Provided that no person involved in any reported suspicious transaction is notified that the transaction has been reported, this paragraph (d)(1) shall not be construed as prohibiting:

(A) The disclosure by a permitted payment stablecoin issuer, or any current or former director, officer, employee, or agent of a permitted payment stablecoin issuer of:

(1) A SAR, or any information that would reveal the existence of a SAR, to FinCEN or any Federal, State, or local law enforcement agency, or any Federal regulatory authority that examines the permitted payment stablecoin issuer for compliance with the Bank Secrecy Act; or

(2) The underlying facts, transactions, and documents upon which a SAR is based, including but not limited to, disclosures:

(i) To another financial institution, or any current or former director, officer, employee, or agent of a financial institution, for the preparation of a joint SAR; or

(ii) In connection with certain employment references or termination notices, to the full extent authorized in 31 U.S.C. 5318(g)(2)(B); or

(B) The sharing by a permitted payment stablecoin issuer, or any current or former director, officer, employee, or agent of the permitted payment stablecoin issuer, of a SAR, or any information that would reveal the existence of a SAR, within the permitted payment stablecoin issuer's corporate organizational structure for purposes consistent with Title II of the Bank Secrecy Act as determined by regulation or in guidance. As doing so is consistent with Title II of the Bank Secrecy Act, a permitted payment stablecoin issuer, as defined in § 1010.100(ttt)(1), may reveal the existence of a SAR to its parent insured depository institution and such parent may also reveal the existence of a SAR to a subsidiary permitted payment stablecoin issuer.

(2) *Prohibition on disclosures by government authorities.* A Federal, State, local, territorial, or Tribal government authority, or any current or former director, officer, employee, or agent of any of the foregoing, shall not disclose a SAR, or any information that would reveal the existence of a SAR, except as necessary to fulfill official duties consistent with Title II of the Bank Secrecy Act. For purposes of this section, "official duties" shall not include the disclosure of a SAR, or any information that would reveal the existence of a SAR, in response to a request for disclosure of non-public information or a request for use in a private legal proceeding, including a request pursuant to 31 CFR 1.11.

(e) *Limitation on liability.* A permitted payment stablecoin issuer, and any current or former director, officer, employee, or agent of any permitted payment stablecoin issuer, that makes a voluntary disclosure of any possible violation of law or regulation to a government agency or makes a disclosure pursuant to this section or any other authority, including a disclosure made jointly with another institution, shall be protected from liability to any person for any such disclosure, or for failure to provide notice of such disclosure to any person identified in the disclosure, or both, to the full extent provided by 31 U.S.C. 5318(g)(3).

(f) *Compliance.* Permitted payment stablecoin issuers shall be examined by FinCEN or its delegates for compliance with this section. Failure to satisfy the requirements of this section may be a violation of the Bank Secrecy Act and of this chapter.

(g) *Transaction.* A transaction, for purposes of § 1033.320, is not conducted or attempted by, at, or through a permitted payment stablecoin issuer only because a transfer by third parties results in an interaction with a permitted payment stablecoin issuer's smart contract.

Subpart D—Records Required To Be Maintained By Permitted Payment Stablecoin Issuers

§ 1033.400 General.

Permitted payment stablecoin issuers are subject to the recordkeeping requirements set forth and cross referenced in this subpart. Permitted payment stablecoin issuers should also refer to subpart D of part 1010 of this chapter for recordkeeping requirements contained in that subpart which apply to permitted payment stablecoin issuers.

§ 1033.410 Recordkeeping.

For regulations regarding recordkeeping, refer to § 1010.410 of this chapter.

Subpart E—Special Information Sharing Procedures To Deter Money Laundering and Terrorist Activity

§ 1033.500 General.

Permitted payment stablecoin issuers are subject to the special information-sharing procedures to deter money laundering and terrorist activity requirements set forth and cross-referenced in this subpart. Permitted payment stablecoin issuers should also refer to subpart E of part 1010 of this chapter for special information-sharing procedures to deter money laundering and terrorist activity contained in that subpart which apply to permitted payment stablecoin issuers.

§ 1033.520 Special information sharing procedures to deter money laundering and terrorist activity for permitted payment stablecoin issuers.

For regulations regarding special information-sharing procedures to deter money laundering and terrorist activity for permitted payment stablecoin

issuers, refer to § 1010.520 of this chapter.

§ 1033.530 [Reserved]

§ 1033.540 Voluntary information sharing among financial institutions.

For regulations regarding voluntary information-sharing among financial institutions, refer to § 1010.540 of this chapter.

Subpart F—Special Standards of Diligence; Prohibitions, and Special Measures for Permitted Payment Stablecoin Issuers

§ 1033.600 General.

Permitted payment stablecoin issuers are subject to the special standards of diligence, prohibitions, and special measures requirements set forth and cross referenced in this subpart. Permitted payment stablecoin issuers should also refer to subpart F of part 1010 of this chapter for special standards of diligence, prohibitions, and special measures contained in that subpart.

§ 1033.610 Due diligence programs for correspondent accounts for foreign financial institutions.

For regulations regarding due diligence programs for correspondent accounts for foreign financial institutions, refer to § 1010.610 of this chapter.

§ 1033.620 Due diligence programs for private banking accounts.

For regulations regarding due diligence programs for private banking accounts, refer to § 1010.620 of this chapter.

§ 1033.630 Prohibition on correspondent accounts for foreign shell banks; records concerning owners of foreign banks and agents for service of legal process.

For regulations regarding prohibition on correspondent accounts for foreign shell banks and related provisions refer to § 1010.630 of this chapter.

Dated: April 8, 2026.

Andrea M. Gacki,

Director, Financial Crimes Enforcement Network.

Dated: April 8, 2026.

Bradley T. Smith,

Director, Office of Foreign Assets Control.

[FR Doc. 2026–06963 Filed 4–9–26; 8:45 am]

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Part IV

Federal Communications Commission

47 CFR Parts 1 and 73

Protecting Our Communications Networks by Promoting Transparency
Regarding Foreign Adversary Control; Final Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 73

[GN Docket No. 25–166; FCC 26–2; FR ID 338486]

Protecting Our Communications Networks by Promoting Transparency Regarding Foreign Adversary Control

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission or FCC) addresses the risks of foreign adversary control of Commission-granted licenses and authorizations by adopting rules requiring a broad range of holders of such licenses, authorizations, or approvals to attest whether they are owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary, and, if so, to disclose additional information about such foreign adversary control. Among other things, the Commission defines categories of licenses and authorizations that are subject to the rules, and establishes a streamlined process by which license and authorization holders should file their foreign adversary control attestations and disclosures.

DATES:

Effective date: Effective June 9, 2026.

Compliance date: Compliance with §§ 1.80003 and 73.1212(j)(8) of the Commission's rules, 47 CFR 1.80003 and 73.1212(j)(8), will not be required until the Commission announces the compliance date for §§ 1.80003 and 73.1212(j)(8) by notification in the **Federal Register** and revises §§ 1.80003 and 73.1212(j)(8) accordingly.

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

FOR FURTHER INFORMATION CONTACT:

Mason Shefa, Attorney Advisor, Competition Policy Division, Wireline Competition Bureau, at Mason.Shefa@fcc.gov or (202) 418–2494; Andrew McArdell, Attorney Advisor, Mobility Division, Wireless Telecommunications Bureau, at Andrew.McArdell@fcc.gov or (202) 418–1576; Gabrielle Kim, Attorney Advisor, Telecommunications and Analysis Division, Office of International Affairs, at Gabrielle.Kim@fcc.gov or (202) 418–0730; Chris Smeenk, Attorney Advisor, Operations and Emergency Management Division, Public Safety and Homeland Security Bureau, at Chris.Smeenk@fcc.gov or (202) 418–1630; Brendan Murray,

Deputy Chief, Policy Division, Media Bureau, at Brendan.Murray@fcc.gov or (202) 418–1573; or Tanner Hinkel, Industry Economist, Office of Economics and Analytics, at Tanner.Hinkel@fcc.gov or (202) 418–1536. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Nicole Ongele at (202) 418–2991, or send an email to PRA@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order* in GN Docket No. 25–166, FCC 26–2, adopted on January 29, 2026, and released on January 30, 2026. The complete text of this document is available for download at <https://docs.fcc.gov/public/attachments/FCC-26-2A1.pdf>. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format) by sending an email to fcc504@fcc.gov or calling the Commission's Consumer and Government Affairs Bureau at (202) 418–0503.

Regulatory Flexibility Act. The Regulatory Flexibility Act of 1980, as amended (RFA), 335 requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.” Accordingly, the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) concerning the possible impact of the rule changes contained in this Report and Order on small entities. The FRFA is set forth in Appendix B, <https://www.fcc.gov/document/protecting-us-networks-foreign-adversary-control>.

Paperwork Reduction Act. This *Report and Order* may contain new or substantively modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. All such requirements will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other federal agencies will be invited to comment on any new or modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might further reduce the information collection

burden for small business concerns with fewer than 25 employees.

In this present document, we describe several steps we have taken to minimize the information collection burdens on small entities. We have assessed the effects of the attestation and disclosure requirements adopted herein and find that they will not impose significant costs on Regulatees because similar requirements currently exist for many Covered Authorizations and they are likely to be familiar with the processes required for compliance. Further, we created a sliding-scale Schedule-based approach to the application of our attestation and disclosure requirements to minimize the burdens of complying across differently situated Regulatees. By doing so, we place certain Covered Authorizations that are typically or exclusively held by small entities in Schedule C and exempt these Regulatees from the initial reporting requirements. We also extended the duration of the filing deadline for small entities, minimizing any burdens they may face in complying with these requirements.

Congressional Review Act. The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs that this rule is “non-major” under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this Report and Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

OPEN Government Data Act. The OPEN Government Data Act, requires agencies to make “public data assets” available under an open license and as “open Government data assets,” *i.e.*, in machine-readable, open format, unencumbered by use restrictions other than intellectual property rights, and based on an open standard that is maintained by a standards organization. This requirement is to be implemented “in accordance with guidance by the Director” of OMB. The term “public data asset” means “a data asset, or part thereof, maintained by the Federal Government that has been, or may be, released to the public, including any data asset, or part thereof, subject to disclose under [the Freedom of Information Act (FOIA)].” A “data asset” is “a collection of data elements or data sets that may be grouped together,” and “data” is “recorded information, regardless of form or the media on which the data is recorded.”

Synopsis

Scope of the Information Collection

In this section, we set forth the scope of licenses, leases, authorizations, permits, grants, and other approvals subject to the attestation and disclosure requirements (reporting requirements) we adopt in this *Report and Order*. For the purposes of regulatory consistency, we use the Commission's preexisting definitions of an individual or entity "owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary," "foreign adversary," and "foreign adversary country" to govern the scope of individuals and entities which are subject to our Foreign Adversary Control rules. In this *Report and Order*, we use the term "Foreign Adversary Control" to refer to the term "owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary" as defined by the Commission. We then define three categories of licenses, leases, authorizations, permits, grants, and other Commission approvals (hereafter, Covered Authorizations)—Schedules A, B, and C—which apply different attestation requirements under our Foreign Adversary Control rules. Finally, we place each Covered Authorization into one or more of these Schedules, weighing various factors including national security risk of Foreign Adversary Control, public interest in transparency, and administrability.

Definitions

Owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary. For the purposes of our Foreign Adversary Control attestation and disclosure requirements, we use the definition of "owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary" that was adopted by the Commission in the *Submarine Cable Report and Order* (90 FR 48648, Oct. 27, 2025). As explained in the *Submarine Cable Report and Order* (90 FR 48648, Oct. 27, 2025), the Commission adopted this definition consistent with the Department of Commerce's rule, 15 CFR 791.2, with certain narrow modifications. Specifically, pursuant to § 1.70001(g) of our rules, the term "owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary" applies to:

(1) Any individual or entity, wherever located, who acts as an agent, representative, or employee, or any person who acts in any other capacity at the order, request, or under the direction or control, of a foreign

adversary or of an individual or entity whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in majority part by a foreign adversary;

(2) Any individual, wherever located, who is a citizen of a foreign adversary or a country controlled by a foreign adversary, and is not a United States citizen or permanent resident of the United States;

(3) Any entity, including a corporation, partnership, association, or other organization, that has a principal place of business in, or is headquartered in, incorporated in, or otherwise organized under the laws of a foreign adversary or a country controlled by a foreign adversary; or

(4) Any entity, including a corporation, partnership, association, or other organization, wherever organized or doing business, that is owned or controlled by a foreign adversary, to include circumstances in which any person identified in paragraphs (1) through (3) of this Section possesses the power, direct or indirect, whether or not exercised, through the ownership of a majority or a dominant minority (10% or greater) of the total outstanding voting interest and/or equity interest, or through a controlling interest, in an entity, board representation, proxy voting, a special share, contractual arrangements, formal or informal arrangements to act in concert, or other means, to determine, direct, or decide important matters affecting an entity.

In determining whether a foreign adversary "possesses the power . . . to determine, direct, or decide important matters affecting an entity," we refer to the factors indicative of control found in § 63.24, note 1 to paragraph (d), of our rules. As we stated in the *Submarine Cable Report and Order* (90 FR 48648, Oct. 27, 2025), we note that, while we include factors indicative of control in our definition of "owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary," a determination of control is not limited to these factors. The Commission will consider the totality of the circumstances reflected in the record.

We find that cross-referencing the Commission's preexisting definition of this term, which incorporates the Department of Commerce's definition in 15 CFR 791.2, promotes regulatory consistency not only across Commission rules but also across other Federal agencies implementing Executive Order 13873. We also find that the inclusion of equity and controlling interests in our preexisting definition is applicable here and supports the national security goals

of this proceeding by capturing all mechanisms of Foreign Adversary Control, and that applying a dominant minority threshold of 10% promotes consistency with other Commission rules. We note that, rather than proposing to adopt a definition that differs in language from the Department of Commerce's definition in 15 CFR 791.2, the *Foreign Adversary Control Notice of Proposed Rulemaking (Document)* (90 FR 26244, June 20, 2025) proposed to interpret "that is owned . . . by a foreign adversary" in subpart (4) of that definition to include both equity and voting interests and to interpret "dominant minority" to mean a minimum of 10% interest. Given the Commission has adopted a definition of "owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary" that incorporates these clarifications within the text and is thus aligned with the interpretation proposed in the *Document* (90 FR 26244, June 20, 2025), we find that cross-referencing § 1.70001(g) for purposes of implementing the Foreign Adversary Control rules will have the same effect as our original proposal while simplifying administrability of the new rules. The National Association of Broadcasters (NAB) notes that the 10% dominant minority threshold for voting and equity interests differs from the 5% threshold applied to broadcast licensees under the broadcast attribution rules. First, NAB argues that we should *raise* the 10% threshold to a level that it considers to be "controlling," yet does not suggest a specific percentage. Second, NAB argues that, for broadcast licensees, we should instead match the *lower* threshold of 5% voting interests to which broadcasters are already subject under the broadcast attribution rules, for the sake of reducing burdens. While we understand NAB's desire for the Commission to harmonize the voting thresholds for broadcast licensees subject to existing ownership disclosure requirements, we find that adopting a uniform threshold of 10% equity and voting interests across all Covered Authorizations for purposes of the Foreign Adversary Control rules strikes the right balance between promoting national security, reducing regulatory burdens, and promoting regulatory consistency. For this reason, we also reject Foundation for Defense of Democracies' (FDD) suggestion to adopt a 5% dominant minority threshold. We respond specifically to NAB's arguments about increased burdens below. Finally, NAB concedes, "[i]n the event that the Commission chooses not to apply the 5% voting interest

threshold consistent with broadcast attribution rules, NAB supports the use of a 10% voting or equity threshold.” As the Commission noted in the *Submarine Cable Report and Order* (90 FR 48648, Oct. 27, 2025), an individual or entity may exert direction or control, or significant influence, over a subject entity even without holding a majority of the equity and/or voting interests, and ownership interests as low as five and ten percent are relevant to protecting national security by identifying foreign adversary involvement in a licensee. The Commission also stated that this ownership threshold is consistent with Commission rules and precedent for assessment of any national security, law enforcement, foreign policy, and/or trade policy concerns regarding certain applications filed with the Commission as they relate to the applicant’s reportable foreign ownership. Consistent with that view and in light of our decisions today, for purposes of § 1.70001(g)(4) of the Commission’s rules, we treat a holder of 10% or greater of the total outstanding voting and/or equity interest in a Regulatee as “possess[ing] the power . . . to determine, direct, or decide important matters affecting an entity.” Accordingly, to the extent that any individual or entity identified in § 1.70001(g)(1)–(3) possesses such an interest in a Regulatee, the Regulatee is covered by § 1.70001(g)(4) and shall attest affirmatively where applicable to the Regulatee under our reporting requirements, and include the requisite additional disclosures. To the extent such Regulatee believes that the 10% or greater voting and/or equity interest in the Regulatee does not allow the interest holder to “determine, direct, or decide important matters affecting an entity,” it must attest affirmatively and demonstrate by clear and convincing evidence why such interest does not meet § 1.70001(g)(4). We delegate authority to the Licensing Bureaus and Offices, and the Enforcement Bureau, to review, conduct further inquiries, request additional information, and make determinations on such provisional attestations. We also delegate authority to OEA and PSHSB, in consultation with the Licensing Bureaus and Offices and the Enforcement Bureau as appropriate, to determine how to treat such attestations in the Foreign Adversary Control System after review is concluded and a determination is made.

Commenters largely support our adoption of this definition. As the Foundation for Defense of Democracies

(FDD) notes, our expansion beyond mere ownership will “stymie [foreign adversaries’] efforts to use . . . regulatory and legal architecture to coerce nominally independent firms into furthering the [adversary’s] geopolitical ambitions.” FDD further adds that a foreign adversary may “use[] a range of corporate governance structures, including ‘golden shares,’ shell companies, and other intermediaries, to obscure its control over nominally commercial ventures.” We agree with FDD that, by adopting this expanded definition of Foreign Adversary Control, the Commission “will effectively capture these dynamics within the regulatory process.” We disagree with the Information Technology Industry Council’s (ITI) contention that the definition is “overly broad and lacks sufficient clarity to be reliably implemented in the communications sector.” While ITI agrees that “control may also be exercised through other vectors,” it suggests that the term “subject to the jurisdiction of” “broadens the scope of the . . . rule significantly without producing tangible upside from a supply chain risk management perspective.” ITI also argues that inclusion of the term “risks forcing FCC Regulatees to classify employees based on citizenship status, rather than actual control or influence, thereby complicating compliance and undermining workforce equity and operational certainty.” We disagree that this term will raise such a risk. The attestation and disclosure requirements we adopt herein pertain to the Regulatee, whether an individual or entity, that holds the Covered Authorization. Under our definition, a Regulatee would not be deemed “owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary” solely because it has an employee that is a citizen of a foreign adversary country, as the definition would be applied to the Regulatee instead of the employee. The rule does not define an individual or entity that is “owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary” to include any individual or entity that employs a person who is a citizen of a foreign adversary country. The definition would apply to circumstances, for example, where a Regulatee is an employee of a foreign adversary country, or a Regulatee is owned or controlled by (as those terms are defined herein) an employee of a foreign adversary or of an individual or entity that is owned or controlled by a foreign adversary. We

also reiterate that this definition has been adopted by the Commission and the Department of Commerce, and thus our implementation of such definition for purposes of the Foreign Adversary Control rules would promote consistency and minimize burdens for Regulatees subject to various similar regulations. For this reason, we also decline ITI’s suggestion that we adopt a 50% ownership threshold, rather than a 10% threshold. Lastly, we dispute NAB’s contention that requiring all Regulatees to identify their voting and equity interests for the purposes of our Foreign Adversary Control rules would be unfair to those, such as broadcasters, that only must identify voting interests on their ownership reports by “creat[ing] additional burdens that are not being imposed on other services.” Rather, we find that applying the rule broadly across different services reduces any perceived unfairness by requiring the same burden of reporting to which some Regulatees have already been subject. We additionally note that, as we explain below, we adopt a more tailored application of the attestation and reporting requirements to account for different entity types, sizes, and levels of sophistication.

Despite TP-Link’s claims to the contrary, nothing in this Order labels Regulatees or individual owners of Regulatees as “foreign adversaries.” Rather, “foreign adversaries” are the six specific governments or persons identified to date by the Secretary of Commerce. The requirements we adopt today apply when a Regulatee is “owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary,” as that term is defined elsewhere in Commission rules. That definition addresses not just “control” but also when a person or entity is subject to the “jurisdiction or direction of a foreign adversary.” TP-Link fails to address the “jurisdiction or direction” element of the definition, including the extent to which citizens of a foreign adversary country fall under that provision because they must comply with that country’s laws and regulations. Indeed, as the Commission recognized specifically with respect to China, “Chinese law requires citizens . . . to cooperate, assist, and support Chinese intelligence efforts *wherever they are in the world*.” While the alternatives put forth by TP-Link would provide an exception for citizens of foreign adversary countries that hold U.S. visas, reside in the United States, or have applications for citizenship or petitions for permanent residency pending, none of these alternatives

address the fact that such citizens of foreign adversary countries nonetheless remain subject to foreign laws. Accordingly, requiring attestation when a Regulatee is itself a citizen of a foreign adversary country or when such citizen possesses the power to determine, direct, or decide important matters affecting an entity is a factual statement regarding the association that such citizen, and hence the Regulatee, has with a foreign adversary. As such, the rules we adopt today do not compel speech in violation of the First Amendment. To the contrary, a requirement to report information to the government fundamentally differs from the typical compelled speech case, which generally involves situations where “the complaining speaker’s own message [is] affected by the speech it [is] forced to accommodate.” Conversely, the rules here require reporting of factual information to the Commission—a Regulatee’s association with a foreign adversary—to allow the Commission to analyze potential national security risks. Additionally, a Regulatee that attests as to Foreign Adversary Control is also required to “describe the nature of the foreign adversary ownership, control, jurisdiction, or direction to which the Regulatee is subject.” Therefore, any Regulatee would be able to explain why such Regulatee meets our definition of “owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary” but, in the Regulatee’s view, should not be considered “owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary.” Despite TP-Link’s claims to the contrary, the rules we adopt today impose only a reporting requirement. Unlike in the other decisions TP-Link notes, our Report and Order today does not adopt any adverse presumptions based on a Regulatee’s association with a foreign adversary. There is no message being forced by the government. Even assuming that speech rights are implicated, our reporting requirements are consistent with the First Amendment, as they entail disclosure of “purely factual and uncontroversial” information in a commercial context and the disclosure is reasonably related to a substantial governmental interest (ensuring information needed to assess national security risks) which outweighs the “minimal” interest in not disclosing purely factual, uncontroversial information. In the alternative, even assuming our requirements are subject to heightened First Amendment review, our reporting requirements satisfy this higher standard because there is a

substantial interest in knowing whether Regulatees are associated with foreign adversaries to assess national security risks and the requirement is not more extensive than is necessary because the information will be collected in a manner that balances national security concerns against the burden on regulated entities.

We decline to adopt SentinelOne’s suggestion to expand the definition of Foreign Adversary Control to encompass more subtle forms of foreign adversary influence such as “commercial dependencies and critical contractual relationships, . . . material business interests, . . . economic coercion and strategic dependence scenarios, and . . . intellectual property and critical supply chain dependencies.” In the *Submarine Cable Report and Order* (90 FR 48648, Oct. 27, 2025), we also declined to include the word “influence” in defining the term “owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary,” and instead adopted a clearer and narrower definition that is also “aligned with interagency national security regulations deriving from President Trump’s Executive Order 13873, covering the closely related matter of ‘Securing the Information and Communications Technology and Services Supply Chain.’” We recognized “that industry has recommended and prefers clear lines and directions rather than ambiguous and potentially capacious terminology.” We noted that, “while every major global company is ‘subject to the influence’ of the government of the People’s Republic of China, including many prominent cable landing licensees, not all companies may be subject to a degree of influence such that they threaten national security and law enforcement interests.” We reach the same conclusion here, that, “[w]hile we wish to sweep broadly enough to cover private entities subject to multifaceted forms of foreign adversary control, we do not desire or intend a scope as broad as ‘subject to the influence’ by itself implies.” We also noted, however, that the Commission’s rules recognize that “[b]ecause the issue of control inherently involves issues of fact, it must be determined on a case-by-case basis and may vary with the circumstances presented by each case.” We similarly find for purposes of the Foreign Adversary Control rules that, “[w]hile we include factors indicative of control in our definition of ‘owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary,’ a determination of control is

not limited to these factors.” The Commission will consider the totality of the circumstances reflected in the record. We are confident that applying the definition through a fact-based analysis on a case-by-case basis will allay SentinelOne’s concerns regarding specific scenarios potentially raised by Foreign Adversary Control. We note that, while we decline to amend the definition to include more subtle forms of control, we nevertheless retain the authority to take action to mitigate national security risks stemming from such forms of control should such actions be necessary.

We also decline to “exclude any companies headquartered in the U.S. or an allied nation . . . who use a Chinese-incorporated subsidiary to conduct business in China’s commercial marketplace,” as the Center for Procurement Advocacy suggests. The Center for Procurement Advocacy adds that we should consider exempting “companies that have firewalled any Chinese operations appropriately, thereby insulating non-Chinese business operations from risk.” As noted above, TP link also urges the Commission to narrow this definition. Exempting such companies from disclosure could sweep too broadly by allowing a Regulatee to determine that a firewall is sufficient without even disclosing a Chinese-incorporated subsidiary. This would deprive the Commission of the information needed to assess national security risk associated with the subsidiary, given that the multitude of domestic businesses which have foreign adversary-incorporated subsidiaries may have varying levels of “firewalls” protecting their domestic operations from Foreign Adversary Control. Given that the purpose of the rules is to establish a disclosure mechanism to fill gaps in the Commission’s knowledge of the forms of Foreign Adversary Control over Covered Authorizations, we find it important to gather all relevant information that would enable the Commission to responsibly protect national security interests. Indeed, in contrast to the submarine cable rules that rely on this definition, we are not today even imposing legal restrictions on entities with Foreign Adversary Control, merely attestation and disclosure requirements. We thus find that our case-by-case approach to evaluating Foreign Adversary Control is well-suited to account for risk factors presented by Chinese-incorporated subsidiaries as well as the sufficiency of any mitigating measures such as firewalls. Additionally, as noted above, our interest in maintaining regulatory

consistency within the agency and with other Federal agencies that administer this definition supports our decision not to adopt an exemption for such arrangements. Of course, any entity subject to this definition is free to petition the Commission to waive its rules as applied to such entity “for good cause.”

Foreign adversary and foreign adversary country. For the purposes of our Foreign Adversary Control attestation and disclosure requirements, we use the definition of “foreign adversary” that was adopted by the Commission in the *Submarine Cable Report and Order* (90 FR 48648, Oct. 27, 2025). Specifically, the Commission defined “foreign adversary” consistent with the Department of Commerce’s rule, 15 CFR 791.2, as “any foreign government or foreign non-government person determined by the Secretary of Commerce, pursuant to Executive Order 13873 of May 15, 2019, to have engaged in a long-term pattern or serious instances of conduct significantly adverse to the national security of the United States or security and safety of United States persons as identified in 15 CFR 791.4.” For the purposes of implementing the rules we adopt today, we follow the Department of Commerce’s determination of foreign adversaries, consistent with the *Submarine Cable Report and Order* (90 FR 48648, Oct. 27, 2025), which currently includes:

- (1) The People’s Republic of China, including the Hong Kong Special Administrative Region and the Macau Special Administrative Region;
- (2) Republic of Cuba;
- (3) Islamic Republic of Iran;
- (4) Democratic People’s Republic of Korea;
- (5) Russian Federation; and
- (6) Venezuelan politician Nicolás Maduro.

In this *Report and Order*, our use of the term “foreign adversary country” incorporates the meaning of the Department of Commerce’s rule, 15 CFR 791.4, which specifically identifies “foreign governments or foreign non-government persons” (in lieu of “countries”) as “constitut[ing] foreign adversaries.” As in the *Submarine Cable Report and Order* (90 FR 48648, Oct. 27, 2025), we define “foreign adversary country” to include both the foreign governments identified as foreign adversaries in 15 CFR 791.4 and countries controlled by a foreign adversary (including foreign nongovernment persons) identified in 15 CFR 791.4. We find that, as with our definition of Foreign Adversary Control, applying a definition that is already in

use across Federal agencies and previously adopted by this agency promotes regulatory consistency and efficiency, and aligns with the policy goals of Executive Order 13873. We agree with ITI that alignment with the Department of Commerce’s rule “will mitigate business uncertainty that would arise if multiple national security review programs were to make divergent determinations as to what countries are determined as ‘foreign adversaries.’” We note that our list of foreign adversary countries is also currently identical to the list of “foreign governments” determined by the Attorney General, with the concurrence of the Secretaries of State and Commerce, to be “countries of concern.”

We disagree with FDD that we should “expand sourcing for [the] list of ‘foreign adversaries’ to include the Consolidated Screening List and other designations” such as “the Entity List maintained by the Bureau of Industry and Security and the 1260H List maintained by the Department of Defense.” As noted above, our adoption of the list of foreign adversaries designated by the Department of Commerce for its Information and Communications Technology and Services (ICTS) rules is aligned with Executive Order 13873 which addresses the risks presented by foreign adversaries’ exploitation of “vulnerabilities in information and communications technology and services, which store and communicate vast amounts of sensitive information, facilitate the digital economy, and support critical infrastructure and vital emergency services.” The foreign governments or foreign non-government persons identified in the Department of Commerce’s rule, 15 CFR 791.4, “have engaged in a long-term pattern or serious instances of conduct significantly adverse to the national security of the United States or security and safety of United States persons.” We decline to adopt the Entity List maintained by the Department of Commerce’s Bureau of Industry and Security, which, designates “certain foreign persons—including businesses, research institutions, government and private organizations, individuals, and other types of legal persons—that are subject to specific license requirements for the export, reexport and/or transfer (in-country) of specified items.” Such a list may be unnecessarily granular with respect to “foreign persons” than would be necessary or appropriate for purposes of addressing the risks of Foreign Adversary Control associated with

holders of Commission-issued licenses and authorizations. We also decline to adopt the 1260H List given that the inclusion of China on the Department of Commerce’s ICTS list of foreign adversaries would necessarily cover all the entities included on the 1260H List. Most of the entities on the Entity List are also covered under the rules we adopt today.

Establishing a Risk-Based Framework of Schedules To Classify Covered Authorizations

We adopt rules to establish a reporting framework that distinguishes and categorizes each Covered Authorization based on whether the Regulatee is: (A) required to submit an attestation either affirming or denying Foreign Adversary Control; (B) solely required to submit an attestation affirming Foreign Adversary Control; or (C) is not required to file an attestation in either event. We then categorize Commission-granted licenses, leases, authorizations, permits, grants, and other approvals onto three Schedules that assign each of these levels of reporting requirements based on a variety of factors including national security risk of Foreign Adversary Control and reporting burdens. We find this approach ensures the Commission receives the information it needs to promote national security while minimizing burdens to entities that present minimal or no national security risk. The complete listing of Covered Authorizations by Schedule can be found in Appendix A, § 1.80002(a) through (c). Under this approach, we clarify that, if a Regulatee with an attestation obligation is unsure how to respond, it must respond “yes,” and Commission staff will review the matter. “No” responses must be definitive, and filers may not seek staff clarification in their attestations or include materials with such responses meant to disclose information for staff review.

Schedule A. We assign to Schedule A those Covered Authorizations for which Regulatees must make a definitive attestation as to whether or not they are subject to Foreign Adversary Control. We find that Covered Authorizations in Schedule A present heightened national security risks because any exploitation of such Regulatees through Foreign Adversary Control could directly compromise the integrity of the nation’s communications networks. These entities typically provide essential services upon which the entire communications ecosystem depends. Their facilities often serve as the backbone of the nation’s communications networks, such that

vulnerabilities presented by even a single facility could be exploited to cause negative impacts that cascade across multiple networks and sectors. Because of this systemic importance, we find it necessary for Schedule A Regulatees to provide definitive “yes” or “no” attestations, ensuring that the Commission and our national security Federal partners receive transparent and actionable information. Further, we considered typical entity size when making determinations for how to classify Covered Authorizations, and those assigned to Schedule A include some of the largest Regulatees. These larger entities typically have larger networks and greater resources, including the means to obtain legal or compliance advice, that would facilitate compliance with these attestation and disclosure requirements. Thus, we conclude Regulatees with Covered Authorizations in Schedule A will be able to sustain the regulatory burden of completing the attestation and disclosure requirements, and the benefits of collecting this information outweigh the burdens.

Schedule B. We assign to Schedule B those Covered Authorizations for which Regulatees must make a definitive attestation only if they are subject to Foreign Adversary Control. We find that the systemic national security risks associated with Foreign Adversary Control of these entities is lower than for Schedule A Regulatees, but nevertheless Schedule B Regulatees operate in markets or provide services where knowledge of the presence of Foreign Adversary Control would be critical to the Commission’s oversight and protection of the nation’s communications networks. This tailored approach ensures that the Commission will receive “yes” attestations where risk is present, while minimizing compliance burdens where no or minimal risk exists.

Schedule C. We assign to Schedule C those Covered Authorizations that are exempt from initially attesting as to whether or not they are subject to Foreign Adversary Control. We exempt these Covered Authorizations from the initial attestation requirement because we find that likelihood of Foreign Adversary Control is limited, other reporting obligations already provide sufficient visibility into their ownership or control, their role in communications networks presents minimal national security risks, or they are already subject to other Commission regulations that adequately address the risks of Foreign Adversary Control. Further, we find that individual or small-entity Regulatees may pose a lesser risk to

national security should they be under Foreign Adversary Control. Therefore, the collection of this information would be unnecessarily burdensome upon these individuals and entities, substantially outweighing the benefits. By exempting these Covered Authorizations, we prioritize efficiency and reduce duplicative reporting requirements. We also note that, unless the relevant licensing Bureau or Office has provided clarification, a license, authorization, grant, or other Commission approval that is not listed in Schedules A, B, or C shall apply Schedule C requirements, and the Regulatee is exempt from initially attesting to whether they are subject to Foreign Adversary Control.

Future Adjustments. We recognize that national security risks associated with Foreign Adversary Control may change over time, both as the broader national security landscape evolves and as communications technologies, market forces, and economic realities that influence the communications sector continue to develop. We must balance our need to obtain a clear understanding of the presence of Foreign Adversary Control in the communications sector with the administrability of the information collection. Accordingly, we delegate authority to the respective Bureau or Office issuing the Covered Authorization (including those not addressed in this *Report and Order*) to modify the list of Covered Authorizations within each Schedule to add a new Covered Authorization, reassign an existing Covered Authorization from one Schedule to another, or remove a Covered Authorization, subject to the analysis described below. A Bureau or Office may make such modifications on petition or its own motion, through notice-and-comment rulemaking as necessary, and such modifications will be published in the **Federal Register**. Prior to adopting any modifications, the Bureau or Office will seek comment on any such modifications to the Schedules in accordance with the requirements of the Administrative Procedure Act (APA), and the Commission’s rules. Bureaus and Offices must consider and discuss the following factors when determining whether a modification is warranted:

(1) National security risks. This includes assessing (i) the type and size of Regulatee; (ii) the communications sector involved, including supply chain dependencies; (iii) the nature and type of the underlying infrastructure; (iv) the possibility and probability of Foreign Adversary Control; and (v) the existence

of risk-mitigating Commission regulations;

(2) Administrability. This includes assessing (i) whether the modification would simplify or complicate existing compliance processes for both the Commission and Regulatees, and (ii) the feasibility of agency review and enforcement;

(3) Burden on Regulatee. This includes evaluating (i) whether the attestation and disclosure requirements substantially duplicate existing reporting requirements; (ii) whether the burden would fall disproportionately on smaller entities; and (iii) whether the license, lease, authorization, permit, grant, or other Commission-granted approval is similarly situated to an existing Covered Authorization and thus should be treated similarly; and

(4) Other relevant considerations. This includes any other criteria deemed relevant by the applicable Bureau or Office, such as whether the attestation requirement for the Covered Authorization remains necessary in light of technological or industry developments. When a Bureau or Office considers whether to make adjustments to the Covered Authorizations list or to assign a Covered Authorization to a Schedule, these factors should be evaluated and taken in balance such that the benefits of the reporting outweigh the burdens. Commenters agree that it is important for the Commission to be aware of Foreign Adversary Control in the communications sector, but disagree as to whether the list of Covered Authorizations should be expanded or narrowed. Some urge a broader scope to reduce opportunities for foreign adversaries to access U.S. networks or circumvent reporting requirements. Others believe that existing Commission disclosure processes are sufficient. Several commenters support a balanced approach that secures necessary information without imposing unnecessary burdens on entities that do not pose Foreign Adversary Control risks. Commenters also emphasize the need to account for sector-specific risk exposure so that regulatory resources remain focused on genuine national security threats and compliance costs do not hinder innovation or investment. We agree with CCIA that “[a] risk-based set of disclosure rules—requiring more information from entities with demonstrable and significant foreign adversary control” provides an appropriate approach. Guided by these considerations, we find that the framework adopted today balances the need for the Commission’s insight into

Foreign Adversary Control and the burdens placed on reporting entities.

Types of Licenses Required To Report Wireless Services

We adopt our proposal to include all licenses, leases, authorizations, permits, grants, and other approvals in the wireless services within the scope of our Foreign Adversary Control rules, but adopt a tailored approach to the application of the rules by individually categorizing each license type within the three Schedules discussed above.

Broadband-capable geographic-area wireless licenses and Commission-certified frequency coordinators. We assign to Schedule A geographic-area wireless licenses capable of 4G or 5G mobile broadband service. These exclusive-use licenses cover the backbone of commercial wireless communications networks in the United States. Foreign Adversary Control of such licenses would therefore present a great risk to our national security interests. We also include in this category Commission-certified frequency coordinator certifications. Frequency coordinators make key recommendations to the Wireless Telecommunications Bureau regarding frequency assignments over a wide range of spectrum bands. Given their unique role in spectrum assignments, we likewise find that the national security risk of Foreign Adversary Control of such Regulatees outweighs the burden of filing a Schedule A certification.

Site-based wireless licenses and geographic-area licenses not covered by Schedule A or C, and FCC-appointed managers of third-party registration database(s) (part 101 subpart Q). We designate on Schedule B all site-based wireless licenses, and those geographic-area wireless licenses that do not fall within Schedule A or C, *i.e.*, geographic-area licenses: (1) for services that do not have sufficient capacity to support broadband, (2) that under our service rules may not provide mobile service, or (3) that are not exclusive-use or are individually licensed. These licenses and authorizations largely play localized roles in supporting business and industry (and to a much lesser extent, mass-market consumers) and therefore the risk of Foreign Adversary Control over these licenses and authorizations is lower than those on Schedule A. We also agree with National Wireless Communications Council's (NWCC) argument that there would be administrability challenges in applying a Schedule A attestation requirement on private, non-common-

carrier licensees. As NWCC argues, "requiring certifications from private and non-common carrier licensees authorized under 47 CFR parts 22, 80, 87, 90, 95 and 96, 101 may be unduly burdensome for the FCC, whose staff will need to review each such certification. There are several hundred thousand such licensees, including a large number of [public safety] entities, and the communications networks they operate are internal to their own organizations."

Mandatory antenna structure registrations. Consistent with our authority under Sections 301 and 303 of the Act, we assign to Schedule B registrations of towers in the Antenna Structure Registration (ASR) system pursuant to mandatory filing under 47 CFR 17.4(a). Unless such owners also hold Commission-granted licenses or authorizations, they do not directly access the public communications network and thus Foreign Adversary Control over such entities would pose less of a risk to national security. ASR owners that also hold Covered Authorizations assigned to Schedule A shall report according to the attestation rules applicable to that Schedule.

Other wireless licenses and authorizations. We assign to Schedule C Amateur Radio Service licenses; voluntary antenna structure registrations; Ship and Aircraft licenses; General Mobile Radio Service (GMRS) licenses; Commercial Radio Operator licenses (pursuant to 47 CFR part 13); and authorizations for individuals to operate stations by rule in the Ship, Aircraft, and Personal Radio Services (pursuant to 47 CFR parts 80, 87, and 95).

We agree with the National Association for Amateur Radio (ARRL) that, while there is a need to protect national security where entities are "engaged in commerce by providing networks, services or equipment to the American public, where there is the possibility of sensitive information being surreptitiously accessed." As ARRL notes, "[a]mateur radio licensees not only do not sell or provide any communications service, network, or equipment to the public, but in fact they are prohibited from doing so by both international and domestic law." The risk to national security of Foreign Adversary Control over these licenses is minimal due to the lack of connection to any of the nation's communications networks used by the public. We also agree with ARRL that this reasoning applies to similar services where licenses are held by individuals (*e.g.*, GMRS, Commercial Radio Operators), as well as other licenses and

authorizations that lack sufficient connection to commercial wireless communications networks in the United States. Furthermore, the Personal Radio Services—a category that encompasses over 1.6 million unique, mostly individual licensees—operate in shared spectrum bands for hobbyist and safety purposes, posing little threat to national security. Similarly, we include antenna structure owners that voluntarily register their towers in Schedule C because they are likely to be individuals or companies that lack sufficient connection to commercial communications networks. Given the sheer number of licensees and authorization holders in this group, the drain on Commission personnel and resources to process the collections and attestations for each individual licensee would far outweigh the little benefit to the public or the agency of doing so.

Section 310(b) Declaratory Rulings

We adopt our proposal to include both pending and granted Section 310(b) petitions for declaratory ruling within the scope of the attestation and disclosure rules, and place them in Schedule A. Section 310(b) of the Act provides for Commission review of foreign investment in radio station licenses and imposes specific restrictions on who may hold certain types of radio station licenses. Section 310(b)(3) prohibits foreign individuals and entities from holding equity and/or voting interests of more than 20% in a U.S. broadcast, common carrier, or aeronautical radio station licensee. Section 310(b)(4) prohibits foreign individuals and entities from holding equity and/or voting interests of more than 25% in a U.S.-organized entity that directly or indirectly controls a U.S. broadcast, common carrier, or aeronautical en route or aeronautical fixed radio station licensee. With a prior Commission finding that the proposed foreign ownership is in the public interest, a foreign individual, government, or entity may hold, directly or indirectly, more than 25% (and up to 100%) of the equity and voting interests of a licensee's controlling U.S. parent. No comment in the record addresses how best to receive certification and reporting from entities holding Section 310(b) declaratory rulings. The Commission's rules set out the specific requirements for what must be included in the petition, which include, among other things, the proposed aggregate foreign ownership and the citizenship for all individuals and entities, both United States or foreign, that will hold a direct or indirect 10% or greater equity and/or voting interest in the

controlling U.S. parent of the licensee(s). In evaluating a petition for a declaratory ruling seeking a determination that it is in the public interest to exceed the Section 310(b)(3) and (b)(4) statutory foreign ownership benchmarks, the Commission's public interest analysis considers, among other things, any national security, law enforcement, foreign policy, and trade policy concerns raised by the proposed foreign investment. While the rules set forth ownership disclosure requirements, those requirements do not capture the information that we need to ascertain whether a petitioner is "controlled by, or subject to the jurisdiction or direction of a foreign adversary." Unlike the newly adopted certification rules for applicants for submarine cable landing licenses, the Commission's requirements for a petition for Section 310(b) declaratory ruling do not include a certification as whether or not a petitioner is owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary. Foreign Adversary Control of a Regulatee may raise similar national security risks to critical U.S. communications infrastructure as foreign adversary ownership. Without this up-to-date information, the Commission lacks full visibility into the risks within our networks presented by such Foreign Adversary Control. We thus include Section 310(b) petitions that are pending or have been granted in Schedule A to close this information gap and assist the Commission's review of public interest implications of a Section 310(b) petition. We clarify that Regulatees that hold Covered Authorizations that are assigned to Schedules B or C and have a pending Section 310(b) petition for declaratory ruling or are subject to a Section 310(b) declaratory ruling will instead be required to file Schedule A attestations.

Satellite

We adopt the Commission's proposal to include space and earth station authorizations within the scope of the attestation and disclosure requirements and place them in Schedule A. As discussed in the *Document* (90 FR 26244, June 20, 2025), the Commission requires applicants for space and earth station authorizations, including authorizations for U.S. market access, to submit FCC Form 312—Main Form, which includes certain disclosures regarding reportable foreign ownership interests in the applicant or licensee. ITI suggests the Commission should avoid creating overlapping requirements with existing frameworks. To avoid duplicative disclosure requirements, we

decline to incorporate the Foreign Adversary Control attestation into the current FCC Form 312 in favor of a unified reporting approach for all Regulatees. No commenter objected to the proposed reporting requirements. As such, we conclude that all Regulatees submitting, or who have submitted, FCC Form 312 or otherwise seeking or holding an authorization under part 25 of the Commission's rules must also submit a Foreign Adversary Control attestation, consistent with the procedures adopted herein. We find that attestations from these Regulatees will serve the public interest by providing more accurate and specific information regarding Foreign Adversary Control in space and earth station networks. Further, we determine that any burdens or overlaps in reporting posed by these attestation and disclosure requirements are minimal and outweighed by the necessity and benefit of disclosure and transparency in protecting U.S. satellite networks from foreign adversaries. The Commission's *Space Modernization for the 21st Century Notice of Proposed Rulemaking (Space Modernization Notice)* (90 FR 56338, Dec. 5, 2025) adopted in October 2025 proposes to modernize and revise the space and earth station licensing procedures under part 25 of the Commission's rules, including the foreign ownership reporting for these applicants and licensees. We clarify that the Foreign Adversary Control attestation and disclosure requirements adopted herein do not affect, or conflict with, any proposed revisions or requirements in the *Space Modernization Notice* (90 FR 56338, Dec. 5, 2025) and any changes to the part 25 rules or proposed part 100 rules specific to foreign ownership reporting will be addressed in that proceeding.

Media

Broadcast licenses and Cable Television Relay Service. We adopt our proposal to include broadcast licenses within the scope of the attestation and disclosure rules, and place them in either Schedule A or Schedule B, depending on certain qualifications. Broadcast licenses include AM, FM, Low Power FM, FM Translator, FM Booster, TV, Class A TV, Low Power TV, and TV Translator station licenses. As explained with respect to Section 310(b) petitions for declaratory rulings, a broadcaster, regardless of size, that has filed a petition for declaratory ruling or is subject to a declaratory ruling will be assigned to Schedule A. We also assign to Schedule A broadcast and Cable Television Relay Service (CARS) licenses held by a Regulatee (or its

affiliate) with six or more full-time employees. In calculating the number of full-time employees, a Regulatee should include all of the full-time employees of the Regulatee's affiliates in addition to its own full-time employees. We assign all other broadcast and CARS licenses to Schedule B. Historically, the Commission has exempted broadcast licensees with five or fewer employees from rules or given those licensees more time to comply with Commission rules, and we believe that the same treatment is appropriate here. Consistent with the *Document* (90 FR 26244, June 20, 2025), we find that the public interest will be served by requiring larger broadcasters and those with Foreign Adversary Control to provide more accurate information about foreign adversary interests in accordance with the uniform initial reporting deadline we establish in this rulemaking, rather than postponing the filing of this information until the next license renewal cycle. We note that the Commission has found that "leased airtime [is] the primary means by which foreign governmental entities are accessing U.S. airwaves to persuade the American public without adequately disclosing the true sponsor." In the case of foreign adversary countries, however, we find that the national security risks discussed above justify a heightened and more immediate level of reporting with respect to lessees as well as the licensees themselves. The attestation and disclosure rules will fill critical information gaps regarding the Foreign Adversary Control of broadcast licensees in a timely manner. The Commission requires all existing broadcast licensees to certify in their renewal applications filed every eight years that they comply with our foreign ownership requirements and in foreign ownership petitions for declaratory ruling if the licensee will have foreign investment that exceeds specified thresholds. Filings of non-biennial Ownership Reports on occasion also capture station ownership but do not specifically collect foreign ownership information, as do applications for new station construction permits and applications for assignment or transfer of control of a broadcast station. The Commission also collects foreign ownership information from broadcasters that are publicly traded companies and that have a sudden change in ownership. Where foreign ownership does not exceed the thresholds in Section 310, the licensee does not need to provide anything other than a simple certification with its renewal application. Immediate reporting will ensure that if a foreign

adversary takes ownership of, or exerts other forms of control over, a licensee that provides critical information to our local communities, we will not need to wait up to eight years to discover that fact.

Foreign adversary sponsorship. As we note in multiple contexts and in the *Document* (90 FR 26244, June 20, 2025), ownership is only one of many forms of control that a foreign adversary may exercise over a Regulatee. As such, in the broadcast context, we consider a recipient of an affirmative response from a foreign adversary to the required inquiries applicable to airtime lessees under the Commission's foreign sponsorship identification rules to be subject to a higher national security risk comparable to Foreign Adversary Control, and require such recipients to file foreign adversary lessee information with the Commission. Specifically, any broadcaster that receives an affirmative response under the Commission's foreign sponsorship identification rules from a lessee that is a foreign adversary must file with the Commission the information the lessee provided to the broadcaster. If the broadcast licensee has fewer than six employees and receives an affirmative response under the Commission's foreign sponsorship identification rules from a lessee that is a foreign adversary but the licensee itself does not meet the criteria for a "yes" attestation, then the broadcaster will fulfill its duties under Schedule A by filing a copy of the lessee's information with the Commission; the licensee will not be required to attest "no." Our foreign sponsorship identification rules require radio and television stations to provide an on-air disclosure whenever the licensee broadcasts programming that is provided by a foreign governmental entity through a lease of time on their stations and place additional information regarding the disclosures and corresponding programming in the station's Online Public Inspection File (OPIF). The Commission found these requirements were necessary because instances of foreign government involvement in the broadcast of programming had gone undisclosed. However, affirmative responses are not filed with the Commission, and although lessees must identify the country associated with a foreign governmental entity, they are not required to state whether a reported foreign governmental entity is also a foreign adversary. Requiring all broadcasters that lease airtime to foreign adversaries to file foreign adversary lessee information with the Commission

will fill this information gap by making the relevant information readily available to Commission staff and the public, separate and apart from all of the other information that is filed in OPIF, without unduly burdening broadcasters.

NAB raises concerns about the burden on broadcasters that the Commission's attestation and disclosure requirements will impose. NAB argues that the requirements we are adopting are unnecessary because the Commission cannot point to a single instance of Foreign Adversary Control going undetected except with respect to several Chinese state-owned Section 214 authorizations. NAB also argues that "mandating tens of thousands of broadcasters and other Regulatees to conduct due diligence and submit certifications about foreign adversary control is merely imposing another costly layer of regulation on holders of Covered Authorizations with no corresponding public interest benefit. In particular, there is no point in tens of thousands of Regulatees reporting that they lack any foreign adversary control." NAB adds that, "[g]iven the existing burdens facing broadcasters and the fact that they already are required to conduct diligence and submit ownership-related information to the Commission, imposing a foreign adversary control certification would be an unjustified burden on broadcast licensees." While we agree that the Commission should avoid imposing unnecessary burdens wherever possible, we find that the national security risk of Foreign Adversary Control over larger broadcasters outweighs the cost of filing a Schedule A attestation. To mitigate the burdens on smaller broadcasters, we adopt the less burdensome Schedule B attestation requirement which enables broadcasters with five or fewer employees to comply with attestation and disclosure requirements only in the event of Foreign Adversary Control. In addition, we provide an extended initial response period for certain small broadcasters. We anticipate that many broadcasters will qualify for this extended deadline. We discuss NAB's assessment of costs in more detail in Section III.D below.

NAB also claims the Commission lacks authority under the sponsorship identification rules to require broadcasters to inquire whether a lessee is a foreign adversary or make any disclosure not already required by those rules. NAB adds that no broadcaster that is not leasing time to a foreign governmental entity should be required to make any additional or different inquiries of lessees or undertake additional "due diligence" to ascertain

the identity of the sponsor. NAB's statutory authority objections are not applicable to the final rule. Our rule does not require broadcasters to obtain any new information from lessees or undertake additional inquiries of lessees. Rather, we require only that the broadcaster determine whether the country named in a foreign governmental entity sponsorship ID disclosure is one of the six foreign adversaries identified in our rules and file a foreign adversary lessee's disclosure in the Foreign Adversary Control System. Our rule does not require any new on-air disclosure. A lessee's status as a foreign adversary clearly goes to its identity and not to unrelated characteristics that are outside the scope of the Commission's authority under Section 317 of the Communications Act. Further, in determining whether a foreign country named by a foreign governmental entity lessee is a "foreign adversary" pursuant to the Commission rule that identifies foreign adversaries by name, a broadcaster is not conducting "due diligence" to ensure that the lessee has properly reported its status; rather, the broadcaster is applying the Commission's rule to the facts to determine whether it must file a copy of the lessee's disclosure in the Foreign Adversary Control System. This modest requirement is wholly distinguishable from the judicially vacated due diligence requirement that broadcasters must "[i]ndependently confirm the sponsor's status, at both the time of the lease and the time of any renewal, by checking the Department of Justice's Foreign Agents Registration Act website and the FCC's U.S.-based foreign media outlets reports."

International broadcast station licenses. We adopt our proposal to include international broadcast station (IBS) licenses within the scope of the attestation and disclosure rules, treating them consistently with other broadcast licenses, and place them in Schedules A and B, depending on the number of employees of the Regulatee. We assign to Schedule A international broadcast station licenses held by a Regulatee (or its affiliate) with six or more employees, and assign to Schedule B all other IBS licenses. International broadcast stations engage in cross border communications that rely on receivers and audiences in foreign countries, which have made them targets for control by foreign entities. Any IBS licensee that receives an affirmative response under the Commission's foreign sponsorship identification rules from a lessee that is a foreign adversary must file with the

Commission the information the lessee provided to the broadcaster. If the broadcast licensee has fewer than six employees and receives an affirmative response under the Commission's foreign sponsorship identification rules from a lessee that is a foreign adversary but the licensee itself does not meet the criteria for a "yes" attestation, then the broadcaster will fulfill its duties under Schedule A by filing a copy of the lessee's information with the Commission; the licensee will not be required to attest "no." Consistent with the *Document* (90 FR 26244, June 20, 2025), we find that the public interest will be served by requiring larger broadcasters and those with Foreign Adversary Control to provide more accurate information about foreign adversary interests. We received no comment adverse to adoption of this proposal.

Section 325(c) authorizations. We adopt our proposal to include Section 325(c) authorizations within the scope of the attestation and disclosure rules, and place them in Schedules A and B, depending on the number of employees of the authorization holder, as Section 325(c) authorizations are subject to the same criteria for meeting the programming standards component of the public interest, convenience, and necessity requirement as domestic broadcast licensees. We assign to Schedule A Section 325(c) authorizations held by a Regulatee (or its affiliate) with six or more employees, and assign to Schedule B all other Section 325(c) authorizations. Any Section 325(c) authorization holder that receives an affirmative response under the Commission's foreign sponsorship identification rules from a lessee that is a foreign adversary must file with the Commission the information the lessee provided to the authorization holder. If the Section 325(c) authorization holder has fewer than six employees and receives an affirmative response under the Commission's foreign sponsorship identification rules from a lessee that is a foreign adversary but the authorization holder itself does not meet the criteria for a "yes" attestation, then the authorization holder will fulfill its duties under Schedule A by filing a copy of the lessee's information with the Commission; the authorization holder will not be required to attest "no." Consistent with the *Document* (90 FR 26244, June 20, 2025), we find that the public interest will be served by requiring larger broadcasters and those with Foreign Adversary Control to provide more accurate information about foreign adversary interests. We

received no comment adverse to adoption of this proposal.

Submarine Cables

Submarine cable landing licenses. We adopt our proposal to include submarine cable landing licenses within the scope of the attestation and disclosure requirements, and place them in Schedule A. We require all submarine cable landing licensees and applicants to certify whether or not they are subject to Foreign Adversary Control because submarine cables are critical to national security. Submarine cables serve as the foundation for the global internet infrastructure and carry over 99% of transoceanic digital communications. Submarine cables are also critical infrastructure that historically have carried more than 95% of all U.S.-international voice, data, and internet traffic, including civilian and military U.S. Government traffic. In the *Submarine Cable Report and Order* (90 FR 48648, Oct. 27, 2025), we took action to protect the security, integrity, and resilience of this critical infrastructure by adopting certain information requirements, certification requirements, conditions, and prohibitions that will enable the Commission to identify and mitigate foreign adversary threats. Among other things, we adopted a new Foreign Adversary Annual Report requirement that will enable the Commission to identify existing cable landing licensees—whose license was or is granted prior to the effective date of those new rules—that are owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary. Specifically, we adopted a new routine condition requiring a cable landing licensee whose license was or is granted prior to the effective date of the new rules to file a Foreign Adversary Annual Report if such licensee meets one or more of the criteria specified therein, including a licensee that is owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary, as defined in § 1.70001(g) of the newly adopted rules. Such licensees will be required to file an annual report containing (1) information as required in § 1.70005(a) through (g), (i), and (m) of the newly adopted rules, and (2) certifications as set forth under § 1.70006 of the newly adopted rules. We also adopted a new certification requirement that will require an applicant to certify whether or not it exhibits any of the criteria set out in a presumptive disqualifying condition, including whether it is owned by, controlled by, or subject to the jurisdiction or direction of a foreign

adversary. While the Commission took significant steps, the new submarine cable rules will, however, leave a critical information gap. Importantly, while our rules require entities that own or control 5% or greater interest in the cable system and use the U.S. points of the cable system to become cable landing licensees, we did not adopt a requirement that any licensee that is subject to the Foreign Adversary Annual Report requirement provide up-to-date ownership information, or disclose their 5% or greater interest holders annually. While we adopted a one-time information collection that will require cable landing licensees to provide certain information—such as updated information about the licensed submarine cables and licensees, information about submarine line terminal equipment (SLTE), and information as to whether or not the licensee currently uses any equipment or services identified on the Covered List, or uses a third-party foreign adversary service providers—that collection will not require licensees to provide up-to-date ownership information. In the *Submarine Cable Report and Order* (90 FR 48648, Oct. 27, 2025), we considered but declined to lower the current 10% ownership reporting threshold to 5% or greater direct or indirect equity and/or voting interests in the applicant(s) and licensee(s). Instead, we retained the rule for applicants to identify the 10% or greater direct and indirect equity and/or voting interests held in the applicants. We assessed that national security risks are best addressed through the certifications adopted regarding whether the applicant is owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary. Pursuant to this *Report and Order*, we will apply a 5% ownership disclosure requirement to a submarine cable applicant that is owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary, as defined in § 1.70001(g) of the newly adopted rules, but will apply the 10% ownership threshold for all other applicants seeking a cable landing license or modification, assignment, transfer of control, or renewal or extension of a cable landing license. Additionally, our rules do not require all other licensees to attest whether or not they are subject to Foreign Adversary Control. We assess that including cable landing licenses within the scope of the attestation and disclosure requirements set out in Schedule A supplements the new submarine cable rules and ensures the

Commission has the information necessary for the protection and security of submarine cables.

Our action today, combined with the rules adopted in the *Submarine Cable Report and Order* (90 FR 48648, Oct. 27, 2025), takes further steps to ensure the Commission has complete information to address foreign adversary threats to critical submarine cable infrastructure. The Commission will receive timely notification of ownership changes such as when a cable landing licensee becomes subject, or is no longer subject, to Foreign Adversary Control, or where a licensee with reportable Foreign Adversary Control has a new 5% or greater interest holder. While a narrow subset of cable landing licensees will be required to attest in the initial attestation requirement adopted here and in the Foreign Adversary Annual Report as to whether or not they are owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary, we believe any burden of this additional reporting is outweighed by the benefit of obtaining accurate, consistent, and up-to-date foreign adversary ownership information. We do not modify in this proceeding the information content requirements for the Foreign Adversary Annual Report that are set forth in § 1.70017 of our newly adopted rules. We therefore find that requiring submarine cable landing licensees and applicants to submit an attestation under Schedule A will enable the Commission to have comprehensive and accurate insight into any Foreign Adversary Control of cable landing licenses and to verify that licensees are in compliance with the Foreign Adversary Annual Report requirement.

Telephone and Common Carrier

Domestic Section 214 authority. We adopt our proposal to include authorizations to provide domestic interstate telecommunications service pursuant to Section 214 of the Act within the scope of the attestation and disclosure rules, and place them in Schedule A. Section 214(a) prohibits any carrier from constructing, acquiring, or operating any line, and from engaging in transmission through any such line, without first obtaining a certificate from the Commission “that the present or future public convenience and necessity require or will require the construction, or operation, or construction and operation, of such . . . line” The Commission has emphasized that it takes seriously this mandate to ensure that the operation of telecommunications carrier lines furthers the public convenience and

necessity both presently and in the future. While the Commission has granted all telecommunications carriers blanket authority under Section 214 to provide domestic interstate services and to construct or operate any domestic transmission line, it retains full authority to protect the present and future public convenience and necessity and stop abusive practices by domestic carriers, including through revocation of such blanket authority when necessary. It is therefore imperative that the Commission exercise its authority to review and ensure that the public convenience and necessity continue to be served by a domestic carrier’s operations, particularly as it relates to the promotion and protection of national security. In light of heightened threats to the nation’s telecommunications infrastructure, we find that the public interest will be served by applying the same attestation and disclosure requirements we adopt today for international Section 214 carriers and others directly to carriers operating in the United States pursuant to blanket domestic Section 214 authority. We emphasize that we are not requiring entry certification or pre-approval for domestic interstate carriers to construct, operate, or engage in transmission over lines of communications. The Commission has found that blanket authority promotes competition by removing regulatory hurdles to market entry, and we do not change that regulatory treatment here.

No commenter disagrees with the inclusion of blanket domestic Section 214 authorization holders within the scope of the attestation and disclosure rules. USTelecom affirmatively supports the requirements, while noting that it is important to minimize reporting burdens where possible. To this end, we adopt the proposal in the *Notice* (90 FR 26244, June 20, 2025) to identify carriers operating pursuant to blanket domestic Section 214 authority through the existing registration requirement for interstate telecommunications carriers that is associated with the FCC Form 499–A and § 64.1195 of the Commission’s rules. Section 64.1195 directs a telecommunications carrier that will provide interstate telecommunications service to file certain registration information on FCC Form 499–A, and states that any telecommunications carrier already providing interstate telecommunications service must do the same. We require domestic interstate carriers subject to § 64.1195 to comply with the foreign adversary attestation and disclosure requirements. We do not require them to

otherwise register or provide additional identifying information other than what they already provide through the FCC Form 499–A process prior to complying with the new requirements. We also note that to the extent domestic wireline carriers also hold an international Section 214 authorization, they will already be tracking their existing ownership percentages. In addition, domestic wireline carriers seeking authority to transfer control pursuant to Section 214 must disclose the name, address, citizenship, and principal business of any person or entity that directly or indirectly owns 10% or more of the equity interests and/or voting interests, or a controlling interest, of the applicant.

Eligible Telecommunications Carriers. We adopt our proposal to include Eligible Telecommunications Carriers (ETCs) within the scope of our attestation and disclosure rules, and place them in Schedule A. We explained in the *Document* (90 FR 26244, June 20, 2025) that while Section 214(e) grants primary jurisdiction for ETC designations and relinquishments to the states, where a state does not have jurisdiction over a carrier, the Commission is able to designate ETCs under Section 214(e)(6), and all ETCs are subject to federal Universal Service Fund rules enacted by the Commission. ETCs receiving Lifeline support and/or high cost support are generally required to offer voice telephony services, and we find that, like other providers operating and serving customers in the U.S., it is necessary to ensure we can protect communications networks and the public interest by bringing them within the scope of the rules we adopt today. We received no comment regarding the inclusion of ETCs within the scope of our Foreign Adversary Control rules.

International Section 214 authorizations. We adopt our proposal to include international Section 214 authorizations within the scope of the attestation and disclosure rules, and place them in Schedule A. No comment in the record addresses how best to receive attestation and disclosure from international Section 214 authorization holders. Given that international Section 214 authorizations are critical to national security, we need maximum transparency about any Foreign Adversary Control over such authorization holders. In recent years, for example, the Commission found that significant national security and law enforcement risks were associated with certain carriers’ retention of Section 214 where the carrier was controlled by a foreign adversary. In the *China Telecom*

Americas Revocation Order, China Unicom Americas Revocation Order, and Pacific Networks/ComNet Revocation Order, the Commission found, among other things, that the significant national security and law enforcement risks associated with those entities' retention of their Section 214 authority "pose a clear and imminent threat to the security of the United States," including "numerous opportunities to access, monitor, store, disrupt, and/or misroute U.S. communications in ways that are not authorized and that can facilitate espionage and other activities harmful to U.S. national security and law enforcement interests." In April 2023, the Commission adopted the *Evolving Risks Order* that required all international Section 214 authorization holders to respond to a one-time information collection to update the Commission's records regarding their foreign ownership, including foreign adversary ownership, given the Commission had incomplete and outdated information. Our action today takes further steps to improve the Commission's insight into threats by foreign adversary-controlled entities to critical communications infrastructure.

We assess that applying the attestation and disclosure rules adopted herein would address a critical gap in the Commission's knowledge regarding Foreign Adversary Control of international Section 214 authorization holders and applicants. Although Section 63.18(h) of the rules sets out certain ownership disclosure requirements (including a 10% disclosure threshold) for international Section 214 applications, those requirements do not capture whether an applicant is "controlled by, or subject to the jurisdiction or direction of a foreign adversary." Specifically, the Commission's rules require that any person or entity that seeks to provide U.S.-international common carrier telecommunications service must obtain prior Commission approval pursuant to Section 214 of the Act by filing with the Commission an application that contains information required by § 63.18 of the Commission's rules. An applicant for international Section 214 authority must identify, among other things, "[t]he name, address, citizenship, and principal businesses of any individual or entity that directly or indirectly owns ten percent or more of the equity interests and/or voting interests, or a controlling interest, of the applicant, and the percentage of equity and/or voting interest owned by each of those entities (to the nearest one percent)."

Applicants seeking an assignment or transfer of control of an international Section 214 authorization are also subject to the ownership disclosure requirement in § 63.18(h) pursuant to § 63.24 of the Commission's rules. With certain exceptions, the Commission generally will refer to the Committee for the Assessment of Foreign Participation in the U.S. Telecommunications Services Sector (Committee) applications for international Section 214 authorizations and applications to assign, transfer control of, or modify such authorizations, among other things, where the applicant has reportable foreign ownership. While the Commission obtained updated foreign ownership information, including foreign adversary ownership, through the one-time collection for international Section 214 authorization holders, the information collection was based on the requirements set forth in § 63.18(h), and thus did not collect information on whether an authorization holder is "controlled by, or subject to the jurisdiction or direction of a foreign adversary" or 5% ownership of those subject to Foreign Adversary Control. Specifically, the Commission directed each international Section 214 authorization holder to identify its 10% or greater direct or indirect foreign interest holders that hold such equity and/or voting interests (reportable foreign ownership) as of thirty (30) days prior to the filing deadline. Pursuant to this *Report and Order*, we will apply a 5% ownership disclosure requirement to an applicant as discussed below that is owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary, as defined in § 1.70001(g) of the newly adopted rules, but will apply the 10% ownership threshold for all other applicants seeking an international Section 214 authorization or modification, assignment, or transfer of control of international Section 214 authorization. Additionally, the ownership information provided to the Commission is dated as of December 2023 and may not reflect current information. Furthermore, that information collection was a one-time collection, and the Commission has not adopted new rules in that proceeding, including any ongoing reporting requirement. Therefore, we conclude that applying the new attestation and disclosure requirements will fill this information gap by providing comprehensive and up-to-date information on whether any international Section 214 authorization holders and applicants are subject to Foreign Adversary Control. Moreover,

we find that requiring these entities to submit an attestation under Schedule A will enable the Commission to have comprehensive and accurate insight into any Foreign Adversary Control of international Section 214 authorization holders. We find that international telecommunications services subject to Section 214 of the Communications Act are critical to national security, and therefore, maximum transparency about these authorization holders is necessary.

VoIP direct access to numbering resources authorizations. We adopt our proposal to include interconnected Voice over internet Protocol (VoIP) direct access to numbering resources authorizations within the scope of our attestation and disclosure rules, and place them in Schedule A. The Commission's rules require interconnected VoIP providers seeking to obtain numbering resources to comply with both the requirements applicable to telecommunications carriers seeking to obtain numbering resources and certain interconnected VoIP-specific requirements for applying for, and maintaining, a Commission authorization for direct access to numbering resources, including providing certifications related to an applicant's technical, managerial, and financial capacity to provide service and comply with multiple Commission requirements. Interconnected VoIP providers with this authorization may access North American Numbering Plan (NANP) telephone numbers directly from the Numbering Administrators, rather than through intermediary providers. The Commission has found that this benefits both competition and consumers, improves responsiveness in the number porting process, and increases visibility and accuracy of number utilization, enabling the Commission to more effectively protect the nation's finite numbering resources. The VoIP direct access authorization also enhances the Commission's ability to enforce rules governing interconnected VoIP providers, and helps stakeholders and the Commission identify the sources of call routing, including by allowing providers to determine more easily with whom they are exchanging traffic. Since 2023, the Commission has also required the disclosure of ownership and control by entities applying for the VoIP numbering authorization, enabling greater transparency into who is seeking access to numbering resources and whether foreign ownership is involved, especially to the extent that it could facilitate illegal robocalling from sources outside the United States. The

Commission has proposed applying these same requirements to all existing VoIP direct access authorization holders, in addition to entities that have applied for the authorization since the 2023 effective date of the *VoIP Direct Access Second Report and Order* (88 FR 74098, Oct. 30, 2023). While interconnected VoIP providers with direct access to numbers comply with specific rules that allow the Commission to protect the public interest, we estimate that VoIP providers that do not also provide telecommunications service likely do not hold any other Commission licenses or authorizations that would require them to make the same foreign adversary attestation and disclosures we adopt here for all other communications providers operating in the United States. The Commission has not addressed the regulatory classification of interconnected VoIP service or interconnected VoIP service providers. Like other communications providers, VoIP providers subject to Foreign Adversary Control that directly access U.S. numbering resources in order to provide their service could pose an unacceptable risk to national security. We therefore find that it is in the public interest to require interconnected VoIP direct access authorization holders to comply with the attestation and disclosure rules we adopt today. No commenter opposes this requirement, and we find that there are no reasons why these providers could not comply with the requirements in the same manner as other Covered Authorization holders.

Other

FCC auction applications. We adopt our proposal to include applications to participate in an FCC auction within the scope of the attestation and disclosure rules, and place them in Schedule C. We received no comment on our proposal to include auction applications within the scope of these rules. Generally, the Commission's auctions are only the first part of a two-stage application and review process, in which parties initially apply to participate in the auction and, if successful in the bidding, subsequently apply for a spectrum license, construction permit, or universal service support. Current Commission regulations require all applicants to participate in any Commission auction to certify under penalty of perjury their compliance with Commission rules applicable to winning bidders that apply for spectrum licenses or universal service support. Thus, any applicant to participate in an auction that is not in compliance with those

rules, including the applicable rules regarding attestation and disclosure with respect to foreign adversary involvement, cannot truthfully complete an auction application consistent with the certification requirement. Following an auction, all winning bidders will be subject to the applicable attestation and disclosure requirements for Commission licensees and recipients of universal service support, protecting against the risk of foreign adversary influence.

Placing auction applications on Schedule C and waiting until winning bidders are identified to collect additional information, if necessary, is consistent with the Commission's long-standing approach to auction applications, which values ease of entry at the short-form stage. For example, auction applicants identify the existence of agreements that subsequently may need to be disclosed but submit the contents of any relevant agreements only at the post-auction application stage. Pre-auction certification combined with post-auction verification enables the Commission to expeditiously process auction applications, through initial review and correction, to competitive bidding, without the delay that could arise from any potential review of additional disclosures, which might not provide any corresponding benefit. As noted, Commission regulations already require applicants to provide substantial information regarding ownership. By placing auction applications on Schedule C we minimize duplicative regulation and prioritize efficiency.

Equipment authorization certifications. With an exception for Regulatees obtaining an Authorization under the Supplier's Declaration of Conformity (SDoC) discussed below, we adopt our proposal to include equipment authorization certifications within the scope of the attestation and disclosure rules, and place them in Schedule A. We find that requiring disclosure of Foreign Adversary Control by holders and applicants of such certifications is necessary to minimize vulnerabilities and strengthen national security within the communications equipment supply chain, and ensure that the Commission has sufficient information to address evolving national security, law enforcement, foreign policy, and trade policy risks on a continuing basis. Requiring applicants for equipment certification to comply with the attestation and disclosure rules will help the Commission identify equipment that may warrant heightened scrutiny before it is made available for marketing, importation, and use within the United States. This approach is

consistent with our implementation of similar information collection activities in other areas of the equipment authorization process.

We place Covered Authorizations obtained solely under the SDoC process in Schedule C. We agree with CCIA's and ITI's suggestion that entities operating under the SDoC process presently "do not pose the same systemic risk as operators of public networks and direct-connectivity infrastructure." At this time, we decline to place equipment authorizations under the SDoC process that are designated as high-risk within Schedule A. For devices subject to SDoC, the responsible party must keep on file information that includes a compliance statement that lists a U.S.-based responsible party. The responsible party is the party responsible for the compliance of the equipment with the applicable standards. The SDoC process is "streamlined" in the sense that, unlike the equipment certification process, it does not require submission of applicable information to a Commission-recognized telecommunication certification body. For example, while our rules require that the equipment authorized under the SDoC procedure must include a unique identifier the equipment is not listed in a Commission equipment authorization database. We observe that the format of "unique identifier" is at the responsible party's discretion and has no correlation to a Commission-established FCC ID. The Commission can specifically request that a responsible party provide compliance documentation or device samples as necessary. The responsible party is required to retain records on the equipment that demonstrates compliance with the Commission's requirements for that equipment. *Id.* § 2.938. The Commission may request these records and request equipment samples. The Commission already prohibits equipment that is produced by entities identified on the Covered List from obtaining SDoC authorization, requiring that any such equipment be authorized under our equipment certification procedures. Thus, any equipment authorization application determined to pose a national security risk would already be subject to the broader Schedule A attestation and reporting of ownership for any equipment that requires authorization. When balanced against the burden of requiring attestations and disclosures for every SDoC authorization, we find that the adoption of the broader reporting requirements for equipment authorization certifications and

applications combined with the existing SDoC safeguards (including prohibiting authorization of equipment produced by entities identified on the Covered list and requiring a responsible party located in the United States) provides sufficient protection against the risk of Foreign Adversary Control while preserving the streamlined nature of the SDoC process.

Data Network Identification Codes. We adopt our proposal to include Data Network Identification Codes (DNIC) within the scope of the attestation and disclosure rules, and place them in Schedule A. No comments in the record address how best to receive certification and reporting from DNIC holders. DNICs raise important national security considerations. The Commission assigns DNICs under International Telecommunication Union ITU-T Recommendation X.121. The DNIC is the central device of the international data numbering plan developed by the International Telecommunication Union (ITU) and is intended to identify and permit automated switching of data traffic to particular networks. DNICs are unique numerical codes designed to provide discrete identification of individual public data networks. The assignment of a DNIC to a particular data network allows network switches throughout the world to recognize that network and to direct traffic to it. Currently, applicants seeking a DNIC must include in the application, among other things, a network diagram showing the international nature of the network; a description of the service(s)/ application(s) for which the DNIC will be used (e.g., voice, SMS text messaging, or other applications); information showing that the applicant's network has the capability to efficiently interconnect with existing public data networks and the network also provides a capability for routing transit traffic; and a statement explaining how allocation of the code is necessary because alternative technical scenarios will not be sufficient. While operators of public data networks must provide to the Commission this information, the Commission currently does not obtain information about their ownership or control. As a result, the Commission does not have up-to-date information as to whether DNIC holders are owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary, and lacks full visibility into the risks to U.S. critical communications infrastructure presented by such Foreign Adversary Control. We conclude that applying Schedule A to DNIC holders and

applicants will enable the Commission to have comprehensive and accurate insight into any Foreign Adversary Control of such entities.

International Signaling Point Codes. We adopt our proposal to include International Signaling Point Codes (ISPC) within the scope of the attestation and disclosure rules, and place them in Schedule A. No comments in the record address how best to receive certification and reporting from ISPC holders. The Commission, as the Administrator for the United States, assigns ISPCs for Signaling System No. 7 (SS7) networks under International Telecommunication Union ITU-T Recommendation Q.708. ISPCs raise important national security considerations, as they are used at the international level for signaling message routing and identification of signaling points involved. The ITU-T Recommendation Q.708 defines an international signaling point code as a "code with a unique 14-bit format used at the international level for [signaling] message routing and identification of [signaling] points involved." Such signaling points are within an SS7 switch. For this reason, only carriers that operate their own switch would need a signaling point code. ISPCs are used, for example, by international SS7 gateways as addresses for routing domestic voice traffic to an international provider. In recent years, the Commission found that significant national security risks were associated with a carrier's use of an ISPC. Currently, applicants seeking an ISPC must include in the application, among other things, a statement regarding the nature of the use of the ISPC(s) in the network; a network diagram that shows how the ISPC(s) will be used; a statement regarding the signaling point manufacturer/type; and the physical address where the ISPC(s) will be located. While applicants must provide this information, the Commission currently does not obtain information about their ownership or control. As a result, the Commission does not have up-to-date information as to whether ISPC holders are owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary, and lacks full visibility into the risks to U.S. critical communications infrastructure presented by such Foreign Adversary Control. We conclude that placing ISPC holders and applicants in Schedule A will enable the Commission to have comprehensive and accurate insight into any Foreign Adversary Control of such entities.

Recognized Operating Agencies. We adopt our proposal to include

recognized operating agencies and applicants within the scope of the attestation and disclosure rules, and place them in Schedule A. No comments in the record address how best to receive certification and reporting from recognized operating agencies. We will require all recognized operating agencies and applicants to certify whether or not they are subject to Foreign Adversary Control because designation of recognized operating agency status raises important national security considerations. We therefore need maximum transparency about any Foreign Adversary Control of such entities. Any party requesting designation as a recognized operating agency within the meaning of the International Telecommunication Convention must file a request for such designation with the Commission. Pursuant to §§ 1.10014(h) and 63.701 of the rules, the Commission sends a letter to the Department of State recommending grant or denial of recognized operating agency status. Recognized operating agencies may participate in the ITU. Section 63.701 of the Commission's rules sets out certain ownership disclosure requirements for such applications. Any party requesting designation as a recognized operating agency must include in the application, among other things, "[a] statement of the ownership of a non-corporate applicant, or the ownership of the stock of a corporate applicant, including an indication whether the applicant or its stock is owned directly or indirectly by an alien." Those requirements do not capture whether an applicant is "controlled by, or subject to the jurisdiction or direction of a foreign adversary." However, control, jurisdiction, or direction of a Regulatee by a foreign adversary would be directly relevant to the question of whether recognized operating agency status may present national security risks to critical U.S. communications infrastructure. The Commission does not have up-to-date information as to whether recognized operating agencies are owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary, and lacks full visibility into the risks that may be presented by any such Foreign Adversary Control. Therefore, we conclude that assigning recognized operating agencies and applicants to Schedule A is necessary to enable the Commission to have comprehensive and accurate insight into any Foreign Adversary Control of such entities and to inform the decision whether to recommend grant or denial

of an applicant's request for such designation.

Telecommunications Relay Services. We adopt our proposal to include internet-based Telecommunication Relay Services (TRS) certification applicants and holders within the scope of the attestation and disclosure rules and place them in Schedule A. TRS are "telephone transmission services that provide the ability for an individual who is deaf, hard of hearing, deaf-blind, or who has a speech disability to engage in communication by wire or radio . . . in a manner that is functionally equivalent to the ability of a hearing individual who does not have a speech disability to communicate using voice communication services by wire or radio." Currently, in an application for certification to provide internet-based TRS, applicants must include a list of individuals or entities that hold at least a 10% equity interest in the applicant, have the power to vote 10% or more of the securities of the applicant, or exercise *de jure* or *de facto* control over the applicant. In addition, proposed changes in ownership require a new application for certification, unless the new owner is already certified to provide internet-based TRS. We find that the public interest will be served by requiring entities holding or seeking certification to provide internet-based TRS to provide more complete information about Foreign Adversary Control. No commenters disagreed with the inclusion of internet-based TRS certification holders within the scope of the attestation and disclosure rules. The additional burdens to these entities are minimal and outweighed by the disclosure benefits to ensure we can protect our communications networks from foreign adversaries.

Attestation and Disclosure Requirements

Attestation. We adopt new attestation and disclosure requirements for Schedule A and Schedule B Regulatees described herein, and exempt Schedule C Regulatees from the initial attestation requirement. We clarify that Regulatees holding a variety of Covered Authorizations listed in different Schedules will be required to comply with the requirements pertaining to the Schedule with more requirements. For example, a Regulatee holding both a Schedule A and a Schedule C license would be required to file a single Schedule A attestation covering all licenses held. A Regulatee holding both a Schedule B license and a Schedule C license would be required to file a single Schedule B attestation if the Regulatee is subject to Foreign Adversary Control.

For all Regulatees holding Covered Authorizations listed in Schedule A or that have an application for a Covered Authorization listed in Schedule A pending before the Commission, we require an officer or other authorized representative of the Regulatee to submit an attestation to the Commission that it is or is not owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary as defined above (*i.e.*, Foreign Adversary Control). For Regulatees subject to Foreign Adversary Control holding Covered Authorizations listed in Schedule B or that have an application for a Covered Authorization listed in Schedule B pending before the Commission, we require an officer or other authorized representative of the Regulatee to attest affirmatively to Foreign Adversary Control. We decline to require Schedule B Regulatees that are not subject to Foreign Adversary Control to attest to that fact, and exempt Regulatees holding Covered Authorizations listed in Schedule C or that have an application for a Covered Authorization listed in Schedule C pending before the Commission from the initial attestation requirement altogether. As noted below, we require all entities attesting that they are subject to Foreign Adversary Control, regardless of Schedule, to file additional disclosures about the nature of that Foreign Adversary Control, and additionally impose ongoing reporting requirements. Finally, we require all Regulatees filing Foreign Adversary Control attestations to attest to the truth and accuracy of the attestation.

We find that adopting a sliding-scale approach to the application of our attestation and disclosure requirements, rather than a one-size-fits-all approach as proposed in the *Document* (90 FR 26244, June 20, 2025), effectively promotes the Commission's goal of promoting national security while also maximizing efficiency and reducing regulatory burdens. This tailored approach recognizes the differing risk levels of Foreign Adversary Control by type of authorization, and reduces unnecessary regulatory and administrative burdens in cases where the risk is relatively minimal. We agree with commenters that Foreign Adversary Control over Commission-granted licenses and authorizations does not pose the same risk to national security across all license and authorization types, and indeed, the likelihood of Foreign Adversary Control over certain lower risk license and authorization types is presently slim.

We received support in the record for adopting the attestation requirement

broadly across various Commission-issued license and authorization types. As FDD notes, "[w]hile the FCC has targeted select sectors for greater scrutiny, such as equipment testing laboratories and submarine cables, these measures have not extended to other FCC-regulated markets, leaving an opening for the [Chinese Communist Party] to expand its influence." By broadening the scope of our Foreign Adversary Control attestation requirements to reach a variety of license and authorization types, the Commission "will streamline efforts to prevent China and other foreign adversaries from accessing the nation's telecommunications network, while preventing states, entities, and individuals from circumventing reporting requirements."

Sliding-scale approach. While we received assurance from some commenters that complying with an attestation requirement applicable to all Commission-issued licenses and authorizations would be feasible, we received a fair number of comments that argue for a more nuanced and targeted approach. For example, CCIA, ITI, and NAB all advocate for "limit[ing] certification requirements to entities with actual or reportable foreign adversary ownership or control" to avoid imposing an "undue burden, especially on entities with no nexus to national security concerns." As described in Section III.A.3, a variety of Regulatee stakeholders raise concerns that certain licenses and authorizations have little to no likelihood of Foreign Adversary Control, or that the risk to national security of Foreign Adversary Control of such licenses and authorizations is extremely limited. We recognize these concerns and thus adopt a more tailored approach to the attestation requirement by categorizing licenses and authorizations into three Schedules. We find that such a sliding-scale approach will reduce burdens on Regulatees whose potential Foreign Adversary Control poses less of a threat to national security, while preserving enhanced attestation and disclosure requirements for Regulatees where the threat is greater. We thus adopt our proposal to require Regulatees holding licenses and authorizations that would confer rights and privileges that would present a sizeable risk to national security should they be controlled by a foreign adversary to file "yes" or "no" attestations, and impose less burdensome requirements on Regulatees holding licenses and authorizations where such risk is lower. FDD also argues that requiring filers to make

either a positive or negative attestation “will be effective in building out a more comprehensive registry while also allowing for potential prosecution of claimants found to be falsifying submissions.” We have also considered the balance of risks and burdens in structuring the reporting categories.

Exemptions. We exempt holders of Schedule C licenses or authorizations from the initial Foreign Adversary Control attestation requirement. As noted in Section III.A.2, Foreign Adversary Control over Schedule C licenses and authorizations is less likely, poses a less critical risk to national security, or poses a risk that is already mitigated by other Commission regulations, or the administrability burdens of requiring attestations from such entities substantially outweigh any transparency benefits. Nevertheless, as noted above, we require all Regulatees attesting to Foreign Adversary Control to provide the additional disclosures described in this Section.

We also exempt federally recognized Tribal Nations and businesses controlled by federally recognized Tribal Nations from the attestation and disclosure requirements adopted by this *Report and Order*. Federally recognized Tribal Nations are sovereign, domestic dependent nations, and the Commission through its long-standing policy statement recognizes a unique government-to-government relationship with them. We also exempt state and local governmental licensees from our attestation and disclosure requirements, given that, by definition, these entities cannot be foreign adversaries or subject to Foreign Adversary Control. For example, wireless licensees that identify as “Governmental Entities, Tribal Nations, or Businesses controlled by Tribal Nations” in response to FCC Form 601, Question 14, are exempt for purposes of Foreign Adversary Control reporting. Governmental licensees should be aware of the restrictions on the procurement and use of certain covered telecommunications equipment as a result of the John S. McCain National Defense Authorization Act of 2019 and subsequent legislation. In compliance with the FY 2019 National Defense Authorization Act, governmental agencies may not procure, obtain, extend, renew, or enter into a contract with certain covered telecommunications providers. The Commission maintains the list of communications equipment and services deemed threats to U.S. national security.

We decline to adopt any further exemptions at this time. CCIA and ITI request that we avoid imposing

duplicative obligations on Regulatees that are already subject to mitigation agreements entered into with the Executive Branch agencies and with which compliance is a conditions of the license and/or authorization. The Commission, in its discretion, may refer applications, petitions, and other filings to the Executive Branch for review for national security, law enforcement, foreign policy, and/or trade policy concerns. The Commission will generally refer to the Executive Branch applications filed for an international Section 214 authorization and submarine cable landing license as well as an application to assign, transfer control of, or modify those authorizations and licenses where the applicant has reportable foreign ownership and petitions for Section 310(b) foreign ownership rulings for broadcast, common carrier wireless, and common carrier satellite earth station licenses pursuant to §§ 1.767, 63.18, 63.24, and 1.5000 through 1.5004 of the rules. The Executive Branch agencies are either Members of or Advisors to the Committee created pursuant to Executive Order 13913. The Department of Justice (DOJ), Department of Homeland Security (DHS), and the Department of Defense (DOD) also are known informally as “Team Telecom.” We find that the approach we adopt is sufficiently tailored to remove concerns of duplicative reporting, and thus decline to adopt a blanket exemption for such Regulatees. Existing mitigation agreements contain specific and varying commitments for each Regulatee, including with respect to reporting obligations. While recent mitigation agreements may require reporting of certain ownership information to relevant national security agencies, for example, such reporting obligations are not necessarily tailored to capture multi-faceted forms of Foreign Adversary Control, or whether and to what extent a Regulatee currently is or becomes subject to Foreign Adversary Control, such as the standard we apply to the attestation and disclosure requirements herein. We also note generally that the framework we establish by this *Report and Order* solely involves reporting requirements, and does not prohibit or limit the actual granting of Covered Authorizations.

Additional disclosures. We require any Schedule A, B, or C Regulatee that attests it is owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary to further disclose to the Commission all 5% or greater direct or indirect equity and/or voting interests held in the Regulatee, as well as several

other disclosures. Specifically, a Schedule A, B, or C Regulatee that attests it is owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary, must:

(1) identify its 5% or greater direct or indirect equity and/or voting interest holders and controlling interest holders, and include an ownership diagram that illustrates the Regulatee’s vertical ownership structure, specifically—

(a) for each reported natural person interest holder of a direct or indirect interest of 5% or greater, or a controlling interest, disclose name; address; the country or countries of citizenship; principal business(es); the percentage of equity and/or voting interest or a description (including any percentage) of the controlling interest, held directly or indirectly in the Regulatee; and

(b) for each reported entity (including a government entity) interest holder of a direct or indirect interest of 5% or greater, or a controlling interest, disclose name; address; the country under the laws of which the entity is organized and the country of the principal place of business and headquarters; type of entity and principal business(es); the percentage of equity and/or voting interest or a description (including any percentage) of the controlling interest, held directly or indirectly in the Regulatee;

(2) identify the foreign adversary or foreign adversary country or countries the Regulatee is owned by, controlled by, or subject to the jurisdiction or direction of;

(3) describe the nature of the foreign adversary ownership, control, jurisdiction, or direction to which the Regulatee is subject; and

(4) attest to the truth and accuracy of all information.

Specifically, we require that disclosure of ownership information must include the equity and voting interests and controlling interests as calculated through use of the requirements set out in § 63.18(h) of the Commission’s rules. Equity interests that are held by an individual or entity indirectly through one or more intervening entities shall be calculated by successive multiplication of the equity percentages for each link in the vertical ownership chain, regardless of whether any particular link in the chain represents a controlling interest in the company positioned in the next lower tier. Voting interests that are held through one or more intervening entities shall be calculated by successive multiplication of the voting percentages for each link in the vertical ownership chain, except that wherever the voting interest for any link in the chain is equal

to or exceeds 50% or represents actual control, it shall be treated as if it were a 100% interest. We find that applying a uniform methodology based on rules that currently apply to certain Regulatees will ensure consistency of information, provide clarity to Regulatees complying with the new attestation and disclosure requirements, and promote administrative efficiency. We also require that the Regulatee include an ownership diagram consistent with the requirements set out in § 63.18(h) of the Commission's rules. Specifically, the ownership diagram shall illustrate its vertical ownership structure, including the direct and indirect equity and/or voting interests held by the individuals and entities identified pursuant to this disclosure requirement. Every such individual or entity with equity and/or voting interests shall be depicted and all controlling interests must be identified. If an individual or entity submits an attestation and additional disclosures as part of an application for a transfer of control or assignment, as discussed below, the ownership diagram shall include both the pre-transaction and post-transaction ownership of the Regulatee. Consistent with rules governing receiving approval of foreign ownership in broadcast, common carrier, aeronautical en route, and aeronautical fixed radio station licensees and common carrier spectrum lessees, to the extent that a Regulatee subject to this additional reporting requirement is an eligible U.S. public company, as that term is defined in § 1.5000(e) of the Commission's rules, we adopt the same standard as is found in that Section governing what information the company shall use in identifying its 5% or greater direct or indirect interest holders, the citizenship(s) or place of organization of disclosable interest holders, and other information required by our Foreign Adversary Control rules. As USTelecom notes, "[g]iven that a publicly traded company's stock is purchased on the open market, when that company will know about a new shareholder may vary considerably." We find that application of this preexisting standard for publicly traded companies will result in regulatory consistency and reduced burdens for such entities.

We affirm our tentative conclusion in the *Document* (90 FR 26244, June 20, 2025) that limiting our attestation requirements to require information about Foreign Adversary Control, as opposed to foreign control more broadly, and limiting the reporting obligations to Regulatees that have

Foreign Adversary Control will minimize the compliance burden on Regulatees. We also affirm our tentative conclusion in the *Document* (90 FR 26244, June 20, 2025) that a 5% or greater direct or indirect equity and/or voting interest threshold is reasonable given that the requirement to file such disclosures is limited to Regulatees with reportable Foreign Adversary Control and because a higher reporting threshold may not fully capture national security risks presented by foreign ownership, particularly when there is Foreign Adversary Control. We received support both for adopting these additional reporting requirements, and for adopting a 5% disclosure threshold. We find that this disclosure threshold is consistent with similar Commission regulations, and thus "would promote regulatory clarity, reduce compliance costs for low-risk entities, and allow the Commission to concentrate its resources on high-risk ownership structures that genuinely run the risk of compromising U.S. communications infrastructure."

We decline suggestions in the record to require disclosures beyond what we adopt today. The Coalition for a Prosperous America suggests that we require manufacturers of high-wattage connected appliances "to explicitly disclose detailed information about foreign adversary ownership or control," and to "prominently communicate, in consumer-facing privacy policies and at the point-of-sale, the precise nature and extent of data collection, storage, and any potential access or usage by foreign governments." Whirlpool submits similar suggestions. The purpose of this proceeding is limited to gathering information about Foreign Adversary Control over Covered Authorizations for the use of the Commission and disclosure to the public, so we decline to expand it at this stage to include the data-handling practices of Regulatees. Because this information will be available to the public through Commission databases, we decline to require point-of-sale or similar additional disclosures. We find that the benefit such disclosures would provide to consumers is outweighed by the complexity that would burden not only manufacturers but also distributors, resellers, and others in the supply chain resulting from ownership changes that could occur too frequently to ensure consistent accuracy.

We also decline the similar suggestions raised by SentinelOne and Michael Ravnitsky to establish a "verification framework" of submitted attestations, or conduct "mandatory screening of all FCC licensees and

regulated entities, irrespective of their self-reported foreign ties." As discussed in Section III.C.4 below, we delegate authority to the Licensing Bureaus and Offices and the Enforcement Bureau, to conduct investigations into potential false attestations, and to initiate revocation proceedings with respect to any Covered Authorizations held by a wrongdoer. In multiple contexts, instead of independently validating filings as they are submitted, the Commission has opted to rely on an investigation and enforcement process should the Commission later discover a deficiency. For example, in the interconnected Voice over internet Protocol (VoIP) direct access authorization application process, the Commission delegated to both the Wireline Competition Bureau and the Enforcement Bureau the authority to revoke authorizations should either Bureau later discover a rule violation or a false statement, among other conditions. Similarly, in the context of Robocall Mitigation Database certifications by voice service providers, gateway providers, and non-gateway intermediate providers, the Commission pursues enforcement action after conducting investigations into apparent violations of the Robocall Mitigation Database rules. While we expect that our adoption of post-filing investigation and enforcement mechanisms will sufficiently deter bad actors from submitting false or deficient attestations, we reserve the ability in the future to adopt additional information disclosures and enforcement mechanisms as necessary to achieve our national security goals. As noted below, we direct the Licensing Bureaus and Offices to review the filings submitted and promptly compile a list of Regulatees in Schedule A that failed to file, and identify those entities subject to Schedules A and B that filed after the deadline. We also delegate to the Licensing Bureaus and Offices authority to contact filers for additional information and make preliminary assessments regarding the willfulness of a deficiency.

Applicability. After the deadline for initial attestations, and on an ongoing basis, we require a new attestation, and if affirmative, additional disclosures, by:

(1) any Regulatee holding a Covered Authorization designated in Schedule A or B, regardless of whether it has already filed an attestation;

(a) within 30 days of the Regulatee becoming subject to Foreign Adversary Control, to the extent such change does not require Commission approval; or

(b) within 60 days, or for small entities within 120 days, of the effective date of an addition to the Department of

Commerce's list of foreign adversaries in 15 CFR 791.4 of a foreign government or foreign non-government person that has Foreign Adversary Control over the Regulatee;

(2) any Regulatee of a Covered Authorization newly designated in Schedule A regardless of whether it has already filed an attestation, within 30 days of the effective date of a public notice announcing the designation;

(3) a Schedule A or B Regulatee that is subject to Foreign Adversary Control, or any Regulatee whose last attestation was affirmative;

(a) upon application for any new Covered Authorization;

(b) upon application for an assignment, except a *pro forma* assignment, of any Covered Authorization held by the Regulatee;

(c) upon application for a renewal of any Covered Authorization;

(d) upon application for a modification of any Covered Authorization;

(e) within 30 days of any changes to 5% or greater direct or indirect equity and/or voting interests, or controlling interests, held in the Regulatee; or

(f) within 30 days of the effective date of a public notice designating a Covered Authorization held by the Regulatee in Schedule B;

(4) any entity regardless of Foreign Adversary Control;

(a) upon application for the entity's initial Covered Authorization designated in Schedule A; or

(b) upon application for the entity to be the transferee or assignee of its initial Covered Authorization designated in Schedule A, except in the case of a *pro forma* transfer of control or assignment;

(5) any entity that is subject to Foreign Adversary Control;

(a) upon application for the entity's initial Covered Authorization designated in Schedule B;

(b) upon application for the entity to be the transferee or assignee of its initial Covered Authorization designated in Schedule B, except in the case of a *pro forma* transfer of control or assignment; or

(c) upon application for modification of a Covered Authorization designated in Schedule A or B that would cause the entity to be a licensee or lessee of the Covered Authorization; and

(6) any Regulatee whose last attestation was affirmative within 30 days of its determination that it is no longer subject to Foreign Adversary Control.

We adopt these ongoing requirements to file new attestations based on delineated circumstances, rather than in a generally applicable annual

attestation, to tailor the filing requirements to those Regulatees whose Foreign Adversary Control would present the greatest risk. This tailored approach thereby reduces burdens on the large number of Regulatees which hold Covered Authorizations presenting lower risks and either are not subject to Foreign Adversary Control or are already subject to other Commission regulations that adequately address the risks of any Foreign Adversary Control. We received support for requiring Regulatees to report changes as they arise, rather than in an annual attestation. We agree with SentinelOne that, by requiring a new attestation in the event of material changes, we will ensure "real-time accuracy" as to the extent of Foreign Adversary Control over Regulatees.

Implementation Considerations

In this section, we amend the Commission's rules to create a new subpart setting forth the attestation and disclosure requirements. Next, we adopt our proposal to create a single, consolidated reporting system, and establish a general deadline for reporting, with an exception for small entities. We then establish a streamlined revocation procedure, applicable where consistent with existing statutory requirements, and discuss enforcement mechanisms. Finally, we adopt our proposal to publish the data and address privacy considerations.

Rule Updates

We amend part 1 of the Commission's rules to establish a new subpart GG, where we adopt the rules detailed in this *Report and Order*. Part 1 of the Commission's rules contains other rules related to foreign ownership, such as Subpart DD, Secure and Trusted Communications Networks. We did not receive any comment in response to proposals in the *Document* (90 FR 26244, June 20, 2025) on this issue. We find that consolidating all new Foreign Adversary Control attestation and disclosure rules in a single subpart will promote clarity and administrative efficiency, and facilitate a Regulatee's ability to readily identify the rules that are applicable to their various licenses and authorizations. We conclude that incorporating these rules into existing licensing rules with respect to applications, transfers of control, and assignments would reduce ease of searchability, result in unnecessary redundancy across the Commission's rules, and potentially create inconsistencies across Covered Authorizations.

Method of Collection

We adopt our proposal to establish a single, consolidated reporting system, which we designate as the Foreign Adversary Control System (FACS). We require all Regulatees with a reporting obligation to make their attestations and submit any further required information within the FACS. We affirm our conclusion in the *Document* (90 FR 26244, June 20, 2025) that collecting all required information in a single, consolidated system "would allow entities and individuals to enter their Foreign Adversary Control information once covering all of their existing Covered Authorizations." We agree with USTelecom on the importance of streamlining the process to the extent possible, and find that centralizing attestations and disclosures into a single system will minimize duplicative and burdensome requirements to file information regarding Foreign Adversary Control across multiple systems and platforms. In addition, this approach will enhance the accuracy and reliability of the data by minimizing the potential for filing inconsistencies across disparate systems. Generally, the reporting requirements of this collection will provide the Commission greater insight into Regulatee's Foreign Adversary Control, where applicable, compared to what is currently collected. However, we note that the Commission collects ownership information associated with applications involving certain Covered Authorizations in existing Commission systems. In the limited instances where the burden may be duplicative, we find it reasonable to require Regulatees with Covered Authorizations to comply with the attestation and reporting requirements using the FACS because it facilitates compliance, helping to ensure that all necessary information is collected in a standardized format. Given the expense associated with making modifications to existing systems, we do not expect Bureaus and Offices to make changes to existing systems in response to this *Report and Order*, except where necessary to enable the operation of the FACS. However, Bureaus and Offices should take into consideration the information collected in the FACS when making modifications to existing systems for other reasons.

We delegate authority to the Office of Economics and Analytics (OEA) and the Public Safety and Homeland Security Bureau (PSHSB), in consultation with the relevant licensing Bureaus and Offices and the Office of the Managing Director, to determine all aspects of the design, development, implementation,

and ongoing operations of the FACS, consistent with the direction and objectives of this *Report and Order*. We also delegate to the Licensing Bureaus and Offices, to OEA, and to the Office of the Managing Director authority to conduct a rulemaking proceeding to determine whether a fee must be assessed for the filing of attestations and disclosures, and if so, the fee amount. Section 8(c) of the Act requires the Commission to, by rule, amend the application fee schedule if the Commission determines that the schedule requires amendment so that: (1) such fees reflect increases or decreases in the costs of processing applications at the Commission or (2) such schedule reflects the consolidation or addition of new categories of applications. Section 8(c) of the Act does not mandate a timeframe for making any such amendments under Section 8(c). The Commission previously explained that when the application fee schedule may require an amendment pursuant to Section 8(c), the Commission will initiate a rulemaking to seek comment on any proposed amendment(s) to the application fee schedule. Upon the launch of the FACS, we direct OEA and PSHSB to publish a notice that details the attestations required for the holders of licenses listed in each Schedule and instructions for how such Regulatees should submit such information for their Covered Authorizations. We also delegate to OEA and PSHSB, and the relevant Licensing Bureaus and Offices authority to provide rule clarifications or further guidance with respect to the use of the FACS, including amendments to the Code of Federal Regulations to reflect the filing method and deadlines. The delegations in this paragraph include authority to use notice-and-comment procedures if OEA and the relevant Licensing Bureaus and Offices deem it necessary or advisable to do so.

All Regulatees with Covered Authorizations subject to the attestation and disclosure requirements must submit the required information via the FACS. Use of the FACS satisfies only the requirements of Subpart GG. Covered Authorizations that do not have a separate licensing system must also use the FACS to submit attestations and any required disclosures. Entities that file registration information on FCC Form 499–A indicating that they provide interstate telecommunications service shall submit attestations as holders of blanket domestic Section 214 authorizations. Similarly, interconnected VoIP direct access authorization holders must also file

through the FACS. By requiring blanket domestic Section 214 authorization holders and interconnected VoIP direct access authorization holders to submit attestations, we close potential gaps in the Commission's oversight.

Training and outreach. We direct OEA and PSHSB, along with the relevant Licensing Bureaus and Offices, in consultation with the Consumer and Governmental Affairs Bureau, to conduct outreach and training regarding the FACS and the requirements for filing. NAB recommends that the outreach and training efforts “should include contacting licensees at . . . addresses on file with the Commission, holding at least one webinar, . . . highlighting the new requirements . . . [on] the Commission's website and social media sites” and notifying member and industry organizations of the new requirements. Although NAB expressed specific concern for broadcast licensees, we find that a broad outreach campaign is warranted to ensure that Regulatees understand the reporting requirements and will enhance compliance rates and the quality of the information collected.

Deadline

General rule. We establish a filing deadline of 60 days after the public notice announcing the launch of the FACS. Regulatees holding Covered Authorizations or that have an application for a Covered Authorization pending before the Commission must file Foreign Adversary Control information as of the date of the beginning of the 60-day period. For example, if the rules become effective on May 1 and the public notice is released on June 1, the deadline to submit attestations and any additional required information would be July 31. In this example, Regulatees must submit their Foreign Adversary Control status as of June 1 by the deadline of July 31. We find that a 60-day deadline as a general rule appropriately balances the importance of the Commission obtaining information about foreign adversary risks in the communications sector in a timely manner with the need for Regulatees to have adequate time to complete their attestations and provide any further required information.

In the *Document* (90 FR 26244, June 20, 2025), we proposed to require Regulatees to complete the required attestation and disclosures, as applicable, “within a 60-day window from the effective date of the information collection based on Foreign Adversary Control information as of 30 days prior to the filing deadline.” Commenters express concerns that a 60-

day reporting window and 30-day lookback period “do not provide sufficient time” for Regulatees to comply. We reject Michael Schafer's contention that, because the Commission “knows the location of the Foreign Adversary (FA) labs and [telecommunications certification bodies (TCBs)],” we need not give Regulatees any time to file attestations. As noted above, this rulemaking fills gaps in the Commission's knowledge regarding a much broader swath of Covered Authorizations than merely equipment authorizations and TCBs. Additionally, giving Regulatees time to file enables them to make accurate attestations after conducting an appropriate investigation into Foreign Adversary Control. Both CCIA and ITI recommend extending the reporting window to 120 days, “allowing certifications based on ownership information as of 30 days before filing” We understand CCIA and ITI's concerns, and so rather than adopt a 60-day deadline with a 30-day lookback period (which effectively gives Regulatees 30 days to file), we require Regulatees to attest to Foreign Adversary Control as of the start of the 60-day period. For example, under the approach proposed in the *Document* (90 FR 26244, June 20, 2025), with an effective date of May 1, Regulatees would have been required to submit their Foreign Adversary Control information as of May 31 by June 30—effectively leaving only 30 days for Regulatees to gather and submit the information. We find that this effectively doubled filing period will be adequate for most Regulatees. For small-entity Regulatees which typically have fewer resources, we adopt an extended deadline of 120 days, as described below. To the extent a Regulatee is unable to comply with the deadline, the Regulatee may file a waiver request to be reviewed under the Commission's good cause standard.

Small entity exception. For small entities, as defined below, we establish a filing deadline of 120 days after the public notice announcing the launch of the FACS. Regulatees meeting the definition of a small entity must file information based on the Foreign Adversary Control status as of the date of the beginning of the 120-day period. For example, if the rules became effective May 1 and the public notice was released June 1, the deadline for small entities to submit attestations and any additional required information would be September 29. In this example, Regulatees must submit their

Foreign Adversary Control status as of June 1 by the September 29 deadline.

Consistent with the Commission's longstanding use of the North American Industry Classification System (NAICS) and the Small Business Administration (SBA) small business size standards in the rulemaking context, we apply the same standards in this proceeding. If a Regulatee meets the definition of a small business for the purposes of the Regulatory Flexibility Act of 1980, the Regulatee is subject to the 120-day filing deadline. While we make distinctions based on the size of certain Regulatees for the purposes of applying different attestation requirements, these distinctions are based on specific policy considerations concerning whether and what attestations such Regulatees should file. For the purposes of the filing deadline, we apply the same definition of small entity across all Regulatees by using the standards set forth by the NAICS and SBA. To determine the applicable filing deadline, a Regulatee should first determine which Schedule applies to its Covered Authorization, and then determine whether it falls under the SBA's small business size standard. We clarify that the small entity exception applies to Regulatees that are individuals subject to attestation and disclosure requirements under Schedule A or B. Given that the Covered Authorizations cut across the communications sector, we find this approach ensures consistency across Commission actions and minimizes burden as small entity Regulatees that are likely already familiar with these standards.

As noted, commenters highlight the potential challenges Regulatees may face in complying with the attestation and disclosure requirements. ITI explains that "collecting ownership information can be time-consuming, and delays in responses from interest holders are common." We recognize that small entities have fewer resources and may need additional time to comply with the attestation and disclosure requirements. In light of these considerations, we find it appropriate to provide an extended deadline to small entities.

Administration. We delegate to OEA and PSHSB, in consultation with the relevant Licensing Bureaus and Offices, authority to extend these deadlines as appropriate. This delegation includes authority to use notice-and-comment procedures if OEA and PSHSB deem it necessary or advisable to do so. We recognize that the deadlines established here may overlap with the period during which Regulatees apply for, or receive

approval of, certain Covered Authorizations. Thus, we encourage Regulatees to submit any required attestations or disclosures prior to the applicable deadline.

Enforcement and Revocation

Enforcement. The reporting requirements we adopt today aim to protect U.S. communications networks from entities with ties to foreign adversaries. Equally important, we adopt enforcement mechanisms that will allow the Commission to identify and address Foreign Adversary Control of Regulatees with Covered Authorizations. In appropriate cases, the Commission may take enforcement actions against Regulatees, such as issuing citations, imposing monetary penalties, or more serious actions that result in license or authorization revocations. Enforcement actions will take into account several non-exhaustive factors, such as national security risk, potential harm to the public, and any effect on downstream providers. The Commission may consider other factors that the Regulatee presents when determining an appropriate enforcement action.

Late and Nonresponsive Filers. Regulatees must submit their attestation and disclosure requirements by the initial filing deadline adopted in this *Report and Order*. Following that deadline, we direct the relevant Licensing Bureaus and Offices to promptly compile a list of Regulatees in Schedule A that failed to file the required attestation by the deadline or filed attestations after the deadline. The Licensing Bureaus and Offices will refer these Regulatees to the Enforcement Bureau for possible enforcement action. The Licensing Bureau or Office and/or the Enforcement Bureau, consistent with the process described below, may initiate a revocation proceeding against Regulatees that fail to file the required attestation by the deadline. Section 503(b) of the Act authorizes the Commission to impose a forfeiture against any entity that "willfully or repeatedly fail[s] to comply with any of the provisions of [the Act] or of any rule, regulation, or order issued by the Commission[.]" The maximum amount varies by type of entity. The penalty for failing to file or filing late or inaccurate imposed may be up to the maximum permitted by the Commission's rules.

Incomplete or Inaccurate Responses. Following the receipt of an attestation required under our new rules, the Licensing Bureau or Office may refer the Regulatee's attestation to the Enforcement Bureau for further investigation where it appears that an

attestation may be incomplete or inaccurate. Before referring a matter to the Enforcement Bureau for further investigation, the Licensing Bureau or Office may seek additional information to remedy completeness and accuracy issues present in the initial filing. The Enforcement Bureau, in coordination with other staff as necessary or desirable, may pursue revocation, monetary sanctions, or any other appropriate enforcement actions.

Revocation. To the extent consistent with applicable law, we adopt a streamlined revocation or reclamation procedure for Regulatees that is similar to the revocation procedure for TCBs and test labs. These streamlined procedures consist of an informal, written process with abbreviated time to reply, except where the Communications Act requires otherwise. We delegate to the Enforcement Bureau and the Licensing Bureaus and Offices authority to use additional procedures if necessary. In cases of false attestation of no Foreign Adversary Control or failure to timely, accurately, or completely respond to the attestation and disclosure requirements, we direct the Enforcement Bureau and the Licensing Bureaus and Offices to coordinate prior to initiating enforcement or revocation actions against a Regulatee with a deficient filing.

The streamlined revocation procedure will consist of three steps: (1) Notice of Deficiency and Opportunity to Respond (except in the case of willfulness or those in which public health, interest, or safety requires otherwise, in which we case we may proceed directly to step two); (2) Order to Show Cause; and (3) Order on Revocation. This process will provide Regulatees with ample notice and opportunity to be heard before any enforcement action is adopted. The Licensing Bureaus and Offices and/or the Enforcement Bureau will follow prescribed steps when initiating an enforcement action, including revocation. As applicable, those steps will include processes prescribed by the Communications Act.

Step 1: Notice of Deficiency and Opportunity to Respond. Where the Licensing Bureau or Office and/or Enforcement Bureau determine that a Regulatee has violated the reporting requirements or assesses that Foreign Adversary Control of the Covered Authorization may pose an unacceptable risk to national security, it will notify the Regulatee of the apparent deficiency or national security risk, consistent with Section 1.89 of the Commission's rules, citing the FACS reporting requirement and providing 30

days to come into compliance or otherwise respond to the notice before a Bureau or Office takes further action. We clarify that 47 CFR 1.89 applies to the streamlined process but our 30-day response period constitutes “such other period as may be specified” for purposes of that rule. In the event the Commission does not have any or updated information about a Regulatee’s mailing address for service of process, 47 U.S.C. 413 states that the requirement may be satisfied “by posting such notice, process, order, requirement, or decision in the office of the secretary of the Commission.”

Where the Licensing Bureau or Office and/or the Enforcement Bureau conclude that a Regulatee acted willfully in providing an incomplete, inaccurate, or misleading attestation, or where the national security risks presented by the Regulatee warrant dispensing with the first step notice, the Licensing Bureau or Office and/or the Enforcement Bureau may move directly to issue an Order to Show Cause without first issuing a Notice of Deficiency and Opportunity to Respond.

Step 2: Order to Show Cause. If the Regulatee fails to cure the filing defect noted in the Notice of Deficiency and Opportunity to Respond, or otherwise fails to respond to that notice or demonstrate why revocation proceedings should not be initiated, the Licensing Bureau or Office and/or the Enforcement Bureau may issue an Order to Show Cause initiating a revocation proceeding and providing the Regulatee with fifteen (15) calendar days to explain why its authorization(s) should not be revoked, except where statutory revocation procedures apply instead. The response period of less than 30 days reflects the heightened national security risks associated with undisclosed foreign adversary ownership. We delegate authority to the Bureaus and Offices to afford additional process as they deem necessary or appropriate. For revocation of broadcast and wireless licenses, steps two and three are governed by Section 312 of the Communications Act and § 1.91 of the Commission’s rules. The procedure for revoking a broadcast or wireless license involves issuing an order to show cause for an evidentiary administrative hearing before the Commission’s administrative law judge (ALJ) or other presiding officer as that term is defined in § 1.241 of the Commission’s rules. The issued order sets out the factual basis for any allegations that may warrant revocation and directs the ALJ/Presiding Officer to determine whether those facts bear out and whether the license/authorization should be

revoked. Pursuant to § 2.939(b) of the Commission’s rules, except for the limited circumstances set forth in § 2.939(d) of the Commission’s rules, revocation of equipment authorizations shall be made in the same manner as revocation of broadcast licenses and wireless licenses described above. The limited exception to this process, as authorized by § 2.939(d) of the Commission’s rules, applies when a false statement or representation is made in an equipment certification application, or in materials or responses submitted in connection therewith, that the equipment in the subject application is not prohibited from receiving an equipment authorization pursuant to § 2.903 of the Commission’s rules (*i.e.*, it is not Covered Communications Equipment), and the Commission subsequently determines that the equipment is Covered Communications Equipment. Section 2.939(d) of the Commission’s rules sets forth the procedures for revoking equipment authorizations in these limited circumstances.

Step 3: Order of Revocation. After providing the Regulatee notice and opportunity to respond to the Order to Show Cause, if the ALJ/Presiding Officer (in cases subject to 47 U.S.C. 312) or pertinent Bureau/Office find that revocation is warranted, they will issue an Order of Revocation. This order will revoke the Regulatee’s authorization(s).

We find that these procedures are consistent with due process and procedural requirements under the Communications Act and the Administrative Procedure Act (APA). Congress has granted the Commission broad authority to “conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice.” The Commission has broad discretion to craft its own rules “of procedure and to pursue methods of inquiry capable of permitting them to discharge their multitudinous duties.” We find that the process we adopt will ensure the development of an adequate administrative record and appropriate procedural safeguards to ensure due process.

FDD supports revocation of a Regulatee’s Covered Authorization within 30 days of failure to comply after an opportunity to correct or explain any deficiencies to ensure the continued accuracy and reliability of disclosures regarding Foreign Adversary Control. As explained above, we find the record supports adopting a streamlined revocation process as a default across Covered Authorizations where consistent with applicable law. We find

that our procedures are warranted by the national security and law enforcement risks arising from Foreign Adversary Control over Covered Authorizations while comporting with the Communications Act, the APA, and the requirements of due process.

NAB opposes the application of a streamlined revocation process for broadcasters, pointing out that a streamlined process would not comport with Section 312 of the Communications Act. We agree that the Communications Act prescribes specific procedures for certain Commission-granted licenses, such as broadcast licenses, as described above. We therefore make clear that, in all such cases where a statute, treaty, the Constitution, or other applicable law requires that the Commission apply procedure that conflicts with the streamlined procedure we adopt today, we direct the Bureaus and Offices to apply the procedures mandated by the statute or other applicable law. A streamlined revocation process is appropriate in light of the risks that foreign adversaries pose to our networks when they act through surrogates that they “own or control” and that hold licenses, authorizations, and other approvals granted by the Commission. As discussed above, these risks include the ability to directly compromise the integrity of the nation’s communications networks. We exclude certain Covered Authorizations from the revocation procedures adopted herein to the extent revocation of such Covered Authorizations is subject to other statutory requirements that we will apply accordingly, or the Commission has existing processes for revocation (or other comparable action) of such Covered Authorizations that we believe are also appropriately applied in matters involving the Regulatee’s compliance (or lack thereof) with these attestation and disclosure requirements. When determining whether existing processes are appropriate to apply, Licensing Bureaus and Offices are directed to consider whether such processes are solely Commission regulations (*i.e.*, not required by statute, treaty, Executive Order, or the Constitution) and, if so, whether the streamlined revocation procedure may be applied, with modifications as necessary. In the *Submarine Cable Report and Order* (90 FR 48648, Oct. 27, 2025), we adopted an informal written process in cases involving revocation and/or termination of a cable landing license, consistent with due process and procedural requirements under the Cable Landing License Act of 1921, the

Communications Act, and the APA. We also noted that the Commission and the State Department have existing procedures by which the State Department approves the Commission's revocation of a cable landing license, as required by Executive Order 10530, and these procedures would continue to apply to any revocation of a cable landing license. As set forth in our rules, recognized operating agency status is granted or revoked by the U.S. Department of State. To the extent we consider any matter relating to recognized operating agency's compliance or lack thereof with the attestation and disclosure requirement, we will assess whether it warrants a recommendation to revoke the entity's recognized operating agency status and coordinate with the State Department as needed. The Office of International Affairs (OIA) may, for example, issue a notice of intent to recommend revocation and will provide notice of such as required by 47 U.S.C. 413 where applicable. To the extent we consider whether reclamation of an ISPC or DNIC is warranted due to an ISPC holder's or DNIC holder's failure to comply with the attestation and disclosure requirement, we will follow our existing reclamation procedures consistent with ITU-T Recommendation Q.708 and ITU-T Recommendation X.121, respectively. First, OIA will issue a letter notifying the ISPC holder or DNIC holder of its intent to reclaim its provisionally assigned code(s) and require the entity to respond within thirty (30) days. Second, if the ISPC holder or DNIC holder fails to cure the filing defect noted in the letter, or fails to adequately demonstrate why OIA should not reclaim its ISPC(s) or DNIC(s), or otherwise fails to respond to that letter, OIA will issue a letter reclaiming the ISPC(s) or DNIC(s) and notify the ITU of the reclamation. OIA will then make the code(s) available for reassignment.

Publication of Data and Privacy Considerations

We adopt our proposal in the *Document* (90 FR 26244, June 20, 2025) to make the attestations and additional disclosures available to the public. We find that increasing transparency into the control structures of Regulatees across all industries will serve to deter future Foreign Adversary Control over critical infrastructure and protect consumers. By publishing this information, we enhance accountability and advance the Commission's national security and public interest objectives by deterring noncompliance and enabling outside parties to raise

concerns where appropriate. We received no comment opposing this approach. We delegate to OEA and PSHSB, in coordination with Licensing Bureaus and Offices and the Enforcement Bureau, the authority to adopt necessary policies and procedures, and conduct notice-and-comment rulemaking where necessary, to enable the publication of both the information collected by these rules and also of Foreign Adversary Control information more broadly, and to publish the information. To account for the possibility that certain information may need to remain non-public, we delegate authority to OEA and PSHSB, in consultation with the relevant Licensing Bureaus and Offices and the Office of General Counsel, to determine what information, if any, should be withheld from public disclosure and the method and format in which to publicly disclose these filings.

Cost-Benefit Considerations

Benefits. Protecting national security and preserving the substantial economic activity conducted online are the most tangible benefits of identifying foreign adversary threats. The Commission has previously recognized that "a foreign adversary's access to American communications networks could result in hostile actions to disrupt and surveil our communications networks, impacting our nation's economy generally and online commerce specifically, and result in the breach of confidential data." In the *Document* (90 FR 26244, June 20, 2025), we argued that even a temporary disruption in communications could cause billions of dollars in economic losses given that our national gross domestic product was over \$29 trillion in 2024, the digital economy accounted for approximately 16% of the U.S. economy, and the volume of international trade for the United States (exports and imports) was \$5.4 trillion in 2024. Staff estimates that the digital economy accounts for approximately 16% of the U.S. GDP based on the statistics published by the Bureau of Economic Analysis as of 2021: \$3.7 trillion of digital economy / \$23 trillion U.S. GDP = 16%. Thus, the benefits gained from deterring foreign adversaries or other untrustworthy actors and preventing disruption to the U.S. economy and critical communications infrastructure could be significant. Likewise, the attestations and disclosures will enable the Commission and our federal partners to more effectively address the widespread and coordinated efforts to exploit, attack, and otherwise compromise the integrity of communications networks

for the purpose of undermining national security. Additional benefits include preventing the possible loss of confidential data, including the interception of sensitive governmental information, and the undermining of public safety. Requiring Regulatees to report Foreign Adversary Control can mitigate vulnerabilities in the communications infrastructure and strengthen national security by identifying potential threats. Such reporting, however, is only the first step in neutralizing the threat posed by hostile foreign governments. Additional steps include close scrutiny and, where deemed appropriate, revocations to neutralize credible threats.

Costs. In the *Document* (90 FR 26244, June 20, 2025), the Commission reasoned that collecting information on Regulatees owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary is unlikely to impose significant reporting costs for several reasons. First, many Regulatees are already subject to the Commission's existing foreign ownership reporting requirements. Second, a privately held company likely knows the investors or stakeholders that hold interests of 10% or greater or exert significant control over its business directives, while a publicly held company is required to identify its interest holders in requisite filings with the U.S. Securities and Exchange Commission. Third, for those Regulatees not currently reporting foreign ownership nor aware of their ownership interests, Commission staff estimated a one-time foreign adversary ownership reporting cost of \$116 per Regulatee. Consistent with the Commission's calculations in Paperwork Reduction Act (PRA) statements, we estimated the median hourly wage for support staff (paralegals and legal assistants) as \$40. To account for estimated benefits, we added 45% for a total hourly labor cost of \$58. We estimated that for this one-time review, each Regulatee would spend about two hours total to research and report any 10% or greater foreign-adversary ownership stake.

NAB argues that we have underestimated the reporting burden by oversimplifying the complexity of the required reporting tasks, erroneously assigning them to support staff instead of attorneys, and underestimating the time to complete them. In order to substantiate these claims, NAB would have to produce precise, large industry cost estimates to exceed plausible estimates of Foreign Adversary Control reporting benefits. To illustrate, the United States' digital economy amounted to \$4.67 trillion in 2024, for

an average of \$389 billion per month, \$13 billion per day, and \$540 million per hour. 16% of 2024 US GDP of \$29.18 trillion = \$4.67 trillion. Therefore, any disruption of the digital economy by a foreign adversary, even for an hour's duration, is likely to generate billions of dollars in lost value-added, the prevention of which is a benefit. Any disruption that spillovers into global digital commerce—some of which transits U.S. communications networks—is sure to multiply benefits. The World Bank estimated that the digital economy comprised 15% of world nominal GDP in 2024, amounting to approximately \$16 trillion of the \$108 trillion world economy, over three times as much as U.S. digital commerce alone. NAB has not provided any cost data for the Commission to consider. Further, although NAB submits an example of the time it would take for a single station owner to submit foreign ownership attestations, we find that the concern is mitigated by our sliding-scale Schedule approach to only require certain entities to submit attestations and disclosures, and specifically for broadcast licensees, the distinction in reporting requirements for larger and smaller entities.

Accordingly, we conclude that the benefits of the Foreign Adversary Control attestation and disclosure requirements far exceed the costs. Apart from the economic benefits, we believe that the benefits to national security also outweigh any economic costs, as “[i]t is obvious and unarguable that no governmental interest is more compelling than the security of the Nation,” which these rules promote.

Severability

All of the rules that are adopted in this *Report and Order* are designed to mitigate the national security risk of Foreign Adversary Control of Commission-granted licenses, leases, authorizations, permits, grants, and other approvals. Each individual provision of the rules we adopt here serves to address this strategic policy goal. Therefore, it is our intent that each of the separate rules we adopt herein shall be severable. If any subset of the rules is declared invalid or unenforceable for any reason, it is our intent that the remaining rules shall remain in full force and effect.

Final Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Federal Communications Commission (Commission) incorporated an Initial Regulatory Flexibility Analysis (IRFA) in the *Protecting our*

Communications Networks by Promoting Transparency Regarding Foreign Adversary Control, released in May 2025. The Commission sought written public comment on the proposals in the *Document* (90 FR 26244, June 20, 2025), including comment on the IFRA. The comments received are addressed below. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA and it (or summaries thereof) will be published in the **Federal Register**.

Need for, and Objectives of, the Rules

The *Report and Order* adopts new attestation and disclosure requirements that will enhance the Commission's ability to assess and respond to emerging threats from Foreign Adversary Control over U.S. communications networks. This action builds upon the Commission's efforts to gain a more comprehensive and systematic view of threats posed by foreign adversaries. The adopted rules categorize licenses, leases, authorizations, permits, grants, and other Commission approvals into distinct groups, each subject to different attestation and disclosure requirements. Specifically, we adopt rules to establish a reporting framework that distinguishes and categorizes each Covered Authorization based on whether the Regulatee is: (A) required to submit an attestation either affirming or denying Foreign Adversary Control; (B) solely required to submit an attestation affirming Foreign Adversary Control; or (C) is not required to file an attestation in either event. We find this approach ensures the Commission receives the information it needs to promote national security while minimizing burdens to entities that present minimal or no national security risk. The *Report and Order* also sets forth the information to be collected for each group, method of collection, and, subject to statutory exceptions, a streamlined process for revocation for non-compliance. These rules will allow the Commission, as well as our law enforcement partners, to improve situational awareness and develop approaches to eliminate or mitigate national security threats from foreign adversaries.

Summary of Significant Issues Raised by Public Comments in Response to the IFRA

Comments regarding the impact of the rule on small entities were filed by Michael Ravnitzky. In his comments, Ravnitzky suggested that reporting mechanisms should be tailored to accommodate the realities of small business, which could prevent undue

consolidation in the industry and encourage continued innovation and competition. As discussed in greater detail below in Section E, the Commission takes steps to minimize compliance burdens for small entities by exempting certain small entities from the initial attestation requirements, and provides an extended filing deadline for small entities that are required to attest that they are subject to Foreign Adversary Control.

Response to Comments by the Chief Counsel for the Small Business Administration Office of Advocacy

Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for the Small Business Administration (SBA) Office of Advocacy, and also provide a detailed statement of any change made to the proposed rules as a result of those comments. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the adopted rules. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.” A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. The SBA establishes small business size standards that agencies are required to use when promulgating regulations relating to small businesses; agencies may establish alternative size standards for use in such programs, but must consult and obtain approval from SBA before doing so.

Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe three broad groups of small entities that could be directly affected by our actions. In general, a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 34.75 million businesses. Next, “small organizations” are not-for-profit enterprises that are independently owned and operated and are not dominant in their field. While we do not have data regarding the number of non-profits that meet that criteria, over 99 percent of nonprofits

have fewer than 500 employees. Finally, “small governmental jurisdictions” are defined as cities, counties, towns, townships, villages, school districts, or special districts with populations of less than fifty thousand. Based on the 2022 U.S. Census of Governments data, we estimate that at least 48,724 out of 90,835 local government jurisdictions have a population of less than 50,000.

The rules adopted in the *Report and Order* will apply to small entities in the industries identified in the chart below by their six-digit North American Industry Classification System (NAICS) codes and corresponding SBA size standard. The North American Industry Classification System (NAICS) is the

standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy. The size standards in this chart are set forth in 13 CFR 121.201, by six digit NAICS code. Based on currently available U.S. Census data regarding the estimated number of small firms in each identified industry, we conclude that the adopted rules will impact a substantial number of small entities. Where available, we also provide additional information regarding the number of potentially affected entities in the identified industries below.

TABLE 1—2022 U.S. CENSUS BUREAU DATA BY NAICS CODE

Regulated industry (footnotes specify potentially affected entities within a regulated industry where applicable)	NAICS code	SBA size standard	Total firms	Total small firms	% small firms
All Other Telecommunications	517810	\$40 million	1,673	1,007	60.19
Radio Broadcasting Stations	516110	\$47 million	2,616	2,136	81.65
Wired Telecommunications Carriers	517111	1,500 employees	3,403	3,027	88.95
Computer Infrastructure Providers, Data Processing, Web Hosting, and Related Services	518210	\$40 million	12,054	8,895	73.79
Wireless Telecommunications Carriers (except Satellite)	517112	1,500 employees	1,184	1,081	91.30
Satellite Telecommunications	517410	\$44 million	332	195	58.73
Business Associations	813910	\$15.5 million	14,599	13,134	89.97
Web Search Portals and All Other Information Services	519290	1,000 employees	1,004	803	79.98
Other Communications Equipment Manufacturing	334290	800 employees	310	294	94.84
Radio and Television Broadcasting and Wireless Communications Equip Manufacturing	334220	1,250 employees	155	136	87.74
Telecommunications Resellers	517121	1,500 employees	955	847	88.69
Television Broadcasting Stations	516120	\$47 million	413	316	76.51
Aircraft Manufacturing	336411	1,500 employees	234	209	89.32
Uncrewed Aircraft System (UAS) Operators	None	100 employees or less	Data Not Disclosed	Data Not Disclosed	92.20

TABLE 2—TELECOMMUNICATIONS SERVICE PROVIDER DATA

2024 Universal service monitoring report telecommunications service provider data (data as of December 2023)	SBA size standard (1500 Employees)		
Affected entity	Total # FCC form 499A filers	Small firms	% Small entities
Telecommunications Resellers	633	615	97.16
Wired Telecommunications Carriers	4,682	4,276	91.33
Wireless Telecommunications Carriers (except Satellite)	585	498	85.13

TABLE 3—BROADCAST ENTITY DATA

Broadcast station owners (as of August 8, 2025)	SBA size standard (\$47 Million)		
Affected entity	# Commercial licensed	Small firms	% Small entities
Radio Stations (AM & FM) Groups	2,881	2,863	99.38
Television Stations	171	142	83.04

TABLE 4—CABLE ENTITIES DATA

Cable entities	Size standard	Total firms	Small firms	% Small firms in industry
Cable System Operators (Telecom Act Standard). Small Cable Operator	Serves fewer than 498,000 subscribers, either directly or through affiliates.	530	524	98.87
Cable Companies and Systems (Rate Regulation). Small Cable Company	Serves 400,000 or fewer subscribers nationwide.	530	523	98.51
Cable Companies and Systems (Rate Regulation). Small Cable System (headends)	Serves 15,000 or fewer subscribers	4,545	3,965	87.24

Description of Economic Impact and Projected Reporting, Recordkeeping and Other Compliance Requirements for Small Entities

The RFA directs agencies to describe the economic impact of adopted rules on small entities, as well as projected reporting, recordkeeping and other compliance requirements, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record.

The *Report and Order* adopts reporting requirements based on a variety of factors including national security risk of Foreign Adversary Control and reporting burdens. Specifically, the Commission exempts Covered Authorizations designated in Schedule C from the initial attestation requirements for a variety of reasons, including that they are typically held by individuals or small entities that may pose a lesser risk to national security should they be under Foreign Adversary Control. Other entities, such as broadcasters with five or fewer employees, are only required to complete an attestation if the entity is subject to Foreign Adversary Control. Small entities that are required to file this attestation must do so within 120 days of the public notice announcing the launch of the Foreign Adversary Control System. This approach ensures the Commission receives the information it needs to promote national security while minimizing burdens to small and other entities that present minimal or no national security risk.

In the *Report and Order*, the Commission affirms its estimates that a one-time foreign adversary reporting cost would be \$116 per Regulatee. Consistent with the Commission's calculations in Paperwork Reduction Act (PRA) statements, we estimated the median hourly wage for support staff (paralegals and legal assistants) as \$40. To account for estimated benefits, we added 45% for a total hourly labor cost

of \$58. We estimated that for this one-time review, each Regulatee would spend about two hours total to research and report any 10% or greater foreign-adversary ownership stake. We find that many Regulatees are already subject to the Commission's existing foreign ownership reporting requirements and are familiar with similar reporting requirements, thereby, lessening the additional burden that would be imposed on these entities. Further, a privately held company likely knows the investors or stakeholders that hold interests of 10% or greater or exert significant control over its business directives, while a publicly held company is required to identify its interest holders in requisite filings with the U.S. Securities and Exchange Commission. We also observe that certain types of small entities are less likely to be subject to Foreign Adversary Control and may therefore be subject to an exemption from the attestation and reporting requirements.

Discussion of Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

The RFA requires an agency to provide, "a description of the steps the agency has taken to minimize the significant economic impact on small entities . . . including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected."

In the *Report and Order*, the Commission considers a number of alternatives to minimize the economic impact of its attestation and disclosure requirements on small entities, especially those entities that are unlikely to pose national security concerns. First, the Commission creates a sliding-scale Schedule-based approach to the application of our attestation and

disclosure requirements to minimize the burdens of complying across differently situated Regulatees. The exploitation of some larger entities, such as many designated Schedule A, can cause negative impacts to multiple networks. In contrast, small entities' role in communications networks generally presents minimal national security risks because many lack sufficient connection to commercial communications networks, and they are less likely to be under Foreign Adversary Control. Further, they are subject to other existing reporting obligations that provide sufficient visibility into their ownership or control, or they are already subject to other Commission regulations that adequately address the risks of Foreign Adversary Control. Specifically, instead of requiring all Regulatees to submit an attestation, we exempt certain types of Covered Authorizations (those designated in Schedule C) from the initial attestation requirements for a variety of reasons including, for some Covered Authorizations, that they are typically or exclusively held by individuals or small entities. For other entities, such as broadcasters with 5 or fewer employees, we reduce compliance burdens by only requiring an attestation where the entity is subject to Foreign Adversary Control. While other Schedule assignments may not be directly based on size, we require the licensing Bureaus and Offices to consider the size of a Regulatee in determining any changes to the Schedules on an ongoing basis.

Further, the Commission adopts an extended filing deadline for initial attestations and disclosures for small entities, recognizing that small entities may have fewer resources. Small entities are required to file within 120 days after the effective date of the rules or the public notice announcing the launch of the Foreign Adversary Control System, whichever is later, while larger entities are required to file within 60 days. Doubling the duration of the filing

period for small-entity Regulatees will reduce the burden of ascertaining the extent of Foreign Adversary Control of Covered Authorizations and becoming familiarized with any related compliance obligations in a timely manner. Further, this action will better accommodate smaller entities, who frequently have limited resources and compliance capacity. When considered in their totality, we find these actions will meet the Commission's objectives of increasing transparency regarding Foreign Adversary Control while significantly reducing the economic impact on small entities and individual licensees.

Report to Congress

The Commission will send a copy of the *Report and Order*, including this Final Regulatory Flexibility Analysis, in a report to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Report and Order*, including this Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the SBA and will publish a copy of the *Report and Order*, and this Final Regulatory Flexibility Analysis (or summaries thereof) in the **Federal Register**.

Ordering Clauses

Accordingly, *it is ordered*, pursuant to Sections 1, 2, 3, 4(i), 4(n), 5, 201–205, 211–220, 222, 225, 251(e), 254, 301, 302, 303, 304, 307–310, 312, 316, 317, 319, 325, 332, 335, 336, 337, 338(i), 403, 409(e), 601, 631, and 653 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 153, 154(i), 154(n), 155, 201–205, 211–220, 222, 225, 251(e), 254, 301, 302a, 303, 304, 307–310, 312, 316, 317, 319, 325, 332, 335, 336, 337, 338(i), 403, 409(e), 521, 551, 573; Sections 6001–6004, 6101–6102, 6201–6213, 6301–6303, 6401–6413, and 6502–6507 of the Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. 1401–1473; the Cable Landing License Act of 1921, 47 U.S.C. 34–39; Executive Order No. 10,530, 5(a), 19 FR 2709, 2711–12 (May 12, 1954), reprinted as amended in 3 U.S.C. 301 note; Section 601 of the Communications Satellite Act of 1961, 47 U.S.C. 761; Section 706 of the Telecommunications Act of 1996, 47 U.S.C. 1302; and Section 6(a) of the TRACED Act, 47 U.S.C. 227b–1, this *Report and Order* is adopted.

It is further ordered that this *Report and Order* shall be effective 60 days after publication in the **Federal Register**. Compliance with §§ 1.80003 and 73.1212(j)(8) of the Commission's rules, 47 CFR 1.80003, 73.1212(j)(8), which may contain new or modified

information collections, will not be required until the Office of Management and Budget completes review of any information collections that the Office of Economics and Analytics and the Public Safety and Homeland Security Bureau determine is required under the Paperwork Reduction Act. The Commission directs the Office of Economics and Analytics and the Public Safety and Homeland Security Bureau to announce the compliance date for §§ 1.80003 and 73.1212(j)(8) by subsequent Public Notice in the **Federal Register**, and to cause §§ 1.80003 and 73.1212(j)(8) to be revised accordingly.

It is further ordered that the Office of the Managing Director, Performance Program Management, shall send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

It is further ordered that the Commission's Office of the Secretary shall send a copy of this *Report and Order*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 1

Administrative practice and procedure, Communications, Communications common carriers, Communications equipment, Cuba, Individuals with disabilities, Internet, Organization and function (Government agencies), Penalties, Radio, Reporting and recordkeeping requirements, Satellites, Security measures, Telecommunications, Telephone, Television.

47 CFR Part 73

Television.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 1 and 73 as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. chs. 2, 5, 9, 13; 28 U.S.C. 2461 note; 47 U.S.C. 1754, unless otherwise noted.

■ 2. Add subpart GG, consisting of §§ 1.80000 through 1.80004, to read as follows:

Subpart GG—Foreign Adversary Control of Commission-Granted Licenses and Authorizations

Sec.

1.80000 Purpose.

1.80001 Definitions.

1.80002 Schedules of Covered Authorizations subject to Foreign Adversary Control rules.

1.80003 Foreign adversary control attestation and disclosures.

1.80004 Enforcement and streamlined revocation procedure.

Subpart GG—Foreign Adversary Control of Commission-Granted Licenses and Authorizations

Authority: 47 U.S.C. chs. 2, 5, 9, 11, 12, 13, 15.

§ 1.80000 Purpose.

The purpose of this subpart is to mitigate the risk to national security and public safety of Foreign Adversary Control, as that term is defined in § 1.80001, of an individual or entity that holds a Commission license, lease, authorization, permit, grant, or other approval by requiring attestations and disclosures regarding any such Foreign Adversary Control by the holder of such license, lease, authorization, permit, grant, or other approval, and by an applicant for such license, lease, authorization, permit, grant, or other approval as set forth in § 1.80003.

§ 1.80001 Definitions.

(a) *Covered Authorization*. The term *Covered Authorization* means a license, lease, authorization, permit, grant, or other approval granted by the Commission that appears on a Schedule as described in § 1.80002.

(b) *Foreign adversary*. The term *foreign adversary* is given the same meaning as defined in § 1.70001(e).

(c) *Foreign adversary country*. The term *foreign adversary country* is given the same meaning as defined in § 1.70001(f).

(d) *Licensing Bureaus and Offices*. The term *Licensing Bureaus and Offices* means a Federal Communications Commission Bureau or Office that grants a license, lease, authorization, permit, grant, or other approval held by a Regulatee as defined in paragraph (f) of this section. These include the Consumer and Governmental Affairs Bureau, Media Bureau, Public Safety and Homeland Security Bureau, Space Bureau, Wireless Telecommunications Bureau, Wireline Competition Bureau, Office of Economics and Analytics, Office of Engineering and Technology, and Office of International Affairs.

(e) *Owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary.* The term *owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary* is given the same meaning as defined in § 1.70001(g). For the purposes of § 1.70001(g)(4), the Commission shall generally deem a holder of 10% or greater of the total outstanding voting and/or equity interest in a Regulatee as possessing the power to determine, direct, or decide important matters affecting an entity,

and delegates authority to the Licensing Bureaus and Offices, and the Enforcement Bureau, the authority to make exceptions to this general determination on a case-by-case basis. The term *Foreign Adversary Control* is used coterminously with this term for the purposes of this subpart.

(f) *Regulatee.* The term *Regulatee* refers to the holder or grantee of a Covered Authorization as defined in paragraph (a) of this section, or an applicant therefor.

(g) *Schedule.* The term *Schedule* refers to the groupings used to

categorize Covered Authorizations and Regulatees, as described in § 1.80002, based on the applicable attestation and disclosure requirements.

(h) *Small entity.* The term *small entity* means a Regulatee with a size not exceeding the size standards listed in 13 CFR 121.201.

§ 1.80002 Schedules of Covered Authorizations subject to Foreign Adversary Control rules.

(a) *Schedule A Covered Authorizations.*

TABLE 1 TO PARAGRAPH (a)

Legal authority citation	Covered authorization type	Qualification(s)
47 CFR parts 22, 24, 27, 30, 90, 96, and 101	Broadband-capable, geographic-area wireless licenses in the following services: • AWS-4 (2000–2020 MHz and 2180–2200 MHz). • AWS-H Block (at 1915–1920 MHz and 1995–2000 MHz). • AWS-3 (1695–1710 MHz, 1755–1780 MHz, and 2155–2180 MHz). • AWS (1710–1755 MHz and 2110–2155 MHz). • 1670–1675 MHz Band, Market Area. • Broadband Radio Service. • 900 MHz Broadband Service. • Commercial Aviation Air-Ground Radiotelephone (800 MHz band). • Cellular. • PCS Broadband. • 1910–1915/1990–1995 MHz Bands, Market Area. • Educational Broadband Service. • 3.45 GHz Service. • 3.5 GHz Band Priority Access License. • 3.7 GHz Service. • Upper Microwave Flexible Use Service. • Wireless Communications Service. • 600 MHz Band. • 700 MHz Upper Band (Block C). • 700 MHz Lower Band (Blocks A, B & E). • 700 MHz Lower Band (Blocks C, D).	
47 CFR parts 26, 87, 90, 95, and 96	Frequency coordinator certifications.	
47 U.S.C. 310(b); 47 CFR part 1	Section 310(b) declaratory rulings.	
47 CFR part 25	Space and earth station authorizations.	
47 CFR parts 73, 74, 76, and 78	• Broadcast licenses (AM, FM, LPFM, FM translator, FM Booster, Full Power TV, Class A TV, LPTV, TV translator). • Cable television relay service station (CARS) licenses.	The holder of which has 6 or more full-time employees or, in the case of a holder of a broadcast license, receives an affirmative response under the Commission's foreign sponsorship identification rules from a lessee that is a foreign adversary.
47 CFR part 73	International broadcast station licenses	
47 U.S.C. 325(c); 47 CFR part 73	Section 325(c) authorizations	
Cable Landing License Act of 1921; Executive Order 10530 of 1954; 47 CFR part 1.	Submarine cable landing licenses.	
47 U.S.C. 214(a); 47 CFR part 63	Domestic Section 214(a) authorizations.	
47 U.S.C. 214(e), 47 CFR part 54, subpart C	Eligible telecommunications carrier designations.	The holder of which has 6 or more full-time employees or receives an affirmative response under the Commission's foreign sponsorship identification rules from a lessee that is a foreign adversary.
47 U.S.C. 214; 47 CFR part 63	International Section 214 authorizations.	
47 CFR part 52	Interconnected Voice over Internet Protocol direct access to numbering resources authorizations.	
47 CFR part 2, subpart J	Equipment certifications.	
47 CFR part 1; ITU-T Recommendation X.121 Data network identification codes.		
47 CFR part 1; ITU-T Recommendation Q.708	International signaling point codes.	The holder of which has 6 or more full-time employees or receives an affirmative response under the Commission's foreign sponsorship identification rules from a lessee that is a foreign adversary.
47 CFR part 1; 47 CFR part 63; Constitution and Convention of the International Telecommunication Union.	Recognized operating agencies.	
47 U.S.C. 225; 47 CFR part 64, subpart F	Internet-based telecommunications relay services certifications.	

(b) *Schedule B Covered Authorizations.*

TABLE 2 TO PARAGRAPH (b)

Legal authority citation	Covered authorization type	Qualification(s)
47 CFR parts 22, 24, 26, 27, 30, 74, 80, 87, 90, 95, 97, and 101.	Geographic and site-based wireless licenses in the following services: • Aviation Auxiliary Group. • Aural Microwave Booster. • Aeronautical and Fixed. • Aural Intercity Relay. • Aviation Radionavigation. • Aural Studio Transmitter Link. • 3.5 GHz General Authorized Access (licensed by rule). • 1390–1392 MHz Band, Market Area. • 1392–1395 and 1432–1435 MHz Bands, Market Area. • BETRS. • Paging and Radiotelephone. • Digital Electronic Message Service—Common Carrier. • Common Carrier Fixed Point to Point Microwave. • General Aviation Air-ground Radiotelephone. • PCS Narrowband. • Offshore Radiotelephone. • Part 22 VHF/UHF Paging (excluding 931MHz). • Rural Radiotelephone. • Local Television Transmission. • Part 22 931 MHz Paging. • Multichannel Video Distribution and Data Service. • Business, 806–821/851–866 MHz, Conventional. • 929–931 MHz Band, Auctioned. • Other Indust/Land Transp, 896–901/935–940 MHz, Conv. • Business/Industrial/Land Trans, 809–824/854–869 MHz, Conv. • 800 MHz Conventional SMR (SMR, Site-specific). • Other Indust/Land Transp, 806–821/851–866 MHz, Conv. • SMR, 896–901/935–940 MHz, Conventional. • Private Carrier Paging, 929–930 MHz. • Business, 896–901/935–940 MHz, Conventional. • SMR, 806–821/851–866 MHz, Conventional. • Industrial/Business Pool, Conventional. • Industrial/Business Pool—Commercial, Conventional. • Intelligent Transportation Service (Public Safety). • Local Multipoint Distribution Service. • 902–928 MHz Location Narrowband (Non-multilateration). • Broadcast Auxiliary Low Power. • Location and Monitoring Service, Multilateration (LMS). • Low Power Wireless Assist Video Devices. • 902–928 MHz Location Wideband (Grandfathered AVM). • Marine Auxiliary Group. • Coastal Group. • Microwave Industrial/Business Pool. • Alaska Group. • Millimeter Wave 70/80/90 GHz Service. • Marine Radiolocation Land. • Multiple Address Service, Auctioned. • Microwave Public Safety Pool. • Nationwide Commercial 5 Channel, 220 MHz. • 3650–3700 MHz. • Public Coast Stations, Auctioned.	

TABLE 2 TO PARAGRAPH (b)—Continued

Legal authority citation	Covered authorization type	Qualification(s)
	• Digital Electronic Message Service—Private. • 220–222 MHz Band, Auctioned. • Non-Nationwide Data, 220 MHz. • Non-Nationwide Public Safety/Mutual Aid, 220 MHz. • Non-Nationwide Other, 220 MHz. • Intelligent Transportation Service (Non-Public Safety). • Non-Nationwide 5 Channel Trunked, 220 MHz. • Broadcast Auxiliary Remote Pickup. • Land Mobile Radiolocation. • TV Microwave Booster. • MSS Ancillary Terrestrial Component (ATC) Leasing. • TV Intercity Relay. • TV Pickup. • TV Studio Transmitter Link. • TV Translator Relay. • Microwave Aviation. • Microwave Marine. • Microwave Radiolocation. • 700 MHz Guard Band. • Business, 806–821/851–866 MHz, Trunked. • SMR, 806–821/851–866 MHz, Auctioned. • SMR, 896–901/935–940 MHz, Auctioned. • Industrial/Business Pool, Trunked. • SMR, 806–821/851–866 MHz, Auctioned (Rebanded YC license). • Other Indust/Land Transp. 896–901/935–940 MHz, Trunked. • Business/Industrial/Land Transp. 809–824/854–869 MHz, Trunked. • Industrial/Business Pool—Commercial, Trunked. • 800 MHz Trunked SMR (SMR, Site-specific). • Other Indust/Land Transp. 806–821/851–866 MHz, Trunked. • SMR, 896–901/935–940 MHz, Trunked. • Business, 896–901/935–940 MHz, Trunked. • SMR, 806–821/851–866 MHz, Trunked. • 218–219 MHz Service.	
47 CFR part 101, subpart Q	Database Managers for 70/80/90 GHz Band Registrations.	
47 CFR part 17	Mandatorily filed antenna structure registrations.	
47 CFR parts 73 and 74	• Broadcast licenses (AM/FM/LPFM/FM Translator/FM Booster/Full Power TV/Class A TV/LPTV/TV translator).	Not included in Schedule A.
47 CFR part 73	• Cable television relay service station (CARS) licenses	Not included in Schedule A.
47 U.S.C. 325(c); 47 CFR part 73	International broadcast station licenses	Not included in Schedule A.
	Section 325(c) authorizations	Not included in Schedule A.

(c) *Schedule C Covered Authorizations.*

TABLE 3 TO PARAGRAPH (c)

Legal authority citation	Covered authorization type	Qualification(s)
47 CFR part 17	Voluntarily filed antenna structure registrations	
47 CFR part 1	Commission auction applications	

TABLE 3 TO PARAGRAPH (c)—Continued

Legal authority citation	Covered authorization type	Qualification(s)
47 CFR parts 80, 87, 90, 95, 97, and 101.	Wireless licenses in the following services: • Aircraft • Commercial Operator • Amateur • Vanity • Restricted Operator • Ship Recreational or Voluntarily Equipped • Ship Compulsory Equipped • General Mobile Radio (GMRS) • PubSafty/SpecEmer/PubSaftyNtlPlan, 806–817/851–862MHz, Conv • Public Safty Ntl Plan, 821–824/866–869 MHz, Conv. • Public Safty/Spec Emerg, 806–821/851–866 MHz, Conv. • Public Safty 4940–4990 MHz Band • 4940–4990 MHz Public Safty, Base/Mobile • 4940–4990 MHz Public Safty, Pt-to-Pt, Pt-to-Multi-Pt • Public Safty Pool, Conventional • Conventional Public Safty 700 MHz • Public Safty 700 MHz Band-State License • 700 MHz Public Safty Broadband Nationwide License • Trunked Public Safty 700 MHz • PubSafty/SpecEmer/PubSaftyNtlPlan,806–817/851–862MHz,Trunked • Public Safty Ntl Plan, 821–824/866–869 MHz, Trunked • Public Safty/Spec Emerg, 806–821/851–866 MHz, Trunked • Public Safty Pool, Trunked	
47 CFR part 13	Part 13 radio operator licenses and permits	
47 CFR 2.1071 through 2.1077	Supplier's Declaration of Conformity	

(d) *Publication of the Schedules.* The Office of Economics and Analytics, in coordination with the Licensing Bureaus and Offices, shall publish the Schedules on the Commission's website, and maintain and update the Schedules in accordance with paragraph (e)(2) of this section.

(e) *Updates to the Schedules.* (1) A Licensing Bureau or Office may, upon petition or its own motion, conduct a notice-and-comment rulemaking to modify one or more Schedules as it pertains to a Covered Authorization over which the Commission has delegated to the Licensing Bureau or Office appropriate authority.

(2) The Licensing Bureau or Office shall adopt such modification(s) upon determination that such a revision is necessary or appropriate based on an analysis that weighs the following criteria:

(i) National security risk, taking into account:

- (A) Type and size of Regulatee;
- (B) Applicable communications sector and supply chain dependencies;
- (C) Nature and type of underlying infrastructure;
- (D) Possibility and probability of Foreign Adversary Control, as defined in § 1.80001(e); and
- (E) Existence of risk-mitigating Commission regulations in this part;

(ii) Administrability, taking into account:

(A) Whether the modification(s) would simplify or complicate existing compliance processes for both the Commission and Regulatees; and

(B) Feasibility of agency review and enforcement;

(iii) Burden on Regulatee, taking into account:

(A) Existence of substantially duplicative reporting requirements;

(B) Whether the burden would fall disproportionately on smaller entities; and

(C) Whether the license, lease, authorization, permit, grant, or other Commission-granted approval is similarly situated to another Covered Authorization and thus should be treated similarly; and

(iv) Other criteria deemed relevant by the Licensing Bureau or Office, such as whether the attestation requirement for the Covered Authorization remains necessary in light of technological or industry developments.

(3) The Licensing Bureaus and Offices shall provide written notice to announce a Schedule modification, including a filing deadline for new attestations required by § 1.80003, where applicable, that is no earlier than 30 days after the effective date of the public notice.

§ 1.80003 Foreign adversary control attestation and disclosures.

(a) *Schedule A attestations.* Except as provided in paragraphs (f) and (g) of this section, an officer or other authorized

representative of a Schedule A Regulatee shall attest to the Commission that it is or is not owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary as defined in § 1.80001(e). Schedule A includes Covered Authorizations thus identified in § 1.80002(a). An attestation that an entity is not owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary as defined in § 1.80001(e) must be definitive, and filers may not seek staff clarification in their attestations or include materials with such responses meant to disclose information for staff review.

(b) *Schedule B attestations.* Except as provided in paragraph (f) of this section, an officer or other authorized representative of a Schedule B Regulatee, that is owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary as defined in § 1.80001(e), shall attest to the Commission thereof. Schedule B includes Covered Authorizations thus identified in § 1.80002(b).

(c) *Schedule C attestations.* An officer or other authorized representative of a Schedule C Regulatee is exempt from filing initial attestations required by this Section. Schedule C includes Covered Authorizations thus identified in § 1.80002(c).

(d) *Regulatees holding or applying for Covered Authorizations in different Schedules.* An officer or other

authorized representative of a Regulatee holding or applying for Covered Authorizations listed in different Schedules shall attest according to the requirements of the Covered Authorization listed in a Schedule that applies more reporting requirements. For example, if a Regulatee holds or applies for a Covered Authorization from Schedule A and another from Schedule B, the Regulatee shall only file a single attestation, according to the rules for Schedule A attestations.

(e) *Provisional attestations.* An officer or other authorized representative of a Regulatee that attests affirmatively pursuant to paragraph (a) or (b) of this section, but denies that an interest obligating the Regulatee to attest affirmatively confers upon the interest holder the ability to determine, direct, or decide important matters affecting an entity, shall demonstrate by clear and convincing evidence why such interest does not meet § 1.70001(g)(4).

(f) *Exemptions.* No State or local government agency, federally recognized Tribal Nation, or business controlled by a federally recognized Tribal Nation is subject to the provisions in this subpart.

(g) *Foreign adversary sponsorship.* An entity with a broadcast license (AM, FM, LPFM, FM translator, FM Booster, Full Power TV, Class A TV, LPTV, TV translator), a cable television relay service station (CARS) license, an international broadcast station license, or section 325(c) authorization encompassed by table 2 to § 1.80002(b) that does not otherwise hold a Covered Authorization from Schedule A but receives an affirmative response under the Commission's foreign sponsorship identification rules from a lessee that is a foreign adversary shall fulfill its duties under paragraph (a) of this section by filing a copy of the lessee's information with the Commission pursuant to § 73.1212(j)(8) of this chapter.

(h) *Deadline for initial attestations.* Except as provided in paragraph (i) of this section, a Regulatee shall file any attestation required by paragraph (a) or (b) of this Section no later than 60 days after the publication of a public notice announcing the creation of the attestation portal, and shall attest to its Foreign Adversary Control status as of the publication date of the same public notice.

(i) *Deadline for initial attestations made by small entities.* A Regulatee that is a small entity shall file any attestation required by paragraph (a) or (b) of this section no later than 120 days after the publication of a public notice announcing the creation of the attestation portal, and shall attest to its

Foreign Adversary Control status as of the publication date of the same public notice.

(j) *Additional disclosures for entities subject to Foreign Adversary Control.* Except as provided in paragraph (f) of this section, a Schedule A, B, or C Regulatee that attests that it is owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary, shall disclose to the Commission subject to the applicable deadline set forth in paragraph (h), (i), or (l) of this section, or a deadline set by a Licensing Bureau or Office pursuant to § 1.80002(e)(3):

(1) All 5% or greater direct or indirect equity and/or voting interest holders, and controlling interest holders, specifically:

(i) For each reported natural person interest holder, his or her:

(A) Name;

(B) Address;

(C) Country or countries of citizenship; and

(D) Percentage of equity and/or voting interest, and all controlling interests, held directly or indirectly in the Regulatee; and

(ii) For each reported entity (including a government entity) interest holder, its:

(A) Name;

(B) Address;

(C) Country under the laws of which the entity is organized;

(D) Country of the principal place of business, headquarters, and place of incorporation or organization;

(E) Type of entity and principal business(es); and

(F) Percentage of equity and/or voting interest, and all controlling interests, held directly or indirectly in the Regulatee; and

(iii) An ownership diagram that illustrates the Regulatee's vertical ownership structure, including the direct and indirect equity and/or voting interests, and/or controlling interests, as applicable, held by the individuals and entities named in response to this paragraph (j)(1). Every such individual or entity with equity and/or voting interests shall be depicted and all controlling interests must be identified. For disclosures provided pursuant to paragraphs (l)(3)(ii), (l)(4)(ii), and (l)(5)(ii) of this section, the ownership diagram shall include both the pre-transaction and post-transaction ownership of the Regulatee;

(2) The identity of the foreign adversary or foreign adversary country the Regulatee is owned by, controlled by, or subject to the jurisdiction or direction of; and

(3) The nature of the Foreign Adversary Control to which the Regulatee is subject.

(4) A Regulatee filing a disclosure pursuant to this paragraph (j) shall include a statement certifying to the truth and accuracy of all information included in the disclosure.

(k) *Eligible U.S. public companies.* A Regulatee that is an eligible U.S. public company, as that term is defined in § 1.5000(e), and that is subject to the reporting requirements set forth in paragraph (j) of this section, shall follow the same standards set forth in § 1.5000(e), to the extent applicable, in its reporting under paragraph (j) of this section.

(l) *Ongoing attestation and disclosure requirements.* After the deadline for initial attestations set forth in paragraphs (h) and (i) of this section, the following entities shall file a new attestation pursuant to paragraphs (a) and (b) of this section, as applicable, and, if affirmative, the additional disclosures required by paragraph (j) of this section:

(1) Any Regulatee holding a Covered Authorization designated in Schedule A or B, regardless of whether it has already filed an attestation;

(i) Within 30 days of the Regulatee becoming subject to Foreign Adversary Control, to the extent such change does not require Commission approval; or

(ii) Within 60 days, or for small entities within 120 days, of the effective date of an addition to the Department of Commerce's list of foreign adversaries in 15 CFR 791.4 of a foreign government or foreign non-government person that has Foreign Adversary Control over the Regulatee;

(2) Any Regulatee of a Covered Authorization newly designated in Schedule A regardless of whether it has already filed an attestation, within 30 days of the effective date of a public notice announcing the designation;

(3) A Schedule A or B Regulatee that is subject to Foreign Adversary Control, or any Regulatee whose last attestation was affirmative;

(i) Upon application for any new Covered Authorization;

(ii) Upon application for an assignment, except a *pro forma* assignment as defined in § 63.24(d) of this chapter, of any Covered Authorization held by the Regulatee;

(iii) Upon application for a renewal of any Covered Authorization;

(iv) Upon application for a modification of any Covered Authorization;

(v) Within 30 days of any changes to 5% or greater direct or indirect equity

and/or voting interests, or controlling interests, held in the Regulatee; or

(vi) Within 30 days of the effective date of a public notice designating a Covered Authorization held by the Regulatee in Schedule B;

(4) Any entity regardless of Foreign Adversary Control;

(i) Upon application for the entity's initial Covered Authorization designated in Schedule A; or

(ii) Upon application for the entity to be the transferee or assignee of its initial Covered Authorization designated in Schedule A, except in the case of a *pro forma* transfer of control or assignment as defined in § 63.24(d) of this chapter;

(5) Any entity that is subject to Foreign Adversary Control;

(i) Upon application for the entity's initial Covered Authorization designated in Schedule B;

(ii) Upon application for the entity to be the transferee or assignee of its initial Covered Authorization designated in Schedule B, except in the case of a *pro forma* transfer of control or assignment as defined in § 63.24(d) of this chapter; or

(iii) Upon application for modification of a Covered Authorization designated in Schedule A or B that would cause the entity to be a licensee or lessee of the Covered Authorization; and

(6) Any Regulatee whose last attestation was affirmative within 30 days of its determination that it is no longer subject to Foreign Adversary Control.

(m) *Foreign adversary control filing method.* The Office of Economics and Analytics and the Public Safety and Homeland Security Bureau, in coordination with Licensing Bureaus and Offices, shall announce the creation of the attestation portal and the method of filing the attestations and disclosures required by this section therein.

(n) *Administration.* The Commission delegates authority to the Office of Economics and Analytics and the Public Safety and Homeland Security Bureau, in consultation with the Licensing Bureaus and Offices and the Enforcement Bureau where appropriate, to adopt necessary policies and procedures, and conduct notice-and-comment rulemaking, where appropriate, relating both to the administration of the information collection described in this Section and Foreign Adversary Control information more broadly, including rule clarifications and further guidance, modification of deadlines, publication of information, and treatment of provisional attestations.

(o) *Compliance date.* Compliance with this section will not be required until after the completion of such review by the Office of Management and Budget as the Office of Economics and Analytics and the Public Safety and Homeland Security Bureau deem necessary. The Commission will publish a document in the **Federal Register** announcing that compliance date and revising or removing this paragraph (o) accordingly.

§ 1.80004 Enforcement and streamlined revocation procedure.

(a) *Enforcement.* The Commission may take enforcement action against a Regulatee for failure to comply with the deadlines in § 1.80003; for an incomplete or inaccurate filing, including a false statement or representation; or if the Commission assesses that Foreign Adversary Control of the Covered Authorization may pose an unacceptable risk to national security. Prior to taking enforcement action, the Enforcement Bureau shall:

(1) Review referrals and coordinate with the applicable Licensing Bureaus and Offices where appropriate; and

(2) Consider national security risks, potential harms to the public, any effect on downstream providers, and other factors presented by the Regulatee when determining an appropriate enforcement action.

(b) *Streamlined revocation procedure.* To the extent consistent with applicable law, and except in cases of willfulness or those in which public health, interest, or safety requires otherwise, prior to revoking a Regulatee's Covered Authorization, the Enforcement Bureau and/or Licensing Bureau or Office:

(1) Shall issue a public Notice of Deficiency and Opportunity to Comply—consistent with the provisions of § 1.89, except that the response period shall be 30 days—and provide courtesy copy to the Regulatee's most recent contact information on file with the Commission that will:

(i) Inform the Regulatee of the specific failure to comply, such as failure to file or other identified deficiencies;

(ii) Provide thirty (30) calendar days to cure the deficiency and demonstrate why a revocation proceeding should not be initiated; and

(iii) Specify that failure to provide a full and complete response within the 30-day period will result in an Order to Show Cause commencing a revocation proceeding;

(2) May, if the Regulatee fails to cure the filing defect or respond to the Notice of Deficiency and Opportunity to Comply, or where that step is not required due to willfulness or

considerations of public health, interest, or safety, pursuant to 5 U.S.C. 558(c), issue an Order to Show Cause to commence a revocation proceeding and provide the Regulatee fifteen (15) calendar days to explain why the Regulatee's Covered Authorization should not be revoked; and

(3) May, after the conclusion of the period for notice and opportunity to respond as specified in paragraphs (b)(1) and (2) of this section, issue an Order of Revocation revoking the Regulatee's Covered Authorization(s).

(c) *Review of submissions.*—(1) *Failure to comply with deadlines.* The Licensing Bureaus and Offices may refer Regulatees that failed to timely file any filing required by this subpart to the Enforcement Bureau for possible enforcement action, including monetary penalties or commencement of the revocation process consistent with this Section.

(2) *Incomplete or inaccurate responses.* Following the receipt of an attestation or disclosure required by § 1.80003, the Licensing Bureau or Office shall make a preliminary assessment on whether it has a reasonable basis for finding that the attestation and/or disclosures submitted by the Regulatee is incomplete or inaccurate. In making a preliminary assessment, the Licensing Bureau or Office shall consider:

(i) Willfulness;

(ii) Potential national security risks;

(iii) Any effect on downstream providers;

(iv) Any adverse impact on the public; and

(v) Other factors the Licensing Bureau or Office deems relevant.

PART 73—RADIO BROADCAST SERVICES

■ 3. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 155, 301, 303, 307, 309, 310, 334, 336, 339.

Subpart H—Rules Applicable to All Broadcast Stations

■ 4. Amend § 73.1212 by:

■ a. Redesignating paragraph (j)(8) as paragraph (j)(9); and

■ b. Adding new paragraph (j)(8).

The addition reads as follows:

§ 73.1212 Sponsorship identification; list retention; related requirements.

* * * * *

(j) * * *

(8) A licensee of a broadcast station receiving a response from a lessee under paragraph (j)(3)(ii) of this section that identifies the lessee as a foreign

adversary or foreign adversary country as defined in § 1.70001 of this chapter shall file with the Commission a copy of the disclosure provided by the lessee according to the procedure established under § 1.80003(m) of this chapter within 60 days, or 120 days for stations with five or fewer employees, of the	licensee’s receipt of the disclosure provided by the lessee. Compliance with this paragraph (j)(8) will not be required until after the completion of such review by the Office of Management and Budget as the Office of Economics and Analytics and the Public Safety and Homeland Security Bureau	deem necessary. The Commission will publish a document in the Federal Register announcing that compliance date and revising or removing this paragraph (j)(8) accordingly. * * * * * [FR Doc. 2026–06992 Filed 4–9–26; 8:45 am] BILLING CODE 6712–01–P



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Part V

Department of the Treasury

Financial Crimes Enforcement Network

31 CFR Parts 1010, 1020, 1021, et al.

Anti-Money Laundering and Countering the Financing of Terrorism
Programs; Proposed Rule

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

31 CFR Parts 1010, 1020, 1021, 1022, 1023, 1024, 1025, 1026, 1027, 1028, 1029, and 1030

RIN 1506–AB72

Anti-Money Laundering and Countering the Financing of Terrorism Programs

AGENCY: Financial Crimes Enforcement Network (FinCEN), Treasury.

ACTION: Proposed rule.

SUMMARY: Pursuant to the Department of the Treasury (Treasury) and FinCEN's efforts to modernize the Bank Secrecy Act (BSA) and to implement provisions of the Anti-Money Laundering Act of 2020 (AML Act), FinCEN is proposing a rule to fundamentally reform the requirements for financial institutions' anti-money laundering and countering the financing of terrorism (AML/CFT) programs. Among other changes, this proposed rule aims to ensure that financial institutions establish and maintain effective AML/CFT programs that better achieve the purposes of the BSA and lead to more effective outcomes for financial institutions as well as law enforcement and national security agencies. Through this rulemaking, consistent with its statutory authority as the administrator of the BSA, FinCEN is also proposing measures to modernize and reform Federal supervision of AML/CFT programs by enhancing FinCEN's role in AML/CFT supervision and enforcement in coordination with Federal banking regulators. In addition, FinCEN is proposing regulatory amendments to promote clarity and consistency across FinCEN's program rules for different types of financial institutions.

DATES: Comments must be received by June 9, 2026.

ADDRESSES: Comments must be submitted in one of the following two ways (please choose only one of the ways listed):

- Electronically at <https://www.regulations.gov>. Follow the "Submit a comment" instructions. If you are reading this document on [federalregister.gov](https://www.federalregister.gov), you may use the green "SUBMIT A PUBLIC COMMENT" button beneath this rulemaking's title to submit a comment to the [regulations.gov](https://www.regulations.gov) docket. Refer to Docket Number FINCEN–2026–0034 and RIN 1506–AB72.

- You may mail written comments to the following address: Regulatory and

Strategic Affairs Division, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183. Refer to Docket Number FINCEN–2026–0034 and RIN 1506–AB72. Mailed comments must be received by the close of the comment period.

Do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed. All comments are public records; they are publicly displayed exactly as received, and will not be deleted, modified, or redacted. Comments may be submitted anonymously.

Follow the search instructions on <https://www.regulations.gov> to view public comments. In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at www.regulations.gov under Docket FINCEN–2026–0034.

FOR FURTHER INFORMATION CONTACT: The FinCEN Regulatory Support Section at www.fincen.gov/contact.

SUPPLEMENTARY INFORMATION:

I. Scope

The proposed rule would amend FinCEN's regulations that prescribe anti-money laundering program requirements for financial institutions (AML program rules)¹ under the BSA.² For purposes of the AML program rules and this proposed rule, "financial institutions" are: (1) banks; (2) casinos and card clubs (casinos); (3) money

¹ When referring to the existing program rules, the term "AML program rules" is used; when referring to the requirements that this NPRM is proposing, the term "AML/CFT program rules" is used.

² Certain parts of the Currency and Foreign Transactions Reporting Act, its amendments, and the other statutes relating to the subject matter of that Act, have come to be referred to as the BSA. These statutes are codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1960, and 31 U.S.C. 5311–5314 and 5316–5336 and notes thereto, with implementing regulations at 31 CFR chapter X. Certain criminal statutes—namely, 18 U.S.C. 1956, 1957, and 1960—are included in the BSA definition at 31 CFR 1010.100(e). Section 6003 of the AML Act, however, does not include these provisions in its BSA definition, and thus FinCEN is not considering them part of the BSA for the purposes of this proposed rule. The AML program rules are located at 31 CFR 1020.210 (banks), 1021.210 (casinos), 1022.210 (MSBs), 1023.210 (broker-dealers), 1024.210 (mutual funds), 1025.210 (insurance companies), 1026.210 (FCMs and IBCs), 1027.210 (DPMSJs), 1028.210 (operators of credit card systems), 1029.210 (loan or finance companies), and 1030.210 (housing GSEs). FinCEN notes this proposed rule does not propose any amendments to the final rule establishing AML/CFT and suspicious activity report (SAR) filing requirements for registered investment advisers and exempt reporting advisers, which has been delayed until January 1, 2028. See FinCEN, *Delaying the Effective Date of the Anti-Money Laundering/Countering the Financing of Terrorism Program and Suspicious Activity Report Filing Requirements for Registered Investment Advisers and Exempt Reporting Advisers Final Rule*, 91 FR 36 (Jan. 2, 2026).

services businesses (MSBs); (4) brokers or dealers in securities (broker-dealers); (5) mutual funds; (6) insurance companies; (7) futures commission merchants (FCMs) and introducing brokers in commodities (IBCs); (8) dealers in precious metals, precious stones, or jewels (DPMSJs); (9) operators of credit card systems; (10) loan or finance companies; and (11) housing government sponsored enterprises (housing GSEs).

II. Background

A. Anti-Money Laundering Programs Under the Bank Secrecy Act

Enacted in 1970 and amended several times since, the BSA is designed to combat money laundering, the financing of terrorism, and other illicit finance activity risks³ (collectively, ML/TF risks).⁴ Congress has authorized the Secretary of the Treasury (Secretary) to administer the BSA. The Secretary has in turn delegated the authority to implement, administer, and enforce compliance with the BSA and its associated regulations to the Director of FinCEN (Director).⁵

Since its original enactment, Congress has continued to address various aspects of AML/CFT compliance, including through expansion of the BSA.⁶ In 1992, the Annunzio-Wylie Anti-Money Laundering Act⁷ gave the Secretary authority to prescribe minimum standards for AML programs, including: "(A) the development of

³ As defined in section 281(5) of the Countering America's Adversaries Through Sanctions Act, the term "illicit finance" means "the financing of terrorism, narcotics trafficking, or proliferation, money laundering, or other forms of illicit financing domestically or internationally, as defined by the President." Public Law 115–44 (Aug. 2, 2017).

⁴ 31 U.S.C. 5311.

⁵ Treasury Order 180–01 (Jan. 14, 2020), para. 3, <https://home.treasury.gov/about/general-information/orders-and-directives/treasury-order-180-01>; see also 31 U.S.C. 310(b)(2)(I) (providing that the Director of FinCEN shall "[a]dminister the requirements of subchapter II of chapter 53 of this title, chapter 2 of title I of Public Law 91–508, and section 21 of the Federal Deposit Insurance Act, to the extent delegated such authority by the Secretary").

⁶ Most recently, Congress enacted the Guiding and Establishing National Innovation for U.S. Stablecoins (GENIUS) Act on July 18, 2025. Public Law 119–27, codified at 12 U.S.C. 5901 *et seq.* The GENIUS Act requires that permitted payment stablecoin issuers be treated as financial institutions for purposes of the BSA including being required to maintain "an effective anti-money laundering program." See 12 U.S.C. 5903(a)(5)(A)(i). The GENIUS Act also requires the Agencies to issue regulations relating to PPSIs, including regulations pertaining to BSA compliance standards. 12 U.S.C. 5903(a)(4)(iv). These AML/CFT requirements and standards for PPSIs are addressed separately from this rulemaking.

⁷ Section 1517 of the Annunzio-Wylie Anti-Money Laundering Act, Public Law 102–550, 106 Stat. 3672 (Oct. 28, 1992).

internal policies, procedures, and controls, (B) the designation of a compliance officer, (C) an ongoing employee training program, and (D) an independent audit function to test programs”—what are often called the “four pillars” of AML programs.⁸ Later, the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act) further amended the BSA to include, among other things, customer identification program (CIP) requirements and the expansion of AML program rules to cover certain other financial industry participants (e.g., credit unions and FCMs).⁹ The USA PATRIOT Act also made it mandatory for financial institutions to maintain AML programs that meet minimum prescribed standards.¹⁰ Through the exercise of its delegated authority, FinCEN is authorized to require each financial institution to establish an AML program to ensure compliance with the BSA and guard against ML/TF risks.¹¹ Over time, FinCEN incorporated these standards into the AML program rules and implemented additional requirements for certain covered financial institutions, such as customer due diligence (CDD) requirements (sometimes referred to as the “fifth pillar” of AML programs).¹²

On January 1, 2021, Congress enacted the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (FY21 NDAA), of which the AML Act was a component.¹³ With the passage of the AML Act,

Congress stated that it was seeking to modernize and strengthen the AML/CFT regulatory framework, which “had not seen comprehensive reform or modernization” since the BSA was enacted in the 1970s.¹⁴ Among other objectives, Congress intended for the AML Act to require “more routine and systemic coordination, communication, and feedback among financial institutions, regulators, and law enforcement to identify suspicious financial activities, better focusing bank resources to the AML task, which will increase the likelihood for better law enforcement outcomes.”¹⁵

Section 6101(b) of the AML Act made several changes to the BSA’s AML/CFT program requirements.

First, section 6101(b) amended the BSA at 31 U.S.C. 5318(h)(2)(B) to state that, “[i]n prescribing the minimum standards [for AML/CFT programs], and in supervising and examining compliance with those standards, the Secretary of the Treasury, and the appropriate Federal functional regulator (as defined in section 509 of the Gramm-Leach-Bliley Act)¹⁶ shall take into account” certain factors, which are further described in section IV.A.

Second, section 6101(b) requires the Secretary, in consultation with the Attorney General, appropriate Federal functional regulators, relevant State financial regulators, and relevant national security agencies, to establish and make public government-wide AML/CFT priorities (AML/CFT Priorities). After consultation with the Federal functional regulators and relevant State financial regulators, the

Secretary must promulgate regulations, as appropriate, to incorporate those priorities into revised program rules, and incorporation of the priorities must be included as a measure on which financial institutions are supervised and examined. FinCEN issued the first AML/CFT Priorities on June 30, 2021.¹⁷

Third, section 6101(b) expands the BSA’s program rule requirement to formally include an express reference to CFT in addition to AML.

Fourth, section 6101(b) provides that the duty to establish, maintain, and enforce an AML/CFT program shall remain the responsibility of, and be performed by, persons in the United States who are accessible to, and subject to, oversight and supervision by, the Secretary and the appropriate Federal functional regulator.

B. FinCEN’s Effectiveness Advance Notice of Proposed Rulemaking (ANPRM)

Prior to the enactment of the AML Act, and as informed by the recommendations of the AML Effectiveness Bank Secrecy Act Advisory Group working group, FinCEN published an ANPRM seeking public comment on potential regulatory amendments to increase the effectiveness of the current program rules (Effectiveness ANPRM).¹⁸ The Effectiveness ANPRM sought public comment on a number of issues, including whether FinCEN should define an effective and reasonably designed AML program as one that: (1) identifies, assesses, and reasonably mitigates the risks resulting from illicit financial activity, including terrorist financing, money laundering, and other related financial crimes, consistent with both the institution’s risk profile and the risks communicated by relevant government authorities as national AML

⁸ 31 U.S.C. 5318(h)(1), as added by section 1517(b) of the Annunzio-Wylie Anti-Money Laundering Act, Public Law 102–550 (Oct. 28, 1992). FinCEN notes the proposed rule sequences these AML/CFT program components—the four pillars—in the order of the existing AML program rule for banks, rather than the order used in 31 U.S.C. 5318(h)(1): namely, (i) a system of internal controls to assure ongoing compliance; (ii) independent testing for compliance to be conducted by bank personnel or by an outside party; (iii) designation of an individual or individuals responsible for coordinating and monitoring day-to-day compliance; and (iv) training for appropriate personnel. See 31 CFR 1020.210(a)(2). FinCEN, however, does not intend the change in sequencing to modify or signify changes in any substantive requirements.

⁹ 31 U.S.C. 5312(a)(2)(E) and 31 U.S.C. 5312(c), as added by section 321 of the USA PATRIOT Act, Public Law 107–56, 115 Stat. 272 (Oct. 26, 2001).

¹⁰ 31 U.S.C. 5318(h), as added by section 352 of the USA PATRIOT Act, Public Law 107–56, 115 Stat. 272 (Oct. 26, 2001).

¹¹ 31 U.S.C. 5318(a)(2), (h)(1), (h)(2); *supra* note 5.

¹² See FinCEN, *Customer Due Diligence Requirements for Financial Institutions*, 81 FR 29398 (May 11, 2016).

¹³ William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Public Law 116–283, 134 Stat. 3388 (Jan. 1, 2021).

¹⁴ Congress noted in its Joint Explanatory Statement of the Committee of Conference accompanying the FY21 NDAA that: “the current [AML/CFT] regulatory framework is an amalgamation of statutes and regulations that are grounded in the [BSA], which the Congress enacted in 1970. This decades-old regime, which has not seen comprehensive reform and modernization since its inception, is generally built on individual reporting mechanisms (i.e., currency transaction reports (CTRs) and SARs) and contemplates aging, decades-old technology, rather than the current, sophisticated AML compliance systems now managed by most financial institutions.” Congress further stated that the AML Act “comprehensively update[s] the BSA for the first time in decades and provide[s] for the establishment of a coherent set of risk-based priorities.” Among other objectives, Congress intended for the AML Act to require “more routine and systemic coordination, communication, and feedback among financial institutions, regulators, and law enforcement to identify suspicious financial activities, better focusing bank resources to the AML task, which will increase the likelihood for better law enforcement outcomes.” H.R. Rep. No. 6395 (2020) at pp. 731–732 (Joint Explanatory Statement of the Committee of Conference).

¹⁵ H.R. Rep. No. 6395 (2020) at pp. 731–732 (Joint Explanatory Statement of the Committee of Conference).

¹⁶ 15 U.S.C. 6809(2).

¹⁷ See FinCEN, AML/CFT Priorities (June 30, 2021). As required by 31 U.S.C. 5318(h)(4)(C), the AML/CFT Priorities are consistent with Treasury’s National Strategy for Combating Terrorist and Other Illicit Financing (May 16, 2024) and supported by Treasury’s National Risk Assessments on Money Laundering, Terrorist Financing, and Proliferation Financing. See U.S. Department of the Treasury, 2026 National Money Laundering Risk Assessment (March 2026), <https://home.treasury.gov/system/files/246/2026-NMLRA.pdf>; 2026 National Terrorist Financing Risk Assessment (March 2026), <https://home.treasury.gov/system/files/246/2026-NTFRA.pdf>; 2026 National Proliferation Financing Risk Assessment (March 2026), <https://home.treasury.gov/system/files/246/2026-NPFR.pdf>. As also required by 31 U.S.C. 5318(h)(4)(B), the Secretary, in consultation with the Attorney General, Federal functional regulators, relevant State financial regulators, and relevant national security agencies, must update the AML/CFT Priorities not less frequently than once every four years.

¹⁸ FinCEN, *Anti-Money Laundering Program Effectiveness*, 85 FR 58023 (Sept. 17, 2020).

priorities; (2) assures and monitors compliance with the recordkeeping and reporting requirements of the BSA; and (3) provides information with a high degree of usefulness to government authorities consistent with both the financial institution's risk assessment and the risks communicated by relevant government authorities as national AML priorities.¹⁹

Additionally, the Effectiveness ANPRM sought comment on whether FinCEN should amend its regulations to explicitly require financial institutions to implement risk assessment processes and whether FinCEN should publish AML priorities that financial institutions would incorporate into their risk assessments.²⁰ Congress enacted the AML Act shortly after FinCEN received comments on the Effectiveness ANPRM. As a result, many of the Effectiveness ANPRM's proposals have been superseded by statutory amendments.

FinCEN received 111 comments in response to the Effectiveness ANPRM, many of which generally supported the goals underlying the ANPRM. Some comments covered specific topics that would later be addressed in section 6101 of the AML Act and that are related to the proposed rule. For example, many commenters supported the Effectiveness ANPRM's concepts of effective and reasonably designed AML programs. Commenters further noted that prioritizing and allocating resources can be challenging if there is regulatory ambiguity or if examiner expectations are unclear or inconsistent, and that requirements for effective and reasonably designed programs should be tailored based on a financial institution's size, activities, or other characteristics. Finally, commenters expressed widespread concern about added burden on financial institutions, especially burden related to updating AML programs to incorporate national AML priorities.

C. The 2024 Notice of Proposed Rulemaking Revising AML Programs

1. Summary of 2024 Program Notice of Proposed Rulemaking (NPRM)

On July 3, 2024, FinCEN published an NPRM proposing revisions to AML/CFT program requirements (2024 Program NPRM).²¹ In issuing that proposed rule, FinCEN consulted with the Federal functional regulators, the Internal Revenue Service (IRS), and relevant State financial regulators, as required

under section 6101(b) of the AML Act. Additionally, on August 9, 2024, the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), and the National Credit Union Administration (NCUA) (collectively, the "Agencies")²² issued an NPRM proposing amendments to their respective AML program rules applicable to the financial institutions they regulate.²³

The 2024 Program NPRM proposed that financial institutions establish AML/CFT programs that would include, at minimum, the following components: (1) a risk assessment process; (2) reasonable management and mitigation of illicit finance risks through internal policies, procedures, and controls; (3) a qualified AML/CFT officer; (4) an ongoing employee training program; (5) independent, periodic testing conducted by qualified personnel of the financial institution or by a qualified outside party; and (6) other requirements (such as customer due diligence) depending on the type of financial institution.

The 2024 Program NPRM further proposed that financial institutions would be expected to base their AML/CFT program on the results of a risk assessment process. The risk assessment process would identify, evaluate, and document a financial institution's ML/TF risks, taking into account the following considerations: (1) the AML/CFT Priorities issued by FinCEN, as appropriate; (2) the ML/TF risks of the financial institution based on the institution's business activities, including products, services, distribution channels, customers, intermediaries, and geographic locations; and (3) reports filed by the financial institution pursuant to FinCEN's regulations at 31 CFR chapter X. Additionally, the 2024 Program NPRM provided that financial institutions would have to review and update their risk assessments on a periodic basis, including, at a minimum, when there are material changes to a financial institution's illicit finance risks.

The 2024 Program NPRM would have also required a financial institution's AML/CFT program to be approved and

overseen by the financial institution's board of directors (board) or equivalent governing body and would have made AML/CFT program approval and oversight requirements consistent across financial institution types. Furthermore, the 2024 Program NPRM reflected the requirement in the BSA, as amended by the AML Act, that the duty to establish, maintain, and enforce a financial institution's AML/CFT program shall remain the responsibility of, and be performed by, persons in the United States who are accessible to, and subject to oversight and supervision by, the Secretary and the appropriate Federal functional regulator.

FinCEN does not intend to finalize the 2024 Program NPRM, and it should be considered withdrawn and superseded by this proposed rule.

2. Comments FinCEN Received on the 2024 Program NPRM

In response to the 2024 Program NPRM, FinCEN received 86 comments from the public. Submissions came from a broad array of individuals and organizations, including members of Congress, the financial industry and related trade associations, groups representing small business interests, corporate transparency advocacy groups, regulatory associations, legal associations, and other interested groups and individuals.

A small number of commenters expressed support for the 2024 Program NPRM's effort to modernize and strengthen AML/CFT programs in line with the reform goals of the AML Act. Some supporters of the 2024 Program NPRM agreed with its emphasis on "effective, risk-based, and reasonably designed" AML/CFT programs that would promote "effectiveness, efficiency, innovation, and flexibility."²⁴ Others commended FinCEN's efforts to emphasize the risk-based nature of AML/CFT programs and provide financial institutions with the flexibility to provide financial services based on their risk profile and capacity to manage customer relationships.

Commenters also expressed concerns with the 2024 Program NPRM, such as the proposed program requirements being excessively prescriptive and even redundant in light of the view that existing AML/CFT compliance programs were already intended to be risk-based. A number of commenters found the proposal to be an additive regulatory imposition that would increase costs and burdens, particularly to smaller financial institutions, without

¹⁹ 85 FR 58026.

²⁰ *Id.*

²¹ FinCEN, *Anti-Money Laundering and Countering the Financing of Terrorism Programs*, 89 FR 55428 (July 3, 2024).

²² As discussed below, these Federal agencies are also known as the Federal Financial Institutions Regulatory Agencies (FFIRAs) and proposed 1010.100(ooo) defines these agencies using this term. However, this preamble uses the term "Agencies" to refer to the FFIRAs.

²³ FRB, FDIC, NCUA, and OCC, *Anti-Money Laundering and Countering the Financing of Terrorism Program Requirements*, 89 FR 65242 (Aug. 9, 2024).

²⁴ 89 FR 55430.

any increase in program effectiveness, efficiency, or innovation.

On behalf of FinCEN, Treasury's Office of Tribal and Native Affairs (OTNA) also solicited comments and conducted Tribal consultations and coordination with Tribal Nations. OTNA received six comments from Tribal representatives during this process.

Taken together, the comments submitted to the Effectiveness ANPRM and 2024 Program NPRM provide helpful context that FinCEN has considered in developing the current NPRM.

i. Risk-Based Resource Allocation

The 2024 Program NPRM proposed a formulation of risk-based resource allocation as follows: "an effective, risk-based, and reasonably designed AML/CFT program focuses attention and resources in a manner consistent with the bank's risk profile that takes into account higher risk and lower-risk customers and activities."²⁵ Commenters criticized this formulation of risk-based resource allocation in the NPRM and generally stated that this framing would not sufficiently enable financial institutions to reallocate resources in the manner intended by the AML Act by allowing financial institutions to direct more resources toward higher-risk customers and activity rather than lower-risk customers and activity, leaving open the concern that examiners may penalize financial institutions for doing so. Commenters strongly recommended that FinCEN adopt the statutory language from the AML Act concerning risk-based resource allocation. No commenters expressed support for the 2024 Program NPRM formulation.

ii. The Risk Assessment Process

Commenters to the 2024 Program NPRM were critical of the proposed risk assessment process. Commenters generally supported the idea of a risk assessment process requirement in the NPRM, as many financial institutions already conduct risk assessments. Commenters argued, however, that the proposal was insufficiently deferential to existing risk assessment practices and would impose new compliance costs by creating an additive "check-the-box" exercise for financial institutions that already conduct risk assessments. Commenters also stated that financial institutions should not be required to consider BSA reports, including SARs and CTRs, as part of their risk assessment process, noting language in

the AML Act stating that BSA filings should be guided by risk-based compliance programs, rather than the opposite.²⁶ Commenters also argued that even the idea of making the risk assessment process serve as the basis of the AML/CFT program would be too prescriptive and not correspond to the various ways financial institutions incorporate these assessments into their programs. Finally, commenters objected to the description of a risk assessment process as a singular process that implied a one-time, annual exercise whereas financial institutions conduct numerous and often continuous risk assessments throughout the year.

iii. "Effective, Risk-Based, and Reasonably Designed" AML/CFT Programs

Commenters generally appreciated FinCEN's inclusion of the concept of "effective, risk-based, and reasonably designed" AML/CFT programs, but sought additional guidance on the meaning of these terms. Some commenters requested that FinCEN adopt specific regulatory definitions of these terms, while others requested principles or examples to clarify how FinCEN understands them. Several commenters urged that the final rule clarify that an "effective, risk-based, and reasonably designed" program does not mean one that is "perfect" and completely prevents financial crime.

iv. Other Provisions of the 2024 NPRM

Proposed § 1020.210(c) of the 2024 Program NPRM provided that "[t]he duty to establish, maintain, and enforce the AML/CFT program must remain the responsibility of, and be performed by, persons in the United States who are accessible to, and subject to oversight and supervision by, FinCEN and the appropriate Federal functional regulator,"²⁷ pursuant to the statutory requirement set forth in section 6101 of the AML Act.²⁸ Many commenters discussed this provision. They generally stated that an appropriate interpretation of this provision is critical for many financial institutions since many have AML/CFT staff and operations overseas, and it would be extremely costly and disruptive to require relocation to the United States. Many commenters

requested that FinCEN interpret this provision to allow financial institutions to maintain staff and operations in non-U.S. jurisdictions so long as the person with the "duty to establish, maintain, and enforce the AML/CFT program" is located in the United States. Some commenters also requested clarification on how this provision would apply to financial institutions with third-party service providers located outside the United States.

The 2024 Program NPRM also proposed requiring that a financial institution's board or an equivalent governing body approve and provide oversight of AML/CFT programs.²⁹ Commenters generally expressed reservations about the board approval and oversight provision of the NPRM. Some credit union commenters expressed concern that the requirement would impose significant new burdens on boards and noted that many credit union boards are volunteers. Commenters representing Native Tribes were most critical of the board oversight and approval requirement because of the potential impact on Tribal casinos and Tribal Councils. Several of these commenters stated that many Tribal gaming entities are not operated under the authority of a business board. Commenters expressed concern that the proposed rule may require Tribal Councils to approve and provide oversight of the AML/CFT program adopted by the casino, detracting from other responsibilities of the Tribal Council.

v. Effective Date

The 2024 Program NPRM proposed that financial institutions would have six months from the date of issuance of the final rule to comply with its requirements. A large number of commenters reacted negatively to the six-month implementation period in the 2024 Program NPRM, and they were nearly unanimous in requesting additional time. Some commenters asked for at least one year after issuance of the final rule to implement the rule, and other commenters requested two or more years. Some commenters representing larger financial institutions cited the need for additional time to review the final rule, make technological changes or other changes to existing processes, incorporate the AML/CFT Priorities into their risk assessment processes, reallocate resources from lower- to higher-risk areas, and provide training.

²⁶ "Reports filed under this subsection shall be guided by the compliance program of a covered financial institution with respect to the Bank Secrecy Act, including the risk assessment processes of the covered institution that should include a consideration of priorities established by the Secretary of the Treasury under section 5318." 31 U.S.C. 5318(g)(5)(C), as added by section 6202 of the AML Act.

²⁷ 89 FR 55485.

²⁸ 31 U.S.C. 5318(h)(5).

²⁹ 89 FR 55444.

²⁵ 89 FR 55436.

III. BSA Modernization

The Secretary has identified BSA reform and modernization as one of Treasury's top priorities. In an April 2025 speech, the Secretary noted that Treasury "will advocate for changes to the AML/CFT framework to truly focus on national security priorities and higher-risk areas and explicitly permit financial institutions to de-prioritize lower risks."³⁰ Additionally, the Secretary has noted that supervision of AML/CFT programs has too often involved a "zero-tolerance focus on process and documentation and wide latitude for supervisory expectations and judgments that are not always consistent with the law or our national security priorities."³¹ The Secretary noted that this proposed rule would ensure that financial institutions' AML/CFT programs are focused "on higher value activities [that] will also better serve our law enforcement and national security objectives."³²

In June 2025, Treasury identified its guiding principles for BSA reform, recognizing the urgent need to modernize the implementation of the AML/CFT regime in the United States so that it is effective, risk-based, and focused on the greatest threats to financial institutions and national security.³³ Treasury's vision of a modernized BSA regulatory and supervisory regime is one where financial institutions:

- comply with AML/CFT laws and regulations;
- are examined for the risk-based and reasonably designed nature of their AML/CFT programs and set of internal policies, procedures, and controls;
- direct more resources to higher-risk areas rather than to lower-risk areas; and
- generate highly useful information for law enforcement and national security agencies in priority areas defined by Treasury.

Treasury and FinCEN, in coordination with the Agencies, have taken a number of steps to implement this vision of a modernized BSA regulatory and supervisory regime. In June and July

2025, the Agencies, with FinCEN's concurrence, issued an order permitting banks, as part of their CIP obligations, to collect Taxpayer Identification Number information from a third party rather than from the bank's customer.³⁴ In October 2025, FinCEN and the Agencies issued Frequently Asked Questions to clarify certain SAR obligations to help ensure financial institutions are not needlessly expending resources on efforts that do not provide law enforcement and national security agencies with the critical information they need to detect, combat, and deter criminal activity.³⁵ In February 2026, FinCEN issued an order granting exceptive relief to covered financial institutions from certain requirements under FinCEN's CDD Rule, supporting a more efficient, risk-based approach to customer due diligence and reducing unnecessary regulatory burden without weakening the foundational requirements that protect the U.S. financial system.³⁶

In addition to advancing the goals of a modernized BSA regulatory and supervisory regime, Treasury and FinCEN have played a leading role in supporting Executive Order (E.O.) 14192, *Unleashing Prosperity Through Deregulation*.³⁷ The E.O. announced an Administration policy to "significantly reduce the private expenditures required to comply with Federal regulations to secure America's economic prosperity and national security and the highest possible quality of life for each citizen" and "alleviate unnecessary regulatory burdens placed on the American people."³⁸ Consistent with E.O. 14192, FinCEN is issuing this proposed rule to ensure that financial institutions' AML/CFT programs are appropriately risk-based, such that compliance with their program obligations is focused on the goals of the BSA, including combatting and preventing ML/TF, rather than mere

technical compliance. Furthermore, the proposed rule for banks would help ensure that supervisory and enforcement actions related to AML/CFT programs are focused on significant or systemic failures to implement an effective AML/CFT program (*i.e.*, deficiencies or issues that arise from failing to implement, in all material respects, a properly established AML/CFT program). The proposal would also reflect FinCEN's key role, in accordance with its statutory authority as the administrator of the BSA, in ensuring a consistent and holistic approach to enforcement and supervision of banks' AML/CFT programs that focuses on program effectiveness rather than mere technical compliance. The Agencies have a long history of coordination with FinCEN in exercising its delegated supervisory authority, and FinCEN views this proposed rule as a way to further strengthen that relationship to promote more consistent supervision. FinCEN believes this enhanced coordination in AML/CFT supervision and enforcement will support the goals of E.O. 14192.

Fulfilling the AML Act's goals of BSA modernization and reform is a priority for Treasury and FinCEN, and this proposed rule is a major part of that effort.

IV. Overview of the Proposed Rule

A central objective of Treasury and FinCEN's BSA modernization efforts is to create an AML/CFT supervisory and regulatory regime that is more effective in achieving the purposes of the BSA and promoting better outcomes for law enforcement and national security agencies.³⁹ This proposed rule would further that objective by explicitly defining the requirements for a financial institution to establish and maintain an effective AML/CFT program. It would also adopt into regulations the AML Act's expectation that AML/CFT programs should be risk-based, including ensuring that financial institutions direct more attention and resources toward higher-risk customers and activities, consistent with the risk profile of the financial institution, rather than toward lower-risk customers and activities.⁴⁰

As noted in the previous section, the proposed rule would also revise the AML/CFT supervisory and examination process for banks by enhancing FinCEN's role in the supervision and enforcement process. In support of this objective, the proposed rule would establish a mechanism in which

³⁰ U.S. Department of the Treasury, Press Release, "Treasury Secretary Scott Bessent Remarks before the American Bankers Association" (Apr. 9, 2025), <https://home.treasury.gov/news/press-releases/sb0078>.

³¹ U.S. Department of the Treasury, Press Release, "Remarks by Secretary of the Treasury Scott Bessent Before the Fed Community Bank Conference" (Oct. 9, 2025), <https://home.treasury.gov/news/press-releases/sb0276>.

³² *Id.*

³³ U.S. Department of the Treasury, Press Release, "Deputy Secretary Faulkender Lays Out Guiding Principles for Bank Secrecy Act Modernization" (June 18, 2025), <https://home.treasury.gov/news/press-releases/sb0173>.

³⁴ FinCEN, *FinCEN Permits Banks to Use Alternative Collection Method for Obtaining TIN Information* (June 27, 2025), <https://www.fincen.gov/news/news-releases/fincen-permits-banks-use-alternative-collection-method-obtaining-tin-information>.

³⁵ FinCEN, *FinCEN Issues Frequently Asked Questions to Clarify Suspicious Activity Reporting Requirements* (Oct. 9, 2025), <https://www.fincen.gov/news/news-releases/fincen-issues-frequently-asked-questions-clarify-suspicious-activity-reporting>.

³⁶ FinCEN, *FinCEN Issues Exceptive Relief to Streamline Customer Due Diligence Requirements* (Feb. 13, 2026), <https://www.fincen.gov/system/files/2026-02/FinCEN-Order-CCDExceptiveRelief.pdf>.

³⁷ E.O. 14192, *Unleashing Prosperity Through Deregulation*, 90 FR 9065 (issued Jan. 31, 2025; published Feb. 6, 2025).

³⁸ *Id.*

³⁹ 31 U.S.C. 5311.

⁴⁰ 31 U.S.C. 5318(h)(2)(B)(iv)(II).

FinCEN—as the statutory administrator of the BSA—has an opportunity to review and provide feedback to the Agencies prior to a significant supervisory action. This change will promote consistent approaches to AML/CFT supervision and better outcomes for both banks and the law enforcement and national security agencies that depend upon those financial institutions' critical BSA reporting.

A. Factors That FinCEN Considered Pursuant to Section 6101(b)(2)(B) of the AML Act (31 U.S.C. 5318(h)(2)(B))

Section 6101(b)(2)(B)(ii) of the AML Act (codified at 31 U.S.C. 5318(h)(2)(B)) requires FinCEN to take into account certain factors when prescribing minimum AML/CFT program standards:

(i) Financial institutions are spending private compliance funds for a public and private benefit, including protecting the United States financial system from illicit finance risks.

(ii) The extension of financial services to the underbanked and the facilitation of financial transactions, including remittances, coming from the United States and abroad in ways that simultaneously prevent criminal persons from abusing formal or informal financial services networks are key policy goals of the United States.

(iii) Effective anti-money laundering and countering the financing of terrorism programs safeguard national security and generate significant public benefits by preventing the flow of illicit funds in the financial system and by assisting law enforcement and national security agencies with the identification and prosecution of persons attempting to launder money and undertake other illicit activity through the financial system.

(iv) Anti-money laundering and countering the financing of terrorism programs . . . should be—

(I) reasonably designed to assure and monitor compliance with the requirements of this subchapter and regulations promulgated under this subchapter; and

(II) risk-based, including ensuring that more attention and resources of financial institutions should be directed toward higher-risk customers and activities, consistent with the risk profile of a financial institution, rather than toward lower-risk customers and activities.

FinCEN has considered all of these factors in developing this proposed rule.

First, as required by 31 U.S.C. 5318(h)(2)(B)(i), FinCEN has considered that, through their AML/CFT programs, financial institutions are spending private compliance funds for a public

and private benefit. The proposed rule reflects this in several ways—especially in how it endeavors to avoid imposing unnecessary regulatory burdens and ensuring that financial institutions are able to tailor their AML/CFT programs to their risk profiles. In this way, FinCEN seeks to ensure that financial institutions are not required to expend private compliance funds without meaningful benefit to both the public and their own operations.

Second, section 5318(h)(2)(B)(ii) requires FinCEN to consider the extension of financial services to the underbanked and the facilitation of financial transactions, including remittances, while preventing criminal persons from abusing formal or informal financial services networks. Through its emphasis on risk-based AML/CFT programs, the proposed rule seeks to provide financial institutions with the flexibility to serve a broad range of customers and avoid one-size-fits-all approaches to customer risk that can lead to financial institutions declining to provide financial services to entire categories of customers. The proposed rule would help ensure that decisions taken by financial institutions with respect to closing customer accounts are based on legitimate ML/TF risks and informed by relevant facts and circumstances. The proposed rule is intended to mitigate the risks of financial institutions potentially being inappropriately pressured into closing customer accounts by emphasizing the risk-based nature of AML/CFT programs. In doing so, the proposed rule also furthers the objectives of E.O.

14331, *Guaranteeing Fair Banking for All Americans*, which seeks to combat “politicized or unlawful debanking.”⁴¹

Moreover, by establishing a risk-based AML/CFT program that takes into account a financial institution's specific business activities, the proposed rule will enable financial institutions to avoid debanking customers and extend financial services based on a financial institution's evaluation of the ML/TF risks and the financial institution's ability to manage those risks and customer relationships, among other considerations. This flexibility would allow such financial institutions to respond to changing circumstances and evolving risk profiles, including through the use of emerging technologies that support transparency and preserve privacy, which may deter debanking and enable financial institutions to reach underbanked individuals and

facilitate financial transactions that simultaneously prevent criminal persons from abusing formal or informal financial services networks.

The proposed rule would also provide financial institutions with the ability to modernize their AML/CFT programs and to responsibly innovate while still managing ML/TF risks, as the financial services industry continues to innovate over time. Consistent with previous guidance,⁴² FinCEN encourages financial institutions to manage customer relationships on a case-by-case basis, and the proposed rule would provide financial institutions with the framework to make such evaluations and provide financial services accordingly, without broad de-risking that can result in debanking that may increase the use of financial services that exist outside of the regulated financial system and complicate efforts to detect and deter illicit finance. FinCEN believes that effective AML/CFT programs are an important component in mitigating the effects of de-banking to national security and law enforcement interests.

Third, as stated in 31 U.S.C. 5318(h)(2)(B)(iii), effective AML/CFT programs safeguard national security and generate significant public benefits by preventing the flow of illicit funds in the financial system and by assisting law enforcement and national security agencies with the identification and prosecution of persons attempting to launder money or undertake other illicit activity through the financial system.⁴³ The proposed rule would advance the BSA modernization and reform goals of the AML Act by providing financial institutions and their regulators with clarity about the requirements to have effective AML/CFT programs.

Likewise, 31 U.S.C.

5318(h)(2)(B)(iv)(I) provides that AML/CFT programs should be “reasonably designed to assure and monitor compliance” with the BSA and its implementing regulations and be risk-based. As described in more detail in section IV, the proposed rule advances these objectives by explicitly requiring financial institutions to have effective AML/CFT programs and by describing the minimum components for an AML/CFT program to be effective. Specifically, as part of an effective AML/CFT program, the proposed rule

⁴² See FRB, FDIC, FinCEN, NCUA, and OCC, *Joint Statement on the Risk-Based Approach to Assessing Customer Relationships and Conducting Customer Due Diligence* (July 6, 2022), <https://www.fincen.gov/news/news-releases/joint-statement-risk-based-approach-assessing-customer-relationships-and>.

⁴³ 31 U.S.C. 5318(h)(2)(B)(iii).

⁴¹ E.O. 14331, *Guaranteeing Fair Banking for All Americans*, 90 FR 38925 (issued Aug. 7, 2025; published Aug. 12, 2025).

requires that a financial institution establish and maintain a risk-based set of internal policies, procedures, and controls that is reasonably designed to ensure compliance with the BSA and FinCEN's regulations.

The internal policies, procedures, and controls requirement in the proposed rule also demonstrates FinCEN's consideration of 31 U.S.C.

5318(h)(2)(B)(iv)(II), which states that AML/CFT programs should be risk-based, including ensuring that more attention and resources of financial institutions should be directed toward higher-risk customers and activities, consistent with a financial institution's risk profile, rather than toward lower-risk customers and activities. While FinCEN has previously expected financial institutions to adopt risk-based AML/CFT programs, the proposed rule incorporates this directive by explicitly requiring, as part of an institution's risk-based set of internal policies, procedures, and controls, that an institution identify, assess, and document its ML/TF risks through risk assessment processes. These risk assessment processes require a financial institution to evaluate ML/TF risks and review and, as appropriate, incorporate the AML/CFT Priorities, with updates to risk assessment processes promptly upon any change that the financial institution knows or has reason to know significantly changes the financial institution's ML/TF risks. These risk assessment processes are designed to help financial institutions mitigate ML/TF risks and ensure that they are allocating resources commensurate with their documented ML/TF risks, directing more attention and resources toward higher-risk customers rather than toward lower-risk customers and activities.

B. Proposed Rule

As noted above, the proposed rule would require financial institutions to establish and maintain effective AML/CFT programs and define the requirements for doing so. In order for an AML/CFT program to be effective, the proposed rule would require a financial institution to *establish* an AML/CFT program and then *maintain* the AML/CFT program by implementing, in all material respects, the established AML/CFT program.

As described in more detail in section V.D., a financial institution would be required to establish a risk-based set of internal policies, procedures, and controls that is reasonably designed to ensure compliance with the BSA and 31 CFR chapter X. The risk-based set of internal policies, procedures, and

controls must also be reasonably designed to: (1) identify, assess, and document the financial institution's ML/TF risks through risk assessment processes that evaluate the risks of the institution's business activities, review and, as appropriate, incorporate the AML/CFT Priorities, and are updated promptly upon any change that the financial institution knows or has reason to know significantly changes the institution's ML/TF risks; (2) mitigate the financial institution's ML/TF risks, consistent with the financial institution's risk assessment processes; and, for certain financial institutions, (3) conduct ongoing customer due diligence.

The proposed rule would also require a financial institution to establish an ongoing employee training program and independent AML/CFT program testing as part of its AML/CFT program. Finally, the proposed rule would require a financial institution to designate an individual responsible for establishing and implementing the AML/CFT program and coordinating and monitoring day-to-day compliance; that individual would be required to be located in the United States and accessible to, and subject to oversight and supervision by, FinCEN and its designee, including the appropriate Federal functional regulator.

Under the proposed rule, in addition to establishing an AML/CFT program, the financial institution would be required to maintain that program by *implementing*, in all material respects, its established AML/CFT program. By structuring the requirement to have an effective AML/CFT program as distinct obligations to establish and maintain (via implementation) an AML/CFT program, the proposed rule is intended to clarify and reinforce the distinction between failures to establish an AML/CFT program and failures to implement a properly established program.

The distinction between establishing a program and implementing a program is particularly important under the proposed rule for potential supervisory and enforcement actions. The proposed rule would not limit enforcement or supervisory actions for failures to *establish* an AML/CFT program. However, with respect to banks, once a bank has properly established an AML/CFT program, the proposed rule would raise the threshold for significant actions based solely on *implementation* deficiencies so only significant or systemic failures by a bank to implement an effective AML/CFT program (*i.e.*, deficiencies or issues that arise from failing to implement, in all material respects, a properly established

AML/CFT program) would warrant an "AML/CFT enforcement action" or a "significant AML/CFT supervisory action," as these terms are defined in the proposed rule. In this way, the proposed rule is intended to clarify and reinforce a supervisory and enforcement focus on addressing significant or systemic failures to implement an effective AML/CFT program, rather than on isolated, technical, or immaterial implementation issues.⁴⁴

Importantly, under the proposed regulations, having an effective AML/CFT program would be more than a one-time adoption of a risk-based set of internal policies, procedures, and controls. Rather, a financial institution would be required to keep its risk-based set of internal policies, procedures, and controls—and the risk assessment processes that inform them—current as the financial institution's risk profile changes. For example, while a financial institution's risk-based set of internal policies, procedures, and controls may, at one time, have been reasonably designed, they may no longer be reasonably designed given changes to the financial institution's risk profile. Similarly, an effective AML/CFT program would involve more than a one-time creation of an employee training program or initiation of an independent testing mechanism: the financial institution would also be required to keep such aspects of the AML/CFT program current as the financial institution's risk profile changes. Thus, even where a financial institution has previously established an AML/CFT program in accordance with the proposed rule, a failure to update the program to reflect significant changes to the institution's risk profile may result in the program no longer meeting the program establishment requirements, and the financial institution may accordingly be subject to supervisory or enforcement action for a failure to establish an effective AML/CFT program.

The proposed rule would provide FinCEN with a greater role in the supervisory process with respect to banks and the relevant Agency. To better ensure that bank examiners are performing "risk focused" supervision, the proposed rule would require that the Agencies, when acting under supervisory authority delegated by FinCEN, consult with FinCEN prior to taking a significant AML/CFT

⁴⁴ FinCEN, *FinCEN Statement on Enforcement of the Bank Secrecy Act* (Aug. 18, 2020), <https://www.fincen.gov/news/news-releases/fincen-statement-enforcement-bank-secrecy-act>.

supervisory action.⁴⁵ FinCEN would require the Agencies, when acting pursuant to FinCEN's delegated authority, to provide FinCEN written notice at least 30 days prior to taking such an action. FinCEN would have an opportunity to review the action and the underlying information giving rise to it, and the Agencies would be required to consider any input offered by FinCEN concerning the effectiveness of the bank's AML/CFT program.⁴⁶

By explicitly defining the requirements for an institution to establish and maintain an effective AML/CFT program, and by standardizing the AML/CFT supervision and enforcement process for banks and the Agencies, the proposed rule is expected to better achieve the purposes of the BSA and lead to better outcomes for financial institutions, law enforcement, and national security agencies. Treasury and FinCEN do not intend, however, for the proposed rule to provide permission for financial institutions to establish "paper programs" that might be interpreted as meeting the proposed rule's technical requirements on their face but do not achieve the desired outcomes of more effectively and efficiently detecting and preventing ML/TF activity. To establish a compliant AML/CFT program under the proposed rule, a financial institution must, among other things, establish a risk-based set of internal policies, procedures, and controls that is reasonably designed to ensure compliance with the BSA and 31 CFR chapter X, including through the adoption of risk assessment processes. A critical element of this requirement is that the financial institution's internal policies, procedures, and controls be "reasonably designed." For example, if a financial institution's program testing reveals that a new customer type or new activity is high risk, but the financial institution does not take any action to revise the design of its internal policies, procedures, and controls and therefore treats the customer or activity as presenting low risk, then its program should not be considered reasonably designed. Treasury and FinCEN believe that financial institutions know their customer base, businesses, and risks better than their regulators and the

government; thus, financial institutions are best positioned to identify and evaluate their ML/TF risks. Financial institutions should therefore, and would under this proposed rule, have significant flexibility and discretion in their decisions and determinations related to risk identification and resource allocation. However, examiners would be expected to assess whether: (1) a financial institution's resource allocation decisions are informed by, and consistent with, reasonably designed risk assessment processes; and (2) with respect to implementation, specifically, whether the financial institution knows or should know of resource-related issues involving its internal policies, procedures, and controls that may result in the financial institution failing to implement its AML/CFT program in all material respects and failing to address such issues.

Similarly, Treasury and FinCEN expect a financial institution to be examined for its implementation of the established AML/CFT program in all material respects. Merely designating an individual responsible for establishing and implementing the AML/CFT program, and having that individual establish internal policies, procedures, and controls, an employee training program, and an independent testing program, are not sufficient to satisfy the proposed rule's obligations for a financial institution to have an effective AML/CFT program. Rather, a financial institution would be examined for whether it has implemented, in all material respects, its established AML/CFT program, including whether the financial institution is, in fact, allocating resources as contemplated in its established AML/CFT program, which the proposed rule would require to be consistent with its reasonably designed risk assessment processes. Banks with significant or systemic failures to implement an effective AML/CFT program may be subject to a significant supervisory action or enforcement action, whereas isolated, technical, or immaterial implementation deficiencies would not be cause for such actions.

V. Section-by-Section Analysis

This section-by-section analysis describes the specific proposed changes to the program rules. Section V.A addresses the proposed incorporation of CFT into the program rules. Section V.B discusses the requirements for an "effective" AML/CFT program to comply with the requirements of 31 U.S.C. 5318(h)(1) and the proposed rule. Section V.C explains what it means to

"establish," "maintain," and "implement" an effective AML/CFT program. Section V.D describes the components of program establishment, including: (1) internal policies, procedures, and controls (including risk assessment processes); (2) independent program testing; (3) an individual, located in the United States and accessible to FinCEN and the appropriate Federal functional regulator, responsible for establishing and maintaining the program, and coordinating and monitoring day-to-day compliance; and (4) ongoing employee training. Section V.E discusses the requirements that the AML/CFT program be written, accessible, and approved by financial institution leadership. Section V.F addresses the supervision and enforcement section of the proposed rule for banks, and Section V.G describes several technical changes that the proposal makes to existing AML program rules.

A. Inserting the Term "CFT" Into the AML Program Rules

Section 6101(b)(2)(A) of the AML Act amends 31 U.S.C. 5318(h)(1) to reference "countering the financing of terrorism"⁴⁷ in addition to "anti-money laundering" when describing the requirement to establish an AML/CFT program. FinCEN proposes to update its regulations in 31 CFR chapter X to reflect this new statutory language. For example, the proposed rule would change the title of 31 CFR 1020.210 from "Anti-money laundering program requirements for banks" to "Anti-money laundering/countering the financing of terrorism program requirements for banks." Similar changes would apply to the titles of the other program rules in chapter X.

The inclusion of "CFT" in the program rules would not create new obligations for financial institutions, insofar as the USA PATRIOT Act already requires them to account for risks related to terrorist financing. Accordingly, FinCEN expects any changes to existing AML/CFT programs from the amendments described in this subsection to be technical and therefore not have any substantive impact on financial institutions' BSA compliance obligations.

B. An "Effective" AML/CFT Program

As discussed above in section IV.A, in prescribing the minimum standards for

⁴⁵ Because FinCEN has not delegated any enforcement authority to the Agencies, the Agencies have no authority to take an enforcement action under 31 CFR chapter X. As a result, there is no corresponding rule text related to enforcement actions by the Agencies acting under authority provided by FinCEN.

⁴⁶ FinCEN anticipates the Agencies imposing a similar consultation requirement on themselves when the Agencies act under other laws, including 12 U.S.C. 1786 or 1818.

⁴⁷ Countering the financing of terrorism (CFT) includes laws, rules, regulations, or other measures intended to detect and disrupt the solicitation, collection, or provision of funds to support terrorist acts or terrorist organizations, or other violent extremist groups.

an AML/CFT program and in supervising and examining compliance with those standards, the AML Act requires the Secretary and the appropriate Federal functional regulator to take into account that effective AML/CFT programs safeguard national security and help law enforcement prevent the flow of illicit funds in the financial system.⁴⁸ Further, the AML Act instructs FinCEN to focus on achieving effective outcomes rather than dictating the processes used to reach those outcomes, an orientation reflected in the proposed rule. Consistent with FinCEN and the Agencies' longstanding expectations regarding what effective outcomes entail, FinCEN believes that, as a practical matter, it is not possible for a financial institution to detect and report all potentially illicit transactions that flow through the institution.⁴⁹ Similarly, a financial institution's AML/CFT program can be effective without preventing every minor instance of a financial institution falling prey to illicit finance misuse. Accordingly, the proposed rule would set out that an AML/CFT program is "effective" and complies with the requirements of 31 U.S.C. 5318(h)(1) so long as it is established and maintained in accordance with applicable requirements.

As noted in section II.B and section II.C, FinCEN has introduced the concept of an "effective" AML/CFT program in prior rulemakings, and the public has provided valuable feedback on this concept. For example, the Effectiveness ANPRM considered proposing a definition of an effective and reasonably designed program as one that: (1) identifies, assesses, and reasonably mitigates the risks resulting from illicit financial activity—including terrorist financing, money laundering, and other related financial crimes—consistent with both the institution's risk profile and the risks communicated by relevant government authorities as national AML priorities; (2) assures and monitors compliance with the recordkeeping and reporting requirements of the BSA; and (3) provides information with a high degree of usefulness to government authorities consistent with both the institution's risk assessment and the risks communicated by relevant

government authorities as national AML priorities.⁵⁰

The proposed rule would provide that a financial institution has an "effective" program if it (1) is established in accordance with the proposed rule's establishment requirements; and (2) is maintained, meaning that a properly established program is implemented in all material respects.

One of the AML Act's key purposes is to "encourage technological innovation and the adoption of new technology by financial institutions to more effectively counter money laundering and financing of terrorism."⁵¹ Consistent with this purpose and pursuant to the Executive order on *Removing Barriers to American Leadership in Artificial Intelligence*, the *Winning the Race America's AI Action Plan*, and the Executive order on *Ensuring a National Policy Framework for Artificial Intelligence*, Treasury has undertaken various efforts to research, promote, and take actions that reflect its commitment to the role of innovation as part of a modernized AML/CFT framework.⁵²

Treasury has highlighted the potential for innovative technologies to strengthen AML/CFT programs in various strategies and public engagements. The 2024 National Illicit Finance Strategy highlighted how innovative technologies like machine learning and large language models have potential to strengthen financial institutions' AML/CFT programs, enabling financial institutions to more rapidly and effectively analyze data to identify patterns, risks, trends, and typologies.⁵³ In addition to discussion of specific types of and applications for technology, Treasury has expressed broad support for exploring areas where AI, blockchain analysis, digital identity, and other tools can produce a more efficient and more effective AML/CFT framework.⁵⁴

⁵⁰ 85 FR 58026.

⁵¹ AML Act, section 6002(3) (Purposes).

⁵² E.O. 14179, *Removing Barriers to American Leadership in Artificial Intelligence*, 90 FR 8741 (issued Jan. 23, 2025; published Jan. 31, 2025); White House, *Winning the Race America's AI Action Plan* (July 2025), <https://www.whitehouse.gov/wp-content/uploads/2025/07/Americas-AI-Action-Plan.pdf>; E.O. 14179, *Ensuring a National Policy Framework for Artificial Intelligence*, 90 FR 58499 (issued Dec. 11, 2025; published Dec. 16, 2025).

⁵³ U.S. Department of the Treasury, *2024 National Strategy for Combating Terrorist and Other Illicit Financing* (May 2024), <https://home.treasury.gov/system/files/136/2024-Illicit-Finance-Strategy.pdf>.

⁵⁴ U.S. Department of the Treasury, Press Release, "Remarks by Under Secretary for Terrorism and Financial Intelligence John K. Hurley at the Association of Certified Anti-Money Laundering Specialists Assembly Conference" (Sept. 17, 2025), <https://home.treasury.gov/news/press-releases/sb0251>.

FinCEN encourages financial institutions to evaluate whether new technology or innovative approaches might help to more effectively combat financial crime. Innovative approaches could involve machine learning, generative artificial intelligence (GenAI), digital identity, blockchain monitoring and analytics, or application programming interfaces (APIs). These technologies may be especially useful in countering illicit finance activity involving digital assets, an effort for which FinCEN supports financial institutions' responsible use of novel models, techniques, or strategies. To that end, FinCEN encourages financial institutions to review the White House report on *Strengthening American Leadership in Digital Financial Technology* as well as Treasury's report on *Innovative Technologies to Counter Illicit Finance Involving Digital Assets*.⁵⁵ This report explores how financial institutions can employ innovative and novel methods to detect and stop financial crime involving digital assets, and encourages the responsible use of novel tools and techniques that can improve the effectiveness of the U.S. AML/CFT regime.

FinCEN recognizes that adopting new technologies for BSA compliance may not be suitable for every financial institution, particularly smaller ones, and the proposed rule therefore does not reference or require the use of any particular technology. A financial institution may find it beneficial to consider whether its AML/CFT program appropriately uses the financial institution's existing resources, including technology and data. However, building on longstanding guidance, FinCEN encourages institutions to engage in responsible AML/CFT innovation.⁵⁶ Institutions that responsibly experiment with innovative technologies in their AML/CFT programs will not incur any additional risk of being subject to a significant supervisory AML/CFT action or AML/CFT enforcement action solely

⁵⁵ White House, *Strengthening American Leadership in Digital Financial Technology* (July 30, 2025), <https://www.whitehouse.gov/wp-content/uploads/2025/07/Digital-Assets-Report-EO14178.pdf>; U.S. Department of the Treasury, *Report to Congress from the Secretary of the Treasury on Innovative Technologies to Counter Illicit Finance Involving Digital Assets* (Mar. 2026), <https://home.treasury.gov/system/files/246/GENIUS-Act-Illicit-Finance-Innovation-Congressional-Report-March-2026.pdf>.

⁵⁶ FRB, FDIC, FinCEN, NCUA, and OCC, *Joint Statement on Innovative Efforts to Combat Money Laundering and Terrorist Financing* (Dec. 3, 2018), https://www.fincen.gov/system/files/2018-12/20Statement%20on%20Innovation%20Statement%2028Final%2011-30-18%29_508.pdf.

⁴⁸ See 31 U.S.C. 5318(h)(2)(B)(iii).

⁴⁹ Federal Financial Institutions Examination Council (FFIEC), *FFIEC BSA/AML Examination Manual, Assessing Compliance with BSA Regulatory Requirements—Suspicious Activity Reporting*, <https://bsaaml.ffiec.gov/manual/AssessingComplianceWithBSARegulatoryRequirements/04>.

based on the use of innovative technologies. To the contrary, FinCEN recognizes that fostering the use of innovative technologies is vital to improving financial crime compliance and fighting illicit finance and strongly encourages their responsible use.

In addition to new technology, FinCEN is aware of concerns surrounding model risk management at financial institutions. FinCEN has considered comments submitted in response to the 2021 *Request for Information and Comment: Extent to Which Model Risk Management Principles Support Compliance With Bank Secrecy Act/Anti-Money Laundering and Office of Foreign Assets Control Requirements* (RFI).⁵⁷ FinCEN received comments including concerns that supervisors may expect financial institutions to apply the Supervisory Guidance on Model Risk Management (MRMG) to AML/CFT and OFAC-related policies, procedures, and controls.⁵⁸

While FinCEN has not issued or been party to any prior MRMG guidance, FinCEN shares certain concerns articulated in the comments to the RFI that these models, which are designed to assess different types of risks with different information input, processing, and reporting components may be overly burdensome and ill-fitted to address illicit finance risks. FinCEN welcomes comment on this position and intends to work with the Agencies to address these concerns.

C. Establishing and Maintaining an AML/CFT Program

The requirement that financial institutions establish and maintain an AML/CFT program is not new, although over time various formulations of this requirement have developed in statutes and regulations.⁵⁹ The proposed rule

would set out uniform terms for an AML/CFT program across FinCEN's regulations for all types of financial institutions regulated under the BSA and delineate the requirements that must be met for financial institutions to have an effective AML/CFT program. That is, the proposed rule would create a two-pronged framework under which a financial institution's AML/CFT program would be deemed to be effective if the financial institution *establishes* and *maintains* their program. Under the proposed rule, a financial institution maintains its properly established AML/CFT program by *implementing* it in all material respects.

1. Proposed 31 CFR 10XX.210(b)—Establishing Versus Maintaining an AML/CFT Program

For a financial institution to have an effective AML/CFT program, the proposed 31 CFR 10XX.210(b) ("31 CFR 10XX" refers to proposed changes to the AML program rules of all eleven financial institution types) would require a financial institution to *establish* an AML/CFT program and then *maintain* the AML/CFT program by implementing, in all material respects, the established AML/CFT program. The proposed rule describes the requirements for a financial institution to establish and maintain an effective AML/CFT program that complies with the requirements of 31 U.S.C. 5318(h)(1). The AML/CFT program minimum components constituting program establishment, and described in further detail in section V.D below, are: (1) internal policies, procedures, and controls (including risk assessment processes); (2) independent program testing; (3) an individual, located in the United States and accessible to FinCEN and the Agencies, responsible for establishing and maintaining the program, and coordinating and monitoring day-to-day compliance; and (4) ongoing employee training. "Establishing" an AML/CFT program involves designing an AML/CFT program that incorporates all of the required components. "Implementation," by contrast, addresses whether the financial

institution is executing that program in practice. This distinction matters, particularly for banks, because proposed 31 CFR 1020.221(b) ties the availability of AML/CFT enforcement and significant supervisory actions based on the program rule for an established bank program to a significant or systemic failure to implement an effective AML/CFT program. The distinction between establishing and implementing an AML/CFT program is intended to make transparent how the individual elements of 31 CFR 1020.210 work together to satisfy 31 U.S.C. 5318(h)(1).

The concepts of program establishment and program maintenance are closely related to the supervision and enforcement provisions of the proposed program rule for banks. In particular, as explained in more detail in section V.F, a bank that has properly established an AML/CFT program (*i.e.*, satisfied the proposed rule's requirements regarding establishment) will not be subject to an AML/CFT enforcement action or a significant supervisory action based on the program rule except with respect to a significant or systemic failure to implement an effective AML/CFT program (*i.e.*, a failure to implement, in all material respects, a properly established AML/CFT program).⁶⁰

Separating program establishment from program maintenance therefore provides needed clarity regarding whether a supervisory concern relates to deficiencies stemming from the program's design, on the one hand, or failures in the program's operation, on the other. This two-prong framework would help promote consistent articulation of supervisory expectations and prevent conflating criticisms of program design—the remediation of which would likely be different in kind—with criticisms of day-to-day implementation. The proposed distinction does not change the substantive obligations of 31 U.S.C. 5318(h)(1); rather, it clarifies how those obligations map onto the two statutory requirements at the core of section 5318(h)(1): having a risk-based and reasonably designed program and adhering to it in operation.

As noted previously, FinCEN intends for the requirements of this proposed rule to not be limited to a one-time adoption of the elements required for program establishment, such as internal policies, procedures, and controls. Rather, FinCEN intends a financial

⁵⁷ OCC, FRB, FDIC, NCUA, and FinCEN, *Request for Information and Comment: Extent to Which Model Risk Management Principles Support Compliance With Bank Secrecy Act/Anti-Money Laundering and Office of Foreign Assets Control Requirements*, 86 FR 18978 (Apr. 12, 2021).

⁵⁸ FRB and OCC, *Supervisory Guidance on Model Risk Management*, (Apr. 4, 2011), <https://www.federalreserve.gov/supervisionreg/srletters/sr1107a1.pdf>.

⁵⁹ For instance, the provision of the BSA which requires financial institutions to have AML/CFT program rules states that "each financial institution shall *establish*" (emphasis added) such programs, including certain requirements as specified. See 31 U.S.C. 5318(h)(1). The corresponding Federal statute requiring banks regulated by the Federal banking agencies to have BSA compliance programs states that these banks must "establish and maintain procedures reasonably designed to assure and monitor the compliance" with the requirements of the BSA. 12 U.S.C. 1818(s)(1). In addition, the current program rules regulating financial institutions use inconsistent terms to describe establishing, implementing, and maintaining AML/

CFT programs. For example, some programs rules use the terms "implements and maintains"—31 CFR 1020.210 (banks); 1021.210 (casinos); 1023.210 (broker-dealers); 1026.210 (FCMs and IBCs) while others use the terms "develop, implement, and maintain," 1022.210 (MSBs) and others use "develop and implement" 1024.210 (mutual funds); 1025.210 (insurance companies); 1027.210 (DPMSs); 1028.210 (operators of credit card systems); 1029.210 (loan or finance companies); and 1030.210 (housing GSEs)—with respect to the general AML program requirement.

⁶⁰ The proposed rule would clarify that this limitation on AML/CFT enforcement actions and significant AML/CFT supervisory actions does not apply with respect to a failure to properly *establish* an AML/CFT program.

institution's establishment of its AML/CFT program to require the financial institution's risk-based set of internal policies, procedures, and controls—and the risk assessment processes that inform them—to remain current as the financial institution's risk profile changes. For example, if a financial institution begins providing a new product or service—or changes how it provides an existing product or services, such as operating in a new geographic location—under this proposed rule, a financial institution would need to incorporate its new product or service as part of its risk assessment processes. The proposed rule would require a financial institution to make a risk determination and, as appropriate, redesign its internal policies, procedures, and controls to account for the risks that it did not previously encounter prior to offering the new product or service, or operating in the new geographic location. Thus, under the proposed rule, even where a financial institution has previously established an AML/CFT program in accordance with the proposed rule, a failure to update the program to reflect significant changes in the institution's risk profile may result in the program no longer satisfying the proposed rule's requirements regarding establishment.

2. Proposed 31 CFR 10XX.210(c)—Implementation of an AML/CFT Program

Once a financial institution has properly “established” an AML/CFT program, the institution must “maintain” the program by implementing it, in all material respects. Minor deficiencies of an AML/CFT program would not necessarily mean that a financial institution has failed to implement the program.

Although there are a variety of ways that a financial institution may not be implementing its program “in all material respects,” in FinCEN's experience, commonly observed examples may include, but would not be limited to: (1) internal policies, procedures, and controls are not being performed or not being performed on a consistent, regular, and timely basis (e.g., consistently ignored warnings or red flags that a program was seriously deficient) due to the nature or extent of required resources becoming inadequate; (2) gaps in the risk assessment processes that result in the financial institution's program missing or inadequately covering higher ML/TF risks (e.g., systems used to monitor for potentially suspicious activity failing to capture material volumes or types of transactions); or (3) deficiencies or

weaknesses in the risk assessment processes that have a material impact on the financial institution's mitigation of ML/TF risks through its internal policies, procedures, and controls, including due to data-related issues involving relevant processes and systems.

Similarly, FinCEN expects that a financial institution could become aware of such implementation-related concerns through a variety of mechanisms, including, but not limited to: (1) independent testing of the AML/CFT program; (2) examiner observations, suggestions, or other informal comments about the AML/CFT program from FinCEN (or its designee, such as a Federal functional regulator); (3) management information systems and related reports or other outputs (e.g., key performance indicators or key risk indicators, such as monitoring for potentially material backlogs in relevant AML/CFT processes); and (4) issues identified by personnel involved in the operation of the financial institution's AML/CFT program. A bank that fails to reasonably address such warnings that its program is not being implemented would be at risk of being subject to a significant AML/CFT supervisory action, an AML/CFT enforcement action, or both.

D. Program Establishment

As noted earlier, pursuant to 31 U.S.C. 5318(h), the AML/CFT program requirements for financial institutions must have certain minimum elements comprised of: (1) internal policies, procedures, and controls; (2) an independent audit function to test programs; (3) a designated compliance officer; (4) an ongoing employee training program; and (5) other components, depending on the type of financial institution. The majority of the proposed rule's AML/CFT program components are substantially similar to the existing statutory and regulatory requirements for financial institutions. However, FinCEN is proposing certain additions and modifications to modernize and strengthen financial institutions' AML/CFT programs to enable financial institutions to better mitigate illicit finance risks.

1. Proposed 31 CFR 10XX.210(b)(1)—Internal Policies, Procedures, and Controls

The BSA requires financial institutions to develop “internal policies, procedures, and controls” as part of their AML/CFT programs.⁶¹ Existing AML program rules already

impose internal policies, procedures, and controls requirements to ensure compliance, but with differing formulations. The proposed rule would standardize these requirements for financial institutions required to comply with FinCEN's program rules to establish a risk-based set of internal policies, procedures, and controls in their AML/CFT programs.

Proposed 31 CFR 10XX.210(b)(1) provides that a financial institution's risk-based set of internal policies, procedures, and controls must be reasonably designed to: (1) identify, assess, and document ML/TF risks through risk assessment processes; (2) mitigate ML/TF risks consistent with the risk assessment processes, including by allocating more attention and resources toward higher-risk customers and activities rather than toward lower-risk customers and activities; and, for certain financial institutions (3) conduct ongoing CDD. The preamble addresses each of these features below.

Under this proposal, a financial institution's risk-based set of internal policies, procedures, and controls should be based upon, informed by, and consistent with the financial institution's risk assessment processes. The level of sophistication of the internal policies, procedures, and controls should be commensurate with the size, structure, risk profile, and complexity of the financial institution.

The requirement that a financial institution's risk-based set of internal policies, procedures, and controls be “reasonably designed” gives financial institutions flexibility in how they achieve compliance with the BSA and the proposed rule's other requirements. As part of having risk-based set of internal policies, procedures, and controls reasonably designed to ensure compliance with the BSA and FinCEN's regulations, financial institutions may choose to responsibly adopt new technologies or innovative approaches to comply with BSA requirements. Consistent with this purpose, FinCEN encourages financial institutions to evaluate whether new technology or innovative approaches in other resources might help to more effectively combat financial crime. Innovative approaches could involve machine learning, GenAI, digital identity, blockchain monitoring and analytics, or APIs. These technologies may be especially useful in countering illicit finance activity involving digital assets, an effort for which FinCEN supports the responsible use of novel models, techniques, or strategies.

⁶¹ 31 U.S.C. 5318(h)(1)(A).

i. Proposed 31 CFR 10XX.210(b)(1)(i)—Risk Assessment Processes

FinCEN is proposing in 31 CFR 10XX.210(b)(1)(i) that, as part of a financial institution's risk-based set of internal policies, procedures, and controls, the financial institution establish and maintain risk assessment processes to: (1) evaluate the ML/TF risks of the financial institution's business activities, including products, services, distribution channels, customers, and geographic locations; (2) review and, as appropriate, incorporate the AML/CFT Priorities; and (3) be updated promptly upon any change that the financial institution knows or has reason to know significantly changes the institution's ML/TF risks.

While it is common practice among many financial institutions to maintain a risk assessment process or processes, the requirement that financial institutions have risk assessment processes when developing their AML/CFT programs is not stated in a uniform manner for all financial institutions under the current AML program rules. Under some program rules, certain financial institutions—such as insurance companies and loan and finance companies—are explicitly required to “[i]ncorporate policies, procedures, and internal controls based upon . . . [an] assessment of the . . . risks associated with its products and services.”⁶² Under other program rules, some financial institutions—such as casinos and MSBs—must develop internal policies, procedures, and controls, and independent testing “commensurate with the risks” posed by their products.⁶³ This latter requirement implicitly requires risk assessment processes, as an institution cannot develop a risk-based set of internal policies, procedures, and controls without first identifying the institution's risks by way of some process. Thus, the proposed rule would standardize the requirement for risk assessment processes across different types of financial institutions subject to program rules, thereby clarifying existing expectations and practices.

Importantly, the proposed rule requires, as part of a financial institution's risk-based set of internal policies, procedures and controls, that it identify, assess, and document its ML/

TF risks using risk assessment processes. FinCEN understands that many financial institutions currently maintain a single, or standalone, risk assessment process either voluntarily or as required or expected by Federal regulators. This risk assessment process, generally conducted on an annual basis, results in a documented ML/TF risk assessment. While such a risk assessment process may be appropriate under the proposal, the use of the term “risk assessment processes” is intended to reflect that a financial institution may rely on multiple processes—applied as appropriate within its AML/CFT program—to identify, assess, and document its ML/TF risks and will be examined based on the totality of these processes rather than the sufficiency of a single, standalone risk assessment process.

FinCEN believes financial institutions are best positioned to identify and evaluate their ML/TF risks and is therefore not prescribing any particular risk assessment processes or methodologies other than the critical elements described in this proposed rule. Under the proposed rule, financial institutions will be examined for whether they have established and implemented, in all material respects, reasonably designed risk assessment processes—which need not be in the form of a singular risk assessment process. Furthermore, as discussed further below, FinCEN is not prescribing any particular timeframe for institutions to update their risk assessment processes.

The explicit requirement to have risk assessment processes will be new for banks, casinos, MSBs, broker-dealers, mutual funds, and FCMs and IBCs.⁶⁴

a. Proposed 31 CFR 10XX.210(b)(1)(i)(A)—ML/TF Risks

Proposed 31 CFR 10XX.210(b)(1)(i)(A) would require a financial institution's risk assessment processes to evaluate the ML/TF risks of its business activities, including products, services, distribution channels, customers, and geographic locations. These factors are generally well known and often incorporated into current risk assessment processes of some financial institutions. FinCEN considers “distribution channels” to refer to the methods and tools through which a financial institution opens accounts and provides products or services,

including, for example, through remote or other non-face-to-face means.

Financial institutions may use a variety of sources to inform their risk assessment processes. Such sources may include information obtained from other financial institutions, such as emerging risks and typologies identified through section 314(b) information sharing or payment transactions that other financial institutions returned or flagged due to ML/TF risks.⁶⁵ Information a financial institution generates or maintains could be another source. Such internal information may include, for example, customer internet protocol (IP) addresses or device logins and related geolocation information.

Feedback from FinCEN, law enforcement, and financial regulators may also inform risk assessment processes. For example, if a financial institution receives feedback from law enforcement about a report it has filed or potential risks at the financial institution, the financial institution may incorporate that information into its risk assessment processes. Similarly, a financial institution may consider information identified from responding to section 314(a) requests.

In addition to feedback, reports, and analyses published by Treasury and FinCEN, the Federal functional regulators, or self-regulatory organizations (SROs) may be particularly relevant to a financial institution's business activities, thereby warranting consideration when evaluating ML/TF risks. Treasury describes changes in the illicit finance risk environment in its biennial *National Money Laundering Risk Assessment*, *National Terrorist Financing Risk Assessment*, and *National Proliferation Financing Risk Assessment*, which highlight significant illicit finance threats, vulnerabilities, and risks.⁶⁶ FinCEN also publishes advisories and analyses on emerging risks and typologies, including Financial Trend Analyses issued pursuant to section 6206 of the AML Act. These reports contain threat pattern and trend information derived from BSA filings and may help inform financial institutions' understanding of

⁶² See 31 CFR 1029.210 (loan or finance companies); 1030.210 (housing GSEs); see also 31 CFR 1025.210 (insurance companies); 1028.210 (operators of credit card systems).

⁶³ See 31 CFR 1022.210 (MSBs); 1025.210 (insurance companies); see also 31 CFR 1021.210 (casinos) (“commensurate with the money laundering and terrorist financing risks posed by the products and services”).

⁶⁴ The current program rules without explicit risk assessment requirements are located at 31 CFR 1020.210 (banks); 1021.210 (casinos); 1022.210 (MSBs); 1023.210 (broker-dealers); 1024.210 (mutual funds); and 1026.210 (FCMs and IBCs).

⁶⁵ See FinCEN, *Section 314(b) Fact Sheet*, (Dec. 2020), <https://www.fincen.gov/system/files/shared/314bfactsheet.pdf>.

⁶⁶ See U.S. Department of the Treasury, *2026 National Money Laundering Risk Assessment* (March 2026), <https://home.treasury.gov/system/files/246/2026-NMRA.pdf>; *2026 National Terrorist Financing Risk Assessment* (March 2026), <https://home.treasury.gov/system/files/246/2026-NTFRA.pdf>; *2026 National Proliferation Financing Risk Assessment* (March 2026), <https://home.treasury.gov/system/files/246/2026-NPFR.pdf>.

risks associated with different threats and vulnerabilities as they evolve.⁶⁷ Regardless of the source, financial institutions should take measures in their risk assessment processes to ensure this information is reasonably current, complete, and accurate.

b. Proposed 31 CFR 10XX.210(b)(1)(i)(B)—AML/CFT Priorities

Proposed 31 CFR 10XX.210(b)(1)(i)(B) would require financial institutions to review and incorporate the AML/CFT Priorities. The AML/CFT Priorities set out the priorities for the U.S. government's AML/CFT policy as required by the AML Act and are designed to ensure that financial institutions' AML/CFT programs are aligned with those priorities. Recognizing the diverse nature of ML/TF threats facing the U.S. financial system and national security, and that financial institution AML/CFT programs benefit U.S. national security by safeguarding the financial system from ML/TF risks, the AML/CFT Priorities are intended to ensure that financial institutions are focusing on the greatest threats to U.S. national security, as defined by Treasury.

Section 6101 of the AML Act requires that a financial institution's review and appropriate incorporation of the AML/CFT program be subject to supervision and examination for compliance with the BSA and other AML/CFT laws and regulations.⁶⁸ FinCEN is implementing this statutory requirement by proposing that, as part of their risk assessment processes, financial institutions must review and, as appropriate, incorporate the AML/CFT Priorities. The inclusion of the AML/CFT Priorities in risk assessment processes is meant to help ensure that financial institutions understand their exposure to risks in areas that are of particular importance nationally, which may help financial institutions develop risk-based and reasonably designed AML/CFT programs.

FinCEN understands that the AML/CFT Priorities may not always be applicable to a financial institution's risk profile and activities. Therefore, FinCEN requires the incorporation of the AML/CFT Priorities in financial institution's risk assessment processes *as appropriate*. This means that, having reviewed the AML/CFT Priorities, a financial institution may determine the

extent to which a particular priority is applicable and whether and how a particular AML/CFT Priority should be incorporated into its risk assessment processes.

Further, a financial institution may use its judgment and apply a reasonable, risk-based determination on whether to focus on a specific aspect of an AML/CFT Priority (e.g., cyber-enabled fraud), rather than addressing all aspects of a AML/CFT Priority that may either not be applicable (e.g., digital assets cybercrime for a financial institution that does not offer any digital asset products or services, or have any digital asset customers) or pose lower risks to the financial institution (e.g., proliferation financing risks for a financial institution with no cross-border operations, customers, transactions, or activities). However, FinCEN cautions that a surface-level, perfunctory review of an AML/CFT Priority by a financial institution and the foreseeable ways in which it may manifest itself within the financial institution's customers, products and services, geographies, and distribution channels would not satisfy this requirement. For example, patterns of transactions that may be consistent with potential structuring should not automatically be dismissed as lower value to law enforcement and untethered to an AML/CFT Priority without determining whether there is a potential connection to various types of other illicit finance activity (e.g., structuring or similar patterns involving transactions in narcotics trafficking proceeds).

Under the AML Act, FinCEN is required to update the AML/CFT Priorities not less than once every four years.⁶⁹ Whenever the AML/CFT Priorities are updated, financial institutions would no longer be required to incorporate prior versions of the AML/CFT Priorities. Financial institutions would only be required to incorporate the most recent AML/CFT Priorities into their risk assessment processes.

FinCEN anticipates that some financial institutions may ultimately determine that their business models and risk profiles have limited exposure to some of the threats addressed in the AML/CFT Priorities but instead have greater exposure to other ML/TF risks not addressed in the AML/CFT Priorities. Additionally, some financial institutions' risk assessment processes may determine that their AML/CFT programs already sufficiently take into account some, or all, of the AML/CFT

Priorities. In either case, any changes to financial institutions' AML/CFT programs, such as internal policies, procedures, or controls, would be based on the results of risk assessment processes and their impact on the AML/CFT program, including how to review and, as appropriate, incorporate the AML/CFT Priorities before making these determinations.

FinCEN recognizes that some AML/CFT Priorities describe threats at a high level, or at a point in time, and that financial institutions may lack the context or information necessary on which specific threats, or what time frames, to consider or focus on when conducting their risk assessments. For instance, the AML/CFT Priorities that FinCEN issued in June 2021 describes "fraud" as one of the eight priorities and discusses specific examples of fraud that were especially salient in 2021. However, the government's priorities may have changed since the publication of the AML/CFT Priorities due to emergent ML/TF typologies (e.g., sanctions evasions by Russian oligarchs) or ML/TF threats (e.g., pig butchering) not addressed specifically in the AML/CFT Priorities. For example, FinCEN's support to Treasury's efforts to combat rampant government benefits fraud is just one example of how the government's focus on specific types of fraud evolves over time.⁷⁰ This type of fraud may not have been a concern for a financial institution in prior risk assessment processes, but a financial institution may decide to conduct and apply risk assessment processes to identify whether such a risk is significant for a financial institution, and that determination may necessitate changes to a financial institution's AML/CFT program.

To assist financial institutions with their risk assessment processes, and to better identify activity related to the AML/CFT Priorities, FinCEN issues products under its Financial Institution Advisory Program (Advisory Program).⁷¹ FinCEN's Advisory Program communicates priority ML/TF threats and vulnerabilities to the U.S. financial system. Financial institutions may use this information to support effective, risk-based, and reasonably designed AML/CFT programs and suspicious activity monitoring systems to help generate highly useful information for

⁶⁷ See, e.g., FinCEN, *Financial Trend Analyses*, <https://www.fincen.gov/resources/financial-trend-analyses>.

⁶⁸ 31 U.S.C. 5318(h)(4)(E).

⁶⁹ 31 U.S.C. 5318(h)(4)(B).

⁷⁰ U.S. Department of the Treasury, Press Release, "Secretary Bessent Announces Initiatives to Combat Rampant Fraud in Minnesota" (Jan. 9, 2026), <https://home.treasury.gov/news/press-releases/sb0354>.

⁷¹ FinCEN, *Alerts/Advisories/Notices/Bulletins/Fact Sheets*, <https://www.fincen.gov/resources/advisoriesbulletinsfact-sheets>.

law enforcement and national security agencies.

Relatedly, since 2021, FinCEN has published Financial Trends Analyses (FTA) highlighting threat pattern and trend information derived from BSA data on additional fraud-related topics, including an FTA on fraud schemes targeting digital identities, mail theft-related check fraud, and elder financial exploitation.⁷² More recently, FinCEN issued an Alert on Fraud Rings and their Exploitation of Federal Child Nutrition programs in Minnesota given the rampant financial fraud and improper payments in Minnesota.⁷³ As noted in the alert, ongoing investigations into fraudsters in Minnesota by the U.S. Department of Justice have identified potentially billions of dollars stolen from the Federal child nutrition programs and other Federal and State government benefits programs, including Medicaid.

FinCEN requests comment from the public on whether additional guidance related to the consideration of the AML/CFT Priorities as part of an institution's risk assessment processes would be warranted.

c. Proposed 31 CFR 10XX.210(b)(1)(i)(C)—Updates to Risk Assessment Processes

Proposed 31 CFR 10XX.210(b)(1)(i)(C) would require financial institutions to update their risk assessment processes promptly upon any change that the financial institution knows or has reason to know significantly changes their ML/TF risk profiles. For example, a financial institution may need to update its risk assessment when new products, services, and customer types are introduced; if existing products, services, and customer types undergo significant changes; when the financial institution adopts new risk mitigation technology; or if the financial institution as a whole expands or contracts through mergers, acquisitions, divestitures, dissolutions, and liquidations. Financial institutions may also need to update their risk assessment processes based on factors external to their operations that they know or have reason to know significantly change their ML/TF risk profiles. FinCEN welcomes comments on whether it should further clarify when financial institutions must review or update their risk assessment processes.

ii. Proposed 31 CFR 10XX.210(b)(1)(ii)—Mitigate ML/TF Risks Through Risk-Based Allocation of Attention and Resources

Section 6101(b) of the AML Act states that the AML/CFT programs of financial institutions should be “risk-based, including ensuring that more attention and resources of financial institutions should be directed toward higher-risk customers and activities, consistent with the risk profile of a financial institution, rather than toward lower-risk customers and activities.”⁷⁴ Proposed 31 CFR 10XX.210(b)(1)(ii) would adopt this formulation as part of a financial institution's obligation to establish a risk-based set of internal policies, procedures, and controls. Under the proposed rule, a financial institution's efforts to mitigate its ML/TF risks would involve “directing more attention and resources toward higher-risk customers and activities, consistent with the risk profile of the [financial institution], rather than toward lower-risk customers and activities.”

FinCEN views risk-based allocation of resources as a critical step in realizing the AML Act's BSA modernization and reform ambitions, and an important departure from the status quo of AML/CFT compliance and supervision. The proposed rule envisions financial institutions exercising more flexibility in deploying attention and resources in accordance with the proposed rule without fear of supervisory criticism or action from examiners for directing more attention and resources on higher risk customers and activities rather than toward lower risk customers and activities.

The goal of risk-based resource allocation is for financial institutions to spend less time, energy, and resources on lower priority activities that may result in fewer resources devoted to, and potentially distract from, more serious threats. The proposed rule would thus enable financial institutions to focus more on higher risk customers and activities, which FinCEN has determined should result in financial institutions being more effective at detecting, reporting, and preventing the flow of illicit funds and providing law enforcement with more valuable BSA reporting.

As noted above, Treasury and FinCEN believe that financial institutions are best positioned to identify and evaluate their ML/TF risks and to make decisions related to risk identification and resource allocation in accordance with risk identification. The proposed rule,

therefore, does not contemplate regulatory second-guessing of a financial institution's reasonable determinations regarding appropriate resource allocation or conclusions regarding specific risks. However, while Treasury and FinCEN do not believe that an examiner should substitute his or her own subjective judgment in place of the financial institution, examiners will be expected to assess whether: (1) a financial institution's resource allocation decisions are informed by, and consistent with, reasonably designed risk assessment processes; and (2) with respect to implementation, specifically, whether the financial institution knows or should know of resource-related issues involving its internal policies, procedures, and controls and other mandatory elements that may result in the financial institution failing to implement its AML/CFT program in all material respects and failing to address such issues.

iii. Proposed 31 CFR 1020.210(b)(1)(iii), 1023.210(b)(1)(iii), 1024.210(b)(1)(iii), 1026.210(b)(1)(iii), and 1028.210(b)(1)(iii)—Conduct Ongoing Customer Due Diligence

The existing program rules for certain financial institutions, referred to here as covered financial institutions, contain CDD requirements that have commonly been referred to as the “fifth pillar” of AML program rules for those types of financial institutions.⁷⁵ Under these requirements, covered financial institutions must establish and maintain a written AML program that includes: “appropriate risk-based procedures for conducting ongoing customer due diligence, to include, but not be limited to: understanding the nature and purpose of customer relationships for the purpose of developing a customer risk profile; and conducting ongoing monitoring to identify and report suspicious transactions and, on a risk basis, to maintain and update customer information.”

Proposed 31 CFR 1020.210(b)(1)(iii), 1023.210(b)(1)(iii), 1024.210(b)(1)(iii), 1026.210(b)(1)(iii), and 1028.210(b)(1)(iii) would retain these ongoing CDD obligations without alteration but would make them part of the requirement that covered financial institutions establish a risk-based set of internal policies, procedures, and controls that is reasonably designed.

⁷² FinCEN, *Financial Trend Analyses*, <https://www.fincen.gov/resources/financial-trend-analyses>.

⁷³ FinCEN, *FinCEN Alert on Fraud Rings and their Exploitation of Federal Child Nutrition programs in Minnesota*, (Jan. 9, 2026), <https://www.fincen.gov/system/files/2026-01/FinCEN-Alert-Federal-Child-Nutrition-Programs.pdf>.

⁷⁴ 31 U.S.C. 5318(h)(2)(B)(iv)(II).

⁷⁵ See applicable program rules with CDD requirements for covered financial institutions located at 31 CFR 1020.210(a)(2)(v) and (b)(2)(v) (banks); 1023.210(b)(5) (broker-dealers); 1024.210(b)(5) (mutual funds); and 1026.210(b)(5) (FCMs and IBCs).

FinCEN proposes this organizational change because the activities required by the CDD pillar are, in practice, subsumed by the obligation for a covered financial institution to have a risk-based set of internal policies, procedures, and controls that is reasonably designed. The organizational change more accurately reflects how covered financial institutions operationalize such ongoing customer due diligence as part of their overall AML programs. This organizational change, however, is not intended to have any substantive effect on existing obligations under 31 CFR 1010.230.

iv. Application to Community Banks

FinCEN recognizes that financial institutions vary significantly in size, structure, complexity, and risk profile. Under the proposed rule, the level of sophistication of a financial institution's internal policies, procedures, and controls—including its risk assessment processes—should be commensurate with the financial institution's size, structure, risk profile, and complexity. Accordingly, financial institutions with broader product offerings, more complex corporate structures, or greater exposure to higher-risk customers, products, services, or geographic locations would be expected to establish correspondingly more formalized or analytically complex internal policies, procedures, and controls—including risk assessment processes. By contrast, many community banks operate with more limited business activities, traditional lending and deposit services, a narrower geographic footprint, and customer bases concentrated within defined local communities. For such banks, risk assessment processes may appropriately be more streamlined or qualitative in nature, and a risk-based set of internal policies, procedures, and controls that is reasonably designed for a large, complex financial organization would not necessarily be required or appropriate for a community bank with a more limited risk profile.

The proposed rule does not prescribe any specific methodology for identifying, assessing, and documenting ML/TF risks. Community banks may use risk assessment processes that are tailored to their business model and operational scale, including processes that rely on direct knowledge of products, services, customers, and geographic locations rather than highly parameterized or model-driven approaches. Many community banks maintain longstanding customer relationships and operate within defined local markets, which may provide bank personnel with

meaningful information relevant to identifying, assessing, and mitigating ML/TF risks. Familiarity with local businesses, direct interaction between bank staff and customers, and an understanding of ordinary patterns of activity within the bank's community may appropriately inform the bank's risk assessment processes and the design of reasonably designed internal policies, procedures, and controls. While such characteristics do not reduce a community bank's obligation to establish and maintain an effective AML/CFT program in accordance with the proposed rule, they may influence how a community bank documents its ML/TF risks and allocates attention and resources consistent with those risks.

Further, under the proposed rule's requirement that a financial institution review and, as appropriate, incorporate the AML/CFT Priorities, a community bank may determine, based on its risk assessment processes, that certain AML/CFT Priorities may not be applicable to its business activities. In such cases, the community bank would not be required to allocate attention or resources to risks for which it has no identified exposure. Rather, the bank would be expected to direct its attention and resources in a manner consistent with its documented ML/TF risks.

2. Proposed 31 CFR 10XX.210(b)(2)—Independent Testing

The AML Act did not change the BSA requirement that each financial institution include “an independent audit function to test programs,”⁷⁶ which is already reflected in AML/CFT program rule requirements,⁷⁷ and proposed 31 CFR 10XX.210(b)(2). The purpose of independent testing is to assess the financial institution's compliance with AML/CFT statutory and regulatory requirements, relative to its risk profile. The independent AML/CFT program testing should be focused on whether the AML/CFT program is effective, and it should identify issues and areas for remediation accordingly. Similar to the expectations outlined above for examiners, Treasury and FinCEN do not believe that an auditor should substitute his or her own subjective judgment in place of the financial institution. To support the effective implementation of an AML/

CFT program, independent testing should be based on objective criteria designed to assess whether a financial institution has established and maintained an effective AML/CFT program and allocated resources consistent with its risk assessment processes. These criteria should also assess whether related program governance is sufficient to manage risks and apply compensating controls where necessary, particularly in areas where remediation is underway. This evaluation helps to inform the financial institution's senior management of weaknesses or areas in need of enhancement or stronger controls. Typically, this evaluation includes a conclusion about the financial institution's overall compliance with AML/CFT statutory and regulatory requirements and sufficient information for the reviewer (e.g., board of directors, senior management, AML/CFT officer, outside auditor, or an examiner) to reach a conclusion about whether the risk-based set of internal policies, procedures, and controls is reasonably designed and resources are well-allocated consistent with the institution's risk assessment processes.

Additionally, while financial institutions retain some flexibility regarding who conducts the audit or testing, the proposed rule would continue to require that testing be independent. Financial institutions that do not employ outside auditors or consultants or that do not have internal audit departments may comply with this requirement by using internal staff who are not involved in the function being tested. For these financial institutions and financial institutions with other types of arrangements for independent testing, the AML/CFT officer or any party who directly, and in some cases, indirectly reports to the AML/CFT officer, or an equivalent role, would generally not be considered sufficiently independent.⁷⁸ Any

⁷⁸ This is consistent with current 31 CFR 1022.210, which provides that independent testing review may be conducted by an officer or employee of the MSB so long as the tester is not the AML/CFT officer. Similarly, current 31 CFR 1025.210, 1029.210, and 1030.210 provide that independent testing at insurance companies, loan or finance companies, and housing GSEs, respectively, may be conducted by a third party or by any officer or employee of the financial institution, other than the AML/CFT officer. Likewise, 31 CFR 1027.210(b)(4) and 1028.210(b)(4) provide that independent testing of a DPMSJ or an operator of a credit card system, respectively, can be conducted by an officer or employee of the institution, so long as the tester is not the AML/CFT officer or a person involved in the operation of the AML/CFT program. Determining whether testing at U.S. operations of foreign financial institutions is adequately “independent” may include a review of the reporting arrangements between the party

⁷⁶ 31 U.S.C. 5318(h)(1)(D).

⁷⁷ See 31 CFR 1020.210(a)(2)(ii), (b)(2)(ii) (banks); 1021.210(b)(2)(ii) (casinos); 1022.210(d)(4) (MSBs); 1023.210(b)(2) (broker-dealers); 1024.210(b)(2) (mutual funds); 1025.210(b)(4) (insurance companies); 1026.210(b)(2) (FCMs and IBCs); 1027.210(b)(4) (DPMSJs); 1028.210(b)(4) (operators of a credit card system); 1029.210(b)(4) (loan or finance companies); 1030.210(b)(4) (housing GSEs).

individual conducting the testing, whether internal or external, would be required to be independent of other parts of the financial institution's AML/CFT program, including its oversight. For financial institutions that engage outside auditors or consultants, the financial institution would be required to ensure that the outside parties conducting the independent testing are not involved in functions related to the AML/CFT program at the financial institution that may present a conflict of interest or lack of independence, such as AML/CFT training or the development or enhancement of internal policies, procedures, and controls. Additionally, for the purposes of the independent testing component, outside parties would not include government agencies, entities, or instrumentalities, such as a financial institution's Federal or State functional regulators. Financial institutions with less complex operations, and lower risk profiles may consider utilizing a shared resource as part of a collaborative arrangement to conduct testing, as long as the testing is independent.⁷⁹

While all financial institutions are required under existing regulations to establish independent testing, FinCEN is standardizing this requirement across all financial institution types. For example, the current rules for broker-dealers, mutual funds, and FCMs and IBCs require outside parties conducting the independent testing to be qualified;⁸⁰ however, FinCEN does not find it necessary to add this "qualified" description as it does not establish a new substantive requirement. FinCEN would generally expect, as with the AML/CFT officer component, independent testers to have the expertise and experience necessary to perform such testing effectively, including having sufficient knowledge of the financial institution's risk profile and AML/CFT laws and regulations.

conducting the independent testing and the AML/CFT officer, or equivalent management function such as a head of business line or a general manager, to assess any conflicts of interests and the level of independence with the party conducting the independent testing.

⁷⁹ See FRB, FDIC, NCUA, OCC and FinCEN, *Interagency Statement on Sharing Bank Secrecy Act Resources* (Oct. 3, 2018), <https://www.fincen.gov/news/news-releases/interagency-statement-sharing-bank-secrecy-act-resources>.

⁸⁰ See applicable program rules located at 31 CFR 1023.210(b)(2) (broker-dealers); 1024.210(b)(2) (mutual funds); and 1026.210(b)(2) (FCMs and IBCs).

3. Proposed 31 CFR 10XX.210(b)(3)—Designate an AML/CFT Officer Located in the United States

i. Duties of the AML/CFT Officer

The BSA requires that financial institutions with AML/CFT program obligations must have a designated compliance officer. While FinCEN has adopted this obligation—commonly referred to as the BSA/AML officer—in existing guidance and regulations, the program rules use slight variations in the specific language to describe this requirement for different types of financial institutions. The proposed rule provides technical changes to promote clarity and consistency.

As in the current program rules, proposed 31 CFR 10XX.210(b)(3) would provide that an AML/CFT program must designate an individual (referred to as an AML/CFT officer) responsible for establishing and implementing the AML/CFT program and coordinating and monitoring day-to-day compliance with the requirements and prohibitions of the BSA and FinCEN's implementing regulations. FinCEN's view is that the individual serving as the AML/CFT officer must be qualified for that role and not overburdened with other responsibilities at the institution.

The proposed rule is not intended to be primarily concerned with the formal title of the individual responsible for establishing and implementing the AML/CFT program and coordinating and monitoring day-to-day compliance; instead, the proposed rule focuses on the AML/CFT officer's position in the financial institution's organizational structure that enables the AML/CFT officer to effectively establish and implement the financial institution's AML/CFT program. The AML/CFT officer's authority, independence, and access to resources within the financial institution are critical. An AML/CFT officer should have decision-making capability regarding the AML/CFT program and sufficient functional stature within the organization to ensure that the program meets BSA requirements.

The AML/CFT officer's access to resources may include the following: adequate compliance funds and staffing with the skills and expertise appropriate to the financial institution's risk profile, size, and complexity; an organizational structure that supports compliance and effectiveness; and sufficient technology and systems to support the timely identification, measurement, monitoring, reporting, and management of the financial institution's ML/TF risks. An AML/CFT officer with conflicting responsibilities that

adversely impact the officer's ability to effectively coordinate and monitor day-to-day AML/CFT compliance generally would not fulfill this requirement. The addition of the explicit requirement that the AML/CFT officer be responsible for "establishing and implementing the AML/CFT program" in the proposed rule would make explicit a long-standing supervisory expectation, rather than changing current supervisory or regulatory requirements or expectations.

To promote consistency and reduce redundancy, the proposed rule would remove some examples of what it means to coordinate and monitor day-to-day compliance with AML/CFT requirements that are currently listed in the AML program rules for MSBs; insurance companies; DPMSJs; operators of credit card systems; loan or finance companies; and housing GSEs.⁸¹ For example, those AML program rules currently provide that an AML/CFT officer is responsible for updating the financial institution's AML program and ensuring that employees are educated or trained in accordance with the financial institution's AML program training obligation. Removing this type of language in the proposed rule does not indicate that an AML/CFT officer is not responsible for these activities, but rather reflects that such examples in the regulatory text are not necessary, and that each financial institution should decide for itself the specific activities that an AML/CFT officer should undertake to establish, maintain, and implement an AML/CFT program.

Likewise, the proposed rule would remove unnecessary provisions in certain current program rules—those applicable to DPMSJs; operators of credit card systems; loan or finance companies; and housing GSEs—requiring AML/CFT officers to ensure that a financial institution's AML/CFT program is implemented effectively.⁸² That expectation is embedded in the proposed rule's requirement that AML/CFT officers coordinate and monitor day-to-day compliance.

Similarly, the proposed rule would delete an unnecessary reference from current 31 CFR 1022.210(d)(2)(i). That provision provides that an MSB's AML/CFT officer must ensure that the MSB properly files reports, and creates and retains records, in accordance with the

⁸¹ See 31 CFR 1022.210(d)(2) (MSBs); 1025.210(b)(2) (insurance companies); 1027.210(b)(2) (DPMSJs); 1028.210(b)(2) (operators of credit card systems); 1029.210(b)(2) (loan or finance companies); 1030.210(b)(2) (housing GSEs).

⁸² See 31 CFR 1027.210(b)(2)(i) (DPMSJs); 1028.210(b)(2)(i) (operators of credit card systems); 1029.210(b)(2)(i) (loan or finance companies); 1030.210(b)(2)(i) (housing GSEs).

BSA. These activities are and remain part of the AML/CFT officer's duty to monitor and coordinate day-to-day compliance, and thus it is not necessary to separately list them in the rule. This deletion and the removal of the other redundant references will ensure consistent language across program rules.

ii. Proposed 31 CFR 10XX.210(b)(3)—The AML/CFT Officer Must Be Located in the United States and Accessible to Regulators

The AML Act provides that the duty to establish, maintain, and enforce a financial institution's AML/CFT program shall remain the responsibility of, and be performed by, persons in the United States who are accessible to, and subject to oversight and supervision by, the Secretary and the appropriate Federal functional regulator.⁸³ Proposed 31 CFR 10XX.210(b)(3) therefore requires the very same, noting that the designated individual must be accessible to, and subject to oversight and supervision by, FinCEN and its designee. FinCEN's designee, in this instance, includes any agency to which FinCEN has delegated examination authority or the appropriate SRO.

FinCEN recognizes financial institutions may currently have AML/CFT staff and operations outside of the United States, or they may contract out or delegate parts of their AML/CFT operations to third-party providers located outside of the United States. These arrangements may serve to improve cost efficiencies, to enhance coordination, particularly with respect to cross-border operations, or serve other purposes not in conflict with goals underlying the BSA. Consequently, under the proposed rule, while the AML/CFT officer must be located in the United States, personnel located outside of the United States would still be permitted to perform certain AML/CFT functions. This language does not alter existing regulations and guidance that generally prohibit the sharing of SARs with personnel located outside of the United States other than in limited circumstances such as a bank's foreign head office or controlling company.⁸⁴ FinCEN requests comment on whether

any further clarifications on this point would be useful.

4. Proposed 31 CFR 10XX.210(b)(4)—Ongoing Employee Training Program

The BSA requires AML/CFT programs to include an "ongoing employee training program."⁸⁵ This statutory requirement is reflected in all current AML program rules, but in different formulations.⁸⁶ Proposed 31 CFR 10XX.210(b)(4) would eliminate inconsistency in the AML program rules' training requirement by adopting the BSA's "ongoing employee training program" language uniformly. This change is clarifying, not substantive.

FinCEN would generally expect training to cover the financial institution's internal policies, procedures, and controls, which should in turn reflect the results of the financial institution's risk assessment processes, the latest AML/CFT regulatory requirements, and other relevant information. The frequency with which the training would occur, and the content of the training, would depend on the financial institution's ML/TF risk profile and the roles and responsibilities of the persons receiving the training. FinCEN welcomes comment on whether any further clarifications of the proposed training requirement are needed. FinCEN recognizes that financial institutions may have employees and non-employees who may have a variety of roles and responsibilities in relation to the AML/CFT program. The risk-based nature of an AML/CFT program provides flexibility for financial institutions to identify both employees and non-employees who must be trained on an ongoing basis.

E. Access to and Approval of a Written AML/CFT Program

1. Proposed 31 CFR 10XX.210(d)—Written AML/CFT Programs Must Be Made Available Upon Request

Current program rules generally require financial institutions to have written AML/CFT programs, but there is variation in how the requirement is formulated in FinCEN's regulations for certain types of financial institutions.⁸⁷

⁸³ 31 U.S.C. 5318(h)(1)(C).

⁸⁶ See 31 CFR 1020.210(a)(2)(iv), (b)(2)(iv) (banks); 1021.210(b)(2)(iii) (casinos); 1022.210(d)(3) (MSBs); 1023.210(b)(4) (broker-dealers); 1024.210(b)(4) (mutual funds); 1025.210(b)(3) (insurance companies); 1026.210(b)(4) (FCMs and IBCs); 1027.210(b)(3) (DPMSJs); 1028.210(b)(3) (operators of credit card systems); 1029.210(b)(3) (loan or finance companies); 1030.210(b)(3) (housing GSEs).

⁸⁷ Current 31 CFR 1020.210(b) requires banks lacking a Federal functional regulator to establish,

Proposed 31 CFR 10XX.210(d) would provide a consistent standard by requiring that an AML/CFT program be written, and that a financial institution, upon request, make available a copy of its written AML/CFT program to FinCEN or its designee. FinCEN's designee, in this instance, includes any agency to which FinCEN has delegated examination authority or the appropriate SRO. It is thus assured that agencies with original or delegated examination authority over a financial institution, including for example an agency with examination authorities delegated by FinCEN⁸⁸ or the appropriate SRO⁸⁹ will be among the agencies able to access a financial institution's written AML/CFT program. In addition to promoting consistency across the program rules, these clarifications are intended to help financial institutions develop a structured AML/CFT program understood across the enterprise.

2. Proposed 31 CFR 10XX.210(d)—Financial Institution Approval of a Written AML/CFT Program

Proposed 31 CFR 10XX.210(d) would also require that a financial institution's written AML/CFT program be approved by the financial institution's board of directors or an equivalent governing body within the financial institution, or appropriate senior management.

Current program rules generally require a financial institution's board or an equivalent governing body within the institution, or appropriate senior management, to approve the financial institution's written AML program. However, the proposed rule

maintain, and make available a written anti-money laundering program. Banks with a Federal functional regulator are required to have written anti-money laundering programs under the regulators' existing rules. See 12 CFR 21.21(c)(1), 208.63(b)(1), 326.8(b)(1), 748.2(b)(1). The current program rules require other types of financial institutions to have written programs at 31 CFR 1021.210(b)(1) (casinos); 1022.210(c) (MSBs); 1023.210 (broker-dealers); 1024.210(a) (mutual funds); 1025.210(a) (insurance companies); 1026.210 (FCMs and IBCs); 1027.210(a)(1) (DPMSJs); 1028.210(a) (operators of credit card systems); 1029.210(a) (loan or finance companies); 1030.210(a) (housing GSEs).

⁸⁸ See 31 CFR 1010.810(b) (FinCEN's delegation of "[a]uthority to examine institutions to determine compliance with the requirements of this chapter").

⁸⁹ For broker-dealers, FinCEN recognizes the SEC as the relevant Federal functional regulator. See *id.* 1010.810(b)(6) (delegating examination authority to SEC for broker-dealers). FinCEN recognizes registered national securities exchanges or a national securities association, such as the Financial Industry Regulatory Authority (FINRA), as the relevant SROs for member broker-dealers. Similarly, for FCMs and IBCs, FinCEN recognizes the CFTC as the relevant Federal functional regulator, 31 CFR 1010.810(b)(9), and the National Futures Association (NFA) as the SRO.

⁸³ 31 U.S.C. 5318(h)(5).

⁸⁴ See, e.g., FinCEN, *Financial Crimes Enforcement Network: Confidentiality of Suspicious Activity Reports*, 75 FR 75593 (Dec. 3, 2010); see also FinCEN, FRB, FDIC, OCC, and Office of Thrift Supervision, *Interagency Guidance on Sharing Suspicious Activity Reports with Head Offices and Controlling Companies* (Jan. 20, 2006), https://www.fincen.gov/system/files/guidance/sarsharing_guidance01122006.pdf.

standardizes this language across all financial institution types and provides financial institutions with significant flexibility in its chosen approval method. While some financial institutions may choose to have their boards approve the written AML/CFT program, for others, an equivalent governing body might be a sole proprietor, general partner, or trustee, or a grouping of owners, senior officers (including board committees or other groups with oversight responsibilities), senior management, or other persons having functions and authority similar to that of a board. For the U.S. branch of a foreign bank, the equivalent governing body may be the foreign banking organization's board of directors or delegates acting under the board's express authority.⁹⁰

Alternatively, some financial institutions might have other individuals or groups with similar status or functions as directors approve the AML/CFT program. Such individuals may include Chief Executive Officer, Chief Financial Officer, Chief Operations Officer, Chief Legal Officer, Chief Compliance Officer, Director, and individuals with similar status or functions. Also, groups with oversight responsibilities may include board committees such as compliance or audit committees as well as a group of some, or all of these individuals with aforementioned titles, as senior management that can provide effective oversight of the AML/CFT program to comply with the proposed rule.

Although some financial institutions must already obtain board approval for their AML/CFT programs or be subject to oversight by a board of directors, or an equivalent governing body, this board or senior management approval requirement will represent a change in requirements for other financial institutions. In some cases, the proposed rule would provide greater flexibility than current program rules provide. For example, a bank lacking a Federal functional regulator must have an AML/CFT program that is approved by the board or equivalent governing body

within the bank.⁹¹ Banks with a Federal functional regulator must also have board approval for their AML/CFT programs under their regulators' existing rules, although not FinCEN's.⁹² On the other hand, broker-dealers; insurance companies; FCMs and IBCs; DPMSJs; operators of credit card systems; loan or finance companies; and housing GSEs, must currently obtain senior management level approval for their AML/CFT programs.⁹³ Board approval is not required for these entities currently, so the proposed rule would not be a change. The existing program rules for casinos and MSBs do not contain specific board or senior management approval requirements, so the proposed rule would constitute a change for these entities.⁹⁴

In the case of some financial institutions, there may be existing statutes or regulations (other than the BSA and its implementing regulations) that will determine whether a financial institution must have its board approve its AML/CFT program. The proposed rule would not interfere with any such requirements. For instance, mutual funds must comply with Rule 38a–1 under the Investment Company Act of 1940 requiring board approval of a mutual fund's written policies and procedures, which would include its AML/CFT Program.⁹⁵ Because of this requirement, FinCEN understands that Rule 38a–1 would be controlling in practice and require a mutual fund's board to approve its AML/CFT program; needless to say, such approval would also satisfy FinCEN's proposed rule.

The proposed rule's provision requiring the approval of the AML/CFT program by a financial institution's board of directors, equivalent body, or appropriate senior management reflects the importance of a financial institution maintaining a strong culture of compliance. A culture of compliance involves demonstrable support and visible commitment from leadership, the dedication of adequate resources to AML/CFT compliance, effective information sharing throughout the financial institution, qualified and independent testing, and understanding across leadership and staff levels of the importance of BSA reports. Adherence

to these principles is critical to ensuring that AML/CFT programs are effective.

At the same time, an alternative approach is to refrain from prescribing corporate-governance detail in the proposed rule, instead allowing financial institutions to determine the appropriate approving authority consistent with their legal structure and other regulatory and legal requirements. Leaving firm-level choices to financial institutions would preserve flexibility across differing corporate structures, avoid imposing a single model for allocating responsibilities, and reduce the risk of unintended conflict with other regulatory or legal requirements.

F. Proposed 31 CFR 1020.221—Supervision and Enforcement

The proposed rule would add new 31 CFR 1020.221 to set forth a supervision and enforcement framework for banks' AML/CFT programs that is aligned with the AML Act's emphasis on effectiveness and risk-based supervision. The proposed section defines key terms, describes FinCEN's enforcement and supervision policy with respect to the requirements of the BSA or 31 CFR chapter X, establishes consultation requirements between FinCEN and the Agencies, when acting under supervisory authority delegated by FinCEN, and specifies factors that the Director would consider in determining whether to take, or in reviewing, an AML/CFT enforcement action or significant AML/CFT supervisory action. The supervision and enforcement requirements apply only to banks and the Agencies in the proposed rule, but FinCEN welcomes comment on whether these provisions should apply to other financial institutions. Likewise, the enforcement requirements do not apply to and in no way affect criminal enforcement liability under the Bank Secrecy Act.

1. Proposed 31 CFR 1020.221(a)—Definitions

Proposed 31 CFR 1020.221(a) would define several terms used throughout the section. The term "AML/CFT requirement" would mean a requirement of the BSA or 31 CFR chapter X.

The term "AML/CFT enforcement action" as proposed in 31 CFR 1020.211(a)(1) would mean any formal or informal action taken by FinCEN that seeks to penalize, remedy, prevent, or respond to noncompliance with, past or ongoing violations of, or past or ongoing deficiencies relating to, an AML/CFT requirement.

The term "significant AML/CFT supervisory action" as proposed in 31

⁹⁰ The FRB, FDIC, and OCC each require the U.S. branches, agencies, and representative offices of the foreign banks they supervise operating in the United States to develop written BSA compliance programs that are approved by their respective bank's board and noted in the minutes, or that are approved by delegates acting under the express authority of their respective bank's board to approve the BSA compliance programs. See 208.63(b)(1), 12 CFR 21.21(c)(1), 326.8(b)(1), and 748.2(b)(1). "Express authority" means the head office must be aware of its U.S. AML program requirements and there must be some indication of purposeful delegation.

⁹¹ See 31 CFR 1020.210(b)(3) (banks lacking a Federal functional regulator).

⁹² See 12 CFR 21.21(c)(1), 208.63(b)(1), 326.8(b)(1), 748.2(b)(1).

⁹³ See 31 CFR 1023.210 (broker-dealers); 1025.210(a) (insurance companies); 1026.210 (FCMs and IBCs); 1027.210(a)(1) (DPMSJs); 1028.210(a) (operators of credit card systems); 1029.210(a) (loan or finance companies); 1030.210(a) (housing GSEs).

⁹⁴ See applicable AML program rules located at 31 CFR 1021.210 (casinos) and 1022.210 (MSBs).

⁹⁵ See 17 CFR 270.38a–1(a)(2).

CFR 1020.221(a)(3) would mean any written communication or other formal supervisory determination issued by FinCEN or an Agency, when acting under supervisory authority delegated by FinCEN, that identifies one or more alleged deficiencies, weaknesses, violations of law, or unsafe or unsound practices or conditions relating to an AML/CFT requirement; communicates supervisory expectations regarding actions or remedial measures required to correct the issue; and contemplates significant or programmatic actions or remedial measures to be taken by the bank. Examiner observations, suggestions, or other informal comments would be expressly excluded from this definition.

2. Proposed 31 CFR 1020.221(b)—FinCEN Enforcement and Supervision Policy

Proposed 31 CFR 1020.221(b) would articulate FinCEN's enforcement and supervision policy as it relates to AML/CFT requirements applicable to banks.⁹⁶ Except with respect to a significant or systemic failure to implement an effective AML/CFT program (*i.e.*, deficiencies or issues that arise from failing to implement, in all material respects, a properly established AML/CFT program), a bank that has properly established an AML/CFT program would not be subject to an AML/CFT enforcement action based on the program rule by FinCEN or to a significant AML/CFT supervisory action based on the program rule by FinCEN or by the Agencies, when acting under supervisory authority delegated by FinCEN.

At the same time, the proposed rule would clarify that nothing in this policy would restrict an AML/CFT enforcement action or a significant AML/CFT supervisory action with respect to a failure to properly *establish* an AML/CFT program. Moreover, the proposed rule would not affect the factors that FinCEN applies in the disposition of a violation⁹⁷ once FinCEN has determined that such violation involves either: (1) a failure to properly establish an AML/CFT program, or (2) a significant or systemic failure to implement an effective AML/CFT program.

⁹⁶ The proposal is not intended to and does not affect criminal enforcement liability under the BSA, or the related authority of the Department of Justice.

⁹⁷ FinCEN, *FinCEN Statement on Enforcement of the Bank Secrecy Act* (Aug. 18, 2020), at pp. 2–3, https://www.fincen.gov/system/files/shared/FinCEN%20Enforcement%20Statement_FINAL%20508.pdf.

3. 31 CFR 1020.221(c)—FinCEN Consultation

Proposed 31 CFR 1020.221(c) would establish a notice and consultation framework applicable when the Agencies, acting under supervisory authority delegated by FinCEN, intend to initiate a significant AML/CFT supervisory action. Before initiating such an action, the Agencies would be required to provide the Director with an opportunity to review the action and consider any input offered by the Director, which may include any view as to the effectiveness of the bank's AML/CFT program. To facilitate that review, the Agencies would be required to provide written notice to the Director of their intent to take the action at least 30 days in advance of the proposed action, unless a shorter period is necessary, in the sole discretion of the Agencies, to remedy, prevent, or respond to an unsafe or unsound practice or condition.

The notice would be accompanied by the relevant AML/CFT information underlying the proposed action. Relevant AML/CFT information may include, but is not limited to: the relevant portions of the draft report enforcement action; the relevant examination workpapers supporting the proposed action and the relevant AML/CFT information submitted by the bank to the Agency. FinCEN notes the Agencies would not be obligated to provide information over which the bank may claim privilege under Federal or State law. The Agencies would also be required to respond to requests for additional AML/CFT information from the Director regarding the proposed action.

4. 31 CFR 1020.221(d)—FinCEN Considerations

Proposed 31 CFR 1020.221(d) specifies the factors that the Director would consider in determining whether to take an enforcement action or significant supervisory action with respect to banks, or when reviewing a proposed action by the Agencies.⁹⁸ These factors would include the factors set forth in 31 U.S.C. 5318(h)(2)(B), as applicable; the extent, if any, to which the bank—where appropriate in light of its size, complexity, and risk profile—has advanced the AML/CFT Priorities by providing highly useful information to law enforcement or national security officials, conducting proactive analytics

⁹⁸ This includes when the Agencies are consulting with FinCEN as required under the proposed rule, or under a consultation requirement they have imposed on themselves (which may include enforcement actions).

or performing other innovative activities producing demonstrable outputs evincing the effectiveness of the bank's AML/CFT program (including effective use of artificial intelligence, federated learning, or other advanced monitoring tools); and any other factor the Director deems appropriate, including the bank's size, complexity, and risk profile, and, as relevant, circumstances in which the bank's low-risk customers or limited business activities naturally limit the extent to which the bank can meaningfully contribute to AML/CFT Priorities.

The Director's consideration of the extent to which a bank has provided highly useful information to law enforcement or national security agencies reflects that FinCEN considers information sharing to be an important element of an effective AML/CFT program. Financial institutions may share useful information by responding to 314(a) requests or may use 314(b) authorities to share information with other financial institutions to identify and report to the Federal Government activities that may involve ML/TF. Financial institutions may also elect to participate in the FinCEN Exchange Program, a voluntary public-private information sharing partnership among FinCEN, law enforcement agencies, national security agencies, and financial institutions and other private sector entities that aims to support priority national security and counter-illicit finance objectives.⁹⁹ FinCEN strongly encourages information sharing for the purpose of advancing the AML/CFT Priorities.

The Director may consider the above alongside other factors, including those outlined in the FinCEN Statement on Enforcement of the Bank Secrecy Act, such as the nature and seriousness of violations, including the extent of possible harm to the public and amounts involved; impact or harm of the violations on FinCEN's mission to safeguard the financial system from illicit use, combat money laundering, and promote national security; or financial gain or other benefit resulting from, or attributable to, the violations, amongst others.¹⁰⁰

G. Other Changes for Modernization, Clarification, and Consistency

In addition to the previously described changes, the proposed rule would make other revisions to increase

⁹⁹ FinCEN, *FinCEN Exchange*, <https://www.fincen.gov/resources/fincen-exchange>.

¹⁰⁰ FinCEN, *FinCEN Statement on Enforcement of the Bank Secrecy Act* (Aug. 18, 2020), https://www.fincen.gov/system/files/shared/FinCEN%20Enforcement%20Statement_FINAL%20508.pdf.

clarity and consistency in the program rules. Most of these changes are technical, such as renumbering provisions, amending cross-references, and updating statutory references based on changes to the BSA by the AML Act. For example, along with the Agencies, references to “BSA/AML programs” are being updated to “AML/CFT programs” for financial institutions subject to CIP requirements.¹⁰¹ These technical changes are not anticipated to establish new obligations.

The proposed rule also would make minor changes to the definitions in FinCEN regulations, including the definition of “Bank Secrecy Act” at 31 CFR 1010.100(e).¹⁰² The proposed rule would also amend the definition of “Federal functional regulator” at § 1010.100(r) to remove reference to the defunct Office of Thrift Supervision and insert “The Federal Deposit Insurance Corporation” in place of “The Board of Directors of the Federal Deposit Insurance Corporation.” The proposed rule would also add a definition of “AML/CFT priorities” at § 1010.100(nnn) to mean the most recent statement of Anti-Money Laundering and Countering the Financing of Terrorism National Priorities issued pursuant to 31 U.S.C. 5318(h)(4). Finally, as noted above, the proposed rule adds a definition of “Federal Financial Institutions Regulatory Agency” at § 1010.100(ooo).¹⁰³

Additionally, as required under section 6101(b) of the AML Act, FinCEN consulted with Federal functional regulators, particularly the Agencies, to inform this rulemaking and coordinate updates to the bank program rule. The proposed rule is removing the provision in FinCEN’s program rule for banks requiring them to comply with the parallel program rule for banks adopted by the Federal functional regulators since these program rules are consistent.

As the delegated administrator of the BSA, FinCEN expects banks to adhere to FinCEN’s rule as promulgated via the Secretary’s explicit authority to prescribe minimum standards for AML/CFT programs.

The proposed rules for broker-dealers and FCMs and IBCs would retain requirements to comply with the rules, regulations, or requirements of their SROs, provided those rules, regulations, or requirements have been made effective under the Securities Exchange Act of 1934 for broker-dealers,¹⁰⁴ or the Commodity Exchange Act for FCMs and IBCs,¹⁰⁵ or by the appropriate Federal functional regulator in consultation with FinCEN.

The following subsections describe more significant changes.

1. Combining the Bank Rules

Since 2020, banks lacking a Federal functional regulator have been subject to substantially similar AML/CFT program requirements (31 CFR 1020.210(b)) as banks with a Federal functional regulator (31 CFR 1020.210(a)).¹⁰⁶ The proposed rule would combine the program rules for both bank types.

The most significant difference between the existing AML program rules is that 31 CFR 1020.210(b)(3) requires banks lacking a Federal functional regulator to: (1) have their AML programs approved by the board of directors or, if the bank does not have a board of directors, an equivalent governing body within the bank; and (2) make a copy of its AML program available to FinCEN or its designee upon request. FinCEN’s designee, in this instance, includes any agency to which FinCEN has delegated examination authority or the appropriate SRO. As previously discussed, the proposed rule would require banks to obtain the approval of their AML/CFT programs from the board of directors, an equivalent governing body within the bank, or appropriate senior management, and it would require that the AML/CFT program be made available to FinCEN or its designee upon request. With these changes, FinCEN believes it would no longer be necessary to have two sets of program rules for banks. Therefore, the proposed rule would consolidate 31 CFR 1020.210(a) and (b) into a single set of rules applicable to all banks.

2. Conforming and Modernizing Program Rules

For purposes of consistency and clarity, the proposed rule would harmonize certain elements, as described below, of the program rules for casinos and MSBs to the program rules for banks; broker-dealers; mutual funds; insurance companies; FCMs and IBCs; DPMSJs; operators of credit card systems; loan or finance companies; and housing GSEs.

Additionally, for casinos, the proposed rule would remove the following language in 31 CFR 1021.210(b)(2)(vi): “For casinos that have automated data processing systems, the use of automated programs to aid in assuring compliance.” Similarly, for MSBs, the proposed rule would remove the following language in 31 CFR 1022.210(d)(1)(ii): “Money services businesses that have automated data processing systems should integrate their compliance procedures with such systems.” The removal of automated data processing language is not intended to eliminate any substantive BSA compliance obligations for casinos or MSBs. Rather, it reflects that the application of the same risk-based approach used in the other program rules, which allows—but does not mandate—the use of automated data processing systems.

A few unique elements of the existing program rule for MSBs would be carried over into the new rule language. In particular, the customer identification provisions of current 31 CFR 1022.210(d)(1)(i)(A) and (d)(1)(iv), and the agent responsibility provision of current 31 CFR 1022.210(d)(1)(iii), would all be retained in the new MSB program rule language. This language reflects FinCEN’s longstanding appreciation of the special circumstances applicable to many members of the extraordinarily diverse category of MSB, an appreciation that remains as accurate now as it was when these unique elements were included in FinCEN’s regulations.

3. Compliance and Implementation Dates

Current 31 CFR 1022.210(e), 1027.210(c), 1029.210(d), and 1030.210(d) contain compliance and implementation dates for MSBs; DPMSJs; loan or finance companies; and housing GSEs, respectively. The proposed rule would retain implementation dates for MSBs and DPMSJs, respectively, since they set the time frames in which those specific financial institution types are required to comply once they conduct certain

¹⁰¹ The CIP rules are located at 31 CFR 1020.220 (banks), 1023.220 (broker-dealers), 1024.220 (mutual funds), and 1026.220 (FCMs and IBCs).

¹⁰² In particular, FinCEN first proposes to simplify this BSA definition to refer only to the U.S. Code provisions codifying the BSA, rather than to any act of Congress from which these provisions were originally derived. Second, FinCEN proposes removing 18 U.S.C. 1956, 1957, and 1960 from the regulatory BSA definition. These criminal provisions were included in FinCEN’s BSA definition given their relationship to money laundering but are not otherwise linked to the other BSA provisions and are not included in the AML Act’s BSA definition in section 6003(1) of the Act. Third, FinCEN proposes amending its BSA definition to include 31 U.S.C. 5336 (*i.e.*, the operative provisions of the Corporate Transparency Act), which was added to the BSA by section 6403 of the AML Act.

¹⁰³ Additionally, FinCEN proposes amending the authority citations in the relevant CFR sections to account for relevant statutory changes.

¹⁰⁴ 15 U.S.C. 78a *et seq.*

¹⁰⁵ 7 U.S.C. 1 *et seq.*

¹⁰⁶ See FinCEN, *Customer Identification Programs, Anti-Money Laundering Programs, and Beneficial Ownership Requirements for Banks Lacking a Federal Functional Regulator*, 85 FR 57129 (Sept. 15, 2020).

activities or pass thresholds that subject them to AML/CFT program requirements. The proposed rule would also update the citations for these provisions (to 31 CFR 1022.210(d) and 1027.210(e)) to reflect other changes made to §§ 1022.210(d) and 1027.210(e).

The proposed rule, however, would amend these provisions, as well as those of other types of financial institutions, such as loan or finance companies and housing GSEs, to remove compliance dates that have passed and are therefore irrelevant.

4. Compliance With Other Rules

For consistency and clarity, the proposed rule would delete certain unnecessary cross-references to other regulations. Specifically, the proposed rule would no longer state that banks, broker-dealers, and FCMs and IBCs must comply with the 31 CFR 1010.610 and 1010.620 due diligence requirements for foreign correspondent and private banking accounts.¹⁰⁷ Additionally, the proposed rule would no longer state that banks must comply with the regulations of their Federal functional regulators. Those regulations and requirements apply irrespective of cross-references in the program rules, so FinCEN is proposing to remove the cross-references to streamline the program rules and promote consistency. FinCEN does not intend for these changes to have any substantive effect.

VI. Final Rule Effective Date

FinCEN is proposing an effective date of 12 months from the date of issuance of the final rule to allow sufficient time for financial institutions to review and implement the requirements of the proposed rule. FinCEN solicits comment on the proposed effective date.

VII. Request for Comment

FinCEN welcomes comment on all aspects of the proposed amendments and specifically seeks comment on the questions below. FinCEN encourages commenters to reference specific question numbers when responding.

An “Effective” AML/CFT Program (V.B.)

1. The proposed rule sets forth the conditions for an effective AML/CFT program. Is the description of an effective program sufficiently clear or is there anything further that FinCEN should consider adding in the final rule to clarify the concept of program effectiveness?

2. The proposed rule reflects a determination by FinCEN that financial

institutions are best placed to identify risks and allocate resources, and that providing them with greater discretion in these areas will improve the quality of AML/CFT compliance and reporting to law enforcement. Is this correct or should FinCEN consider adding more requirements regarding allocation of resources? How might financial institutions assess changes in the total allocation of resources devoted to an AML/CFT program in a changing risk and cost environment?

Establishing and Maintaining an AML/CFT Program (V.C.)

3. Do financial institutions distinguish between “establishing a program” and “maintaining a program” by implementing the program? If so, how? Should FinCEN add anything to further define these terms in the final rule?

4. Should the proposed rule’s distinction between “establishing” and “maintaining” a program be modified? Is the distinction between “establishing” and “maintaining” a compliance program useful for financial institutions?

5. Is clarification needed for banks to determine what constitutes a “significant or systemic failure” to implement an effective AML/CFT program (*i.e.*, a failure to implement, in all material respects, a properly established AML/CFT program)?

6. Is clarification needed for banks to determine what constitutes a “failure to establish an AML/CFT program”?

7. How should the proposed rule ensure that the regulations issued by FinCEN and the appropriate Agencies function harmoniously? How should the proposed rule differentiate between the Secretary’s responsibility for issuing regulations on establishing and maintaining AML/CFT programs and the Agencies’ responsibilities for issuing regulations on establishing and maintaining AML/CFT programs under their respective authorities?

Internal Policies, Procedures, and Controls (V.D.1.)

8. Do financial institutions expect any changes to their existing internal policies, procedures, and controls under the proposed rule, which requires that internal policies, procedures, and controls be “risk-based” and “reasonably designed” to ensure compliance with the BSA?

Risk Assessment Processes (Generally) (V.D.1.i.)

9. The proposed rule refers to risk assessment *processes* rather than a risk assessment *process*. This leaves

financial institutions free to use findings from one or more processes to holistically assess their ML/TF risks. Does this description of how financial institutions would assess their ML/TF risk under the proposed rule provide sufficient flexibility? How should FinCEN describe “risk assessment processes” to better reflect how financial institutions assess ML/TF risks?

10. Should risk assessment processes be required to take into account additional or different criteria or risks than those listed in the proposed rule? If so, what additional factors should FinCEN consider requiring?

11. How long does it generally take a financial institution to incorporate the results of a risk assessment into the other aspects of its AML/CFT program? What factors determine this timeframe?

Risk Assessment Processes (AML/CFT Priorities) (V.D.1.i.b.)

12. What, if any, difficulties do financial institutions anticipate when incorporating the AML/CFT Priorities as part of their risk assessment processes?

13. What additional guidance on how to incorporate the AML/CFT Priorities into a financial institution’s risk assessment processes would it be useful for FinCEN to provide?

Risk Assessment Processes (Updates) (V.D.1.i.c.)

14. The proposed rule requires that risk assessment processes are updated promptly upon any change that the bank knows or has reason to know significantly changes the bank’s ML/TF risks. Would the proposed update requirement change the way financial institutions currently update their risk assessment processes, and if so, how? Is additional explanation needed concerning when a financial institution would be required to update its risk assessment? In particular, how might FinCEN clarify how risk assessment processes would be updated “promptly”? Would an alternative approach, such as periodic updates or a set schedule for updates, be preferable? Would an alternative standard, such as “materially changes,” be clearer than “significantly changes”?

15. How does a financial institution’s monitoring for ML/TF risks and its risk assessment processes affect one another? Put differently, if there is a feedback loop between the two, please describe it, including the typical amount of time between discovering new risks and incorporating those findings into risk assessment processes.

¹⁰⁷ See applicable program rules located at 31 CFR 1020.210(a)(1), (b)(1) (banks); 1023.210(a) (broker-dealers); and 1026.210(a) (FCMs and IBCs).

Independent AML/CFT Program Testing To Be Conducted by Bank Personnel or by an Outside Party (V.D.2.)

16. Under the proposed rule, a financial institution is required to conduct independent AML/CFT program testing. This requirement is already reflected in existing AML program rule requirements¹⁰⁸ as the requirement to include “an independent audit function to test programs.”¹⁰⁹ FinCEN solicits comment on how financial institutions may interpret and carry out this requirement, based on the proposed rule’s description of an effective AML/CFT program. Are further clarifications on the independent AML/CFT program testing requirement necessary to ensure that audits carried out by bank personnel or outside third parties are well-tailored, risk-based, and focused on effectiveness?

AML/CFT Officer Located in the United States (V.D.3.)

17. Under the proposed rule, while the AML/CFT officer must be located in the United States, personnel located outside of the United States would still be permitted to perform certain AML/CFT functions. This language does not alter existing regulations and guidance that generally prohibit the sharing of SARs with personnel located outside of the United States other than limited circumstances, such as a bank’s foreign head office or controlling company. Are any further clarifications on what duties personnel outside the United States may perform needed?

Written AML/CFT Program and Approval (V.E.1)

18. The proposed rule standardizes the long-standing requirement that an AML/CFT program be written. Should FinCEN further clarify which specific elements of an institution’s AML/CFT program must be written, or is this requirement generally understood in its current form? In particular: (a) which program components—such as risk assessment processes; internal policies, procedures, and controls; transaction monitoring rules and parameters; escalation and reporting protocols; independent testing results; training materials; and documentation of designated personnel—should be

required in writing; (b) what form (e.g., narrative descriptions, checklists, system configurations, or electronic records) should such documentation take; and (c) what level of detail is appropriate for each component? Should FinCEN instead eliminate the requirement that an AML/CFT program be expressly required to be “written” because, among other reasons, financial institutions may be subject to other applicable recordkeeping and documentation requirements? What would be the benefits or drawbacks of not prescribing a mandatory written requirement in the regulation?

19. The proposed rule would require that a financial institution’s written AML/CFT program be approved by its board of directors, an equivalent governing body, or appropriate senior management. Should FinCEN further clarify which aspects of the AML/CFT program must be subject to such approval? In particular: (a) should approval be required for each of the core program components (e.g., the risk assessment processes framework; internal policies, procedures, and controls; transaction-monitoring and escalation frameworks; independent testing structure; training program; and designation of responsible personnel), or would approval of the overall program framework be sufficient; (b) should material revisions to particular components (such as significant changes to the institution’s risk assessment methodology, monitoring architecture, or governance structure) require re-approval at the same level; and (c) what level of specificity should the approving body be required to review and approve (e.g., high-level program architecture versus detailed procedures or parameter-level settings)? Should FinCEN instead eliminate the specified approval requirement, allowing financial institutions flexibility in determining how leadership oversight of the AML/CFT program is structured? What would be the benefits or drawbacks of not prescribing a mandatory approval requirement in the regulation? If FinCEN does not eliminate the specified approval requirement, should FinCEN consider amending the requirement? Are there alternatives to board of directors, an equivalent governing body, or appropriate senior management that would be more appropriate?

Supervision and Enforcement (V.F.)

20. The proposed rule would add a new § 1020.221 to set forth a supervision and enforcement framework for banks. The new supervision and enforcement requirements would apply

only to banks and the Federal banking agencies in the proposed rule. FinCEN welcomes comment on whether these provisions should apply to other financial institutions.

21. Is further clarification needed for financial institutions to determine what constitutes a “significant or systemic failure to implement an AML/CFT program in accordance with § 1020.210(c)”?

22. Is further clarification needed for financial institutions to determine what constitutes a “failure to establish an AML/CFT program in accordance with § 1020.210(b)”?

23. The proposed rule refers to FinCEN’s “enforcement and supervision policy.” Does it introduce confusion to label regulatory provisions having the force of law as “policy”? If so, how should the proposed regulatory language be amended to eliminate that confusion?

24. The proposed rule would add a requirement for an Agency to notify and consider information provided by FinCEN before initiating a significant AML/CFT supervisory action when acting pursuant to authority delegated under this chapter. Should the proposed consultation process include an asset threshold—e.g., consultation is required for any significant AML/CFT supervisory actions involving banks with \$10 billion or more in assets? In addition, or as an alternative, should the proposed rule not require but instead provide the option for banks to request their Agency consult with FinCEN prior to initiating a significant AML/CFT supervisory action?

25. The definition of significant AML/CFT supervisory action includes the term “any written communication.” Is the term “any written communication” too broad? Are there negative consequences to including the term “any written communication” in the proposed regulatory text? If so, please describe. Should the term “any written communication” be more clearly defined or removed altogether?

26. As described above, the purpose of the FinCEN consultation requirement is to ensure consistency in BSA/AML enforcement and supervision across banks, and for FinCEN to provide relevant information on the effectiveness and impact of an institution’s AML/CFT program. While Treasury, FinCEN, and the Agencies believe the benefits of a required consultation process outweigh the costs, the parties recognize this adds additional layers of review for financial institutions and the Agencies during an examination. Are there any avenues, communication channels, or methods in

¹⁰⁸ See 31 CFR 1020.210(a)(2)(ii), (b)(2)(ii) (banks); 1021.210(b)(2)(ii) (casinos); 1022.210(d)(4) (MSBs); 1023.210(b)(2) (broker-dealers); 1024.210(b)(2) (mutual funds); 1025.210(b)(4) (insurance companies); 1026.210(b)(2) (FCMs and IBCs); 1027.210(b)(4) (DPMSJs); 1028.210(b)(4) (operators of a credit card system); 1029.210(b)(4) (loan or finance companies); 1030.210(b)(4) (housing GSEs).

¹⁰⁹ 31 U.S.C. 5318(h)(1)(D).

which FinCEN and the Agencies can streamline the consultation process and prevent logistical burdens for financial institutions or delays in exam report issuance?

27. Is the definition of the term “significant AML/CFT supervisory action” sufficiently clear? Does the inclusion of “unsafe or unsound practices or conditions” introduce confusion about what types of supervisory actions would be subject to the FinCEN consultation requirement, since those terms are not found in the BSA?

28. FinCEN welcomes comment on provisions related to the use of innovative tools to achieve effective outcomes, specifically on how the Director may consider the performance of innovative activities that produce demonstrable outputs under the proposed supervision and enforcement framework.

Final Rule Effective Date (VI.)

29. FinCEN is proposing an effective date of 12 months from the date of issuance of the final rule to allow sufficient time for financial institutions to review and implement its requirements. FinCEN solicits comment on the proposed effective date.

VIII. Severability

As a part of this proposal, FinCEN proposes that if one portion of the proposed rule, if finalized, is found to be invalid, the invalidated portion of the regulation should be severed with the other portions of the proposed rule, as well as the existing FinCEN regulations for each type of financial institution in chapter X, remaining in full force and effect. FinCEN’s position is that invalidation of any one provision, or application thereof to any one person or circumstance, does not, and should not, affect any other provision in this proposed regulation or existing regulations under chapter X. Each provision serves an important, related, but distinct purpose and application, designed to benefit the public by protecting the U.S. financial system from illicit financial activity. FinCEN accordingly has proposed to incorporate this position into the respective rules for each type of financial institution, such that invalidity to one provision would not undermine the operability or usefulness of the other provisions.

IX. E.O. 14294

Section 5 of E.O. 14294 directs that all future notices of proposed rulemaking and final rules published in the **Federal Register**, the violation of which may constitute criminal regulatory offenses,

should include a statement identifying that the rule or proposed rule is a criminal regulatory offense and the authorizing statute.¹¹⁰ E.O. 14294 directs agencies to draft this statement in consultation with the Department of Justice.

E.O. 14294 further directs that the regulatory text of all NPRMs and final rules with criminal consequences published in the **Federal Register** after May 9, 2025, should explicitly state a *mens rea* requirement for each element of a criminal regulatory offense, accompanied by citations to the relevant provisions of the authorizing statute.

Willful violations of the regulations set forth in this proposed rule may be subject to criminal penalties pursuant to 31 U.S.C. 5322 and regulations promulgated 31 CFR chapter X. The statutory authority for criminal liability requires a *mens rea* of willfulness as an element under 31 U.S.C. 5322(a) and 31 U.S.C. 5322(b). FinCEN’s existing regulation, 31 CFR 1010.840, that sets out criminal penalties for violations of regulations promulgated in 31 CFR chapter X also includes a *mens rea* of willfulness. In drafting this statement, FinCEN has consulted with the Department of Justice.

X. Regulatory Impact Analysis

FinCEN has analyzed the proposed rule as required under E.O. 12866,¹¹¹ E.O. 13563,¹¹² E.O. 14192,¹¹³ the Regulatory Flexibility Act (RFA),¹¹⁴ the Unfunded Mandates Reform Act of 1995 (UMRA),¹¹⁵ and the Paperwork Reduction Act (PRA).¹¹⁶

This proposed rule has been determined to be a “significant regulatory action” under section 3(f)(1) of E.O. 12866, as it may have an annual effect on the economy of \$100 million or more. FinCEN has included an Initial Regulatory Flexibility Analysis (IRFA) pursuant to the RFA as the proposed

rule may have a significant economic impact on a substantial number of certain types of affected small entities.¹¹⁷ Pursuant to analysis required by UMRA, FinCEN concludes it unlikely that the proposed rule, if implemented, would result in a novel annual expenditure of more than \$193 million by State, local, and Tribal governments or by the private sector.¹¹⁸ While the PRA analysis included in this NPRM introduces certain new pro forma accounting estimates to the existing Office of Management and Budget (OMB) control numbers covered by the rulemaking, these burdens and costs largely reflect administrative updates that are being introduced to more accurately represent the activity currently undertaken by covered financial institutions to comply with existing program requirements unchanged by the proposed rule. The aggregate PRA estimates do not represent, and should not be interpreted to reflect, novel incremental costs attributable to the proposed rule.¹¹⁹

In its totality, FinCEN’s regulatory impact analysis (RIA) anticipates that the primary aggregate economic effects of the proposed rule would be reallocation insofar as the requirement for programs to support law enforcement and national security and advance AML/CFT Priorities remains unchanged. Thus, while total expenditures on program compliance may not be reduced, the distribution of which financial institutions incur costs and what they expended those resources on would be expected to change responsively to the incentives introduced by the proposed rule that better align institutions’ attention and activities with its unique ML/TF risks. While aggregate costs would not be expected to decrease, FinCEN’s analysis

¹¹⁷ This economic expectation is sensitive to key assumptions about how potentially affected financial institutions would respond to the proposed requirements. FinCEN requests comment on whether it would instead be more reasonable to certify that the proposed rule would not have a significant economic impact on a substantial number of small entities. See *infra* section X.F #16.

¹¹⁸ The UMRA requires an assessment of mandates with an annual expenditure of \$100 million or more, adjusted for inflation. 2 U.S.C. 1532(a). FinCEN has not anticipated material changes in expenditures for State, local, and Tribal governments, insofar as they would not participate in the primary activities of monitoring or enforcing compliance of the newly proposed requirements in a way that differs from current involvement, thereby incurring novel incremental costs. But because the proposed rule would affect entities in the private sector that are covered financial institutions, FinCEN has considered expenditures these private entities may incur, pursuant to UMRA, as part of the regulatory impact in its assessment below.

¹¹⁹ See *infra* section X.E.

¹¹⁰ E.O. 14294, *Fighting Overcriminalization in Federal Regulations*, 90 FR 20367 (issued May 9, 2025; published May 14, 2025).

¹¹¹ E.O. 12866, *Regulatory Planning and Review*, 58 FR 51735 (issued Sept. 30, 1993; published Oct. 4, 1993).

¹¹² E.O. 13563, *Improving Regulation and Regulatory Review*, 76 FR 3821 (issued Jan. 18, 2011; published Jan. 21, 2011).

¹¹³ See E.O. 14192, *Unleashing Prosperity Through Deregulation*, 90 FR 9065 (issued Jan. 31, 2025; published Feb. 6, 2025); Office of Management and Budget, *Guidance Implementing Section 3 of Executive Order 14192, Titled “Unleashing Prosperity Through Deregulation,”* M–25–20 (Mar. 26, 2025), <https://www.whitehouse.gov/wp-content/uploads/2025/02/M-25-20-Guidance-Implementing-Section-3-of-Executive-Order-14192-Titled-Unleashing-Prosperity-Through-Deregulation.pdf>.

¹¹⁴ 5 U.S.C. 601 *et seq.*

¹¹⁵ 2 U.S.C. 1532.

¹¹⁶ 44 U.S.C. 3501 *et seq.*

concludes that they would also not be expected to increase, and because the proposed rule would enable financial institutions to more efficiently focus their resources on higher-risk items, the same level of expenditures may generate more effective outcomes—for the financial institution, the integrity of the financial system, law enforcement, national security, and the American public, generally.

As described above,¹²⁰ the proposed rule would require covered financial institutions to establish and maintain effective AML/CFT programs with certain minimum components, such as: (1) a risk-based set of internal policies, procedures, and controls; (2) independent AML/CFT program testing; (3) the designation of an individual, who is located in the United States, accessible to FinCEN and/or the appropriate Federal functional regulator (FFR), and responsible for establishing and implementing the AML/CFT program and coordinating compliance; and (4) an ongoing training program. The proposed rule would also, in certain instances, alter the scope of conditions under which FinCEN—and regulators to whom FinCEN has delegated supervisory authority such as the Agencies—could issue supervisory or enforcement actions based solely on implementation deficiencies in cases where a covered financial institution has properly established a program. Further, the proposed rule would provide FinCEN with a consultative role in certain aspects of the supervisory process for banks.¹²¹

In so doing, FinCEN contemplates a number of benefits for covered financial institutions, regulators and other compliance examiners, law enforcement and national security agencies, and the general public that would flow from (1) ensuring that AML/CFT programs are risk based, (2) modernizing and reforming Federal supervision of AML/CFT programs, and (3) promoting clarity and consistency across FinCEN's program rules for the different covered financial institution types.

This RIA begins by describing the broad economic analysis FinCEN undertook to inform its expectations of the proposed rule's economic impact and burden.¹²² This is followed by pieces of additional and, in some cases, more specifically tailored analysis as required by E.O.s 12866, 13563, and

14192;¹²³ the RFA;¹²⁴ the UMRA;¹²⁵ and the PRA.¹²⁶ Requests for comments related to the RIA—regarding specific findings, assumptions, or expectations, or with respect to the analysis in its entirety—can be found in the final subsection.¹²⁷ These requests for comments have been previewed and cross-referenced throughout the RIA.

A. Assessment of Impact

Consistent with best practices in regulatory economic analysis, FinCEN's assessment of impact begins with an overview of broad economic considerations, identifying, among other things, the need for the policy intervention.¹²⁸ Next, FinCEN (1) establishes baseline estimates of the number of covered financial institutions and other entities that could be affected by the proposed rule and (2) describes the current regulatory requirements and background practices against which the proposed rule would introduce changes.¹²⁹ The analysis then briefly reviews elements of the proposed rule that most directly inform how foreseeable economic impacts would flow from how covered financial institutions and their respective regulators would engage in otherwise-not-undertaken activities to comply.¹³⁰ Next, the RIA presents the anticipated benefits and estimated costs to the respective affected parties that would be associated with compliance.¹³¹ Finally, the assessment concludes with a brief discussion of alternative policies FinCEN considered and could have proposed, including an evaluation of the relative economic merits of each against the expected value of the rule as proposed.¹³²

1. Broad Economic Considerations

Because this NPRM is being issued pursuant to statutory obligations, the necessity for FinCEN to independently identify and articulate fundamental economic problems that the proposed rule is intended to address, as the basis for regulatory action,¹³³ is attenuated

because at best this activity would complement the problem identification already performed by Congress.¹³⁴ Nevertheless, FinCEN has remained mindful of these animating considerations as well as the general social and economic costs that may ensue from an ineffective AML/CFT regime.¹³⁵

FinCEN expects that the proposed rulemaking would meaningfully alleviate certain underlying economic problems that can impede the effectiveness of AML/CFT programs. These include potential problems that flow from the presence of reporting-related externalities and certain information asymmetries.¹³⁶

The expected benefits of the proposed rule, as discussed below,¹³⁷ are therefore linked by the extent to which the proposed new and amended program requirements would address these fundamental economic problems, as doing so would enhance AML/CFT program effectiveness and thereby strengthen, modernize, and improve the U.S. AML/CFT regime.

2. Affected Parties and Institutional Baseline

In proposing this rule, FinCEN considered the incremental impacts of the proposed requirements relative to the current state of the affected markets and their participants.¹³⁸ This baseline

Regulatory Action, <https://www.whitehouse.gov/wp-content/uploads/2025/08/CircularA-4.pdf>.

¹³⁴ In particular, Congress instructed FinCEN to consider the potential economic inefficiencies engendered by the presence of market externalities when promulgating implementing regulations. See 31 U.S.C. 5318(h)(2)(B)(i) (noting that compliant financial institutions generate “a public . . . benefit,” i.e., positive externalities); see also id. 5318(h)(2)(B)(iii) (further noting the “public benefits”—positive externalities—generated by compliant financial institutions).

¹³⁵ The extent to which these broad economic considerations apply uniformly to the various components of the proposed rule may in some instances be limited. FinCEN's analysis is not intended to speak to (or in place of) the views of Congress regarding the fundamental economic problems that animate the proposed rule but are expected to be generally consistent with what AML Act section 6101(b), as promulgated, was intended to accomplish.

¹³⁶ See FinCEN, *Anti-Money Laundering and Countering the Financing of Terrorism Programs*, 89 FR 55428, 55450 (July 3, 2024) (Broad Economic Considerations).

¹³⁷ See *infra* section X.A.4.i.

¹³⁸ In this context, FinCEN employs the term “market” in its broadest economic sense, referring to any set of exchanges, transactions, or actions that involve counterparties with unique objectives. The baseline here set forth also forms the counterfactual against which the quantifiable effects of the rule are measured; therefore, substantive errors in or omissions of relevant data, facts, or other information may affect the conclusions formed regarding the general and economically significant impacts of the rule. FinCEN invites comment on the

Continued

¹²⁰ See *supra* section IV.B.

¹²¹ Banks include covered financial institutions defined under 31 CFR 1010.100(t)(1) and (d).

¹²² See *infra* section X.A.

¹²³ See *infra* section X.B.

¹²⁴ See *infra* section X.C.

¹²⁵ See *infra* section X.D.

¹²⁶ See *infra* section X.E.

¹²⁷ See *infra* section X.F.

¹²⁸ See *infra* section X.A.1.

¹²⁹ See *infra* section X.A.2.

¹³⁰ See *infra* section X.A.3.

¹³¹ See *infra* section X.A.4.

¹³² See *infra* section X.A.5.

¹³³ See E.O. 12866, *supra* note 111, sec. 1(b)(1), (“Each agency shall identify the problem that it intends to address (including, where applicable, the failures of private markets or public institutions that warrant new agency action) as well as assess the significance of that problem.”); see also OMB, *Circular A-4* (2003), sec. B, The Need for Federal

analysis of the parties that would be affected by the proposed rule, their current obligations, current program-related activities, and currently accrued costs and/or benefits satisfies analytical best practices by describing the alternative of not pursuing the proposed, or any other, novel regulatory action.¹³⁹ In each case, for amended and new requirements, within the RIA, we have attempted to identify the incremental expected economic effects of each component of the proposal as precisely as practicable against this baseline. Nevertheless, in certain cases, FinCEN can make only qualitative assessments.

As a first step in the process of isolating these anticipated marginal effects, FinCEN assessed the current landscape of the covered financial institutions that would be affected by the proposed rule, including the population sizes by financial institution type, their existing regulatory requirements, and the burden they currently face associated with their compliance activities. FinCEN also briefly discusses other categories of persons and entities (*i.e.*, regulators, compliance examiners, law enforcement and national security agencies, and certain members of the general public) that are expected to be directly affected by the proposed rule.

FinCEN acknowledges that the discussion below does not include an assessment of the baseline level of general compliance with existing

program requirements and must therefore caveat that the incremental effects estimated in subsequent sections are based on the presumption of full compliance with the current rules.¹⁴⁰ FinCEN does not attempt to estimate a baseline population of currently non-compliant entities that could be differently affected by the rule because it is unclear that the proposed rule would alter the compliance choices already made by those covered financial institutions. FinCEN invites comment on whether this assumption, or the baseline it implies, is appropriate for the purposes of this analysis.¹⁴¹

i. Baseline of Affected Parties

FinCEN expects the following populations would be directly affected by proposed rule: (1) covered financial institutions, (2) regulators and other compliance examiners, and (3) law enforcement and national security agencies. FinCEN also took into consideration that certain other members and groups of the general public, counterparties, clients/customers of affected parties, and other persons may be indirectly affected by the proposed rule. However, because such effects are not readily quantifiable, nor is attribution within groups likely to be uniform, the corresponding economic impacts are not itemized in further detail for all members of the general public in the discussion below. Rather, further consideration of the anticipated economic impact on the general public

is limited to select clearly identifiable subpopulations expected to be the most directly affected.¹⁴² To the extent that the economic impact on additional key, directly affected subpopulations of the general public should be considered, FinCEN invites comment, data, studies, or reports that would enhance its ability to identify and quantify such effects.¹⁴³

a. Covered Financial Institutions

The parties expected to comply with the proposed new requirements and amendments to existing requirements include all covered financial institutions as defined in 31 CFR 1010.100(t) and with existing program obligations prescribed in 31 CFR chapter X, parts 1020 through 1030. This would include banks (both those with and without an FFR), casinos, MSBs, broker-dealers, mutual funds, insurance companies, FCMs and IBCs, DPMSJs, operators of credit card systems, loan or finance companies, and housing GSEs.¹⁴⁴

Table 1 presents FinCEN's estimates of the total number of entities that meet the respective regulatory definitions of covered financial institutions.¹⁴⁵ Based on these estimates, FinCEN expects that the proposed rule would affect approximately 369 thousand covered financial institutions, of which approximately 361 thousand, or approximately 98 percent, would qualify as small financial institutions for IRFA purposes.¹⁴⁶

TABLE 1—ESTIMATES OF COVERED FINANCIAL INSTITUTIONS BY TYPE

Financial institution type ^a	Number of financial institutions
Banks with an FFR ^b	^c 8,623
Banks without an FFR ^d	^e 365
Casinos ^f	^g 1,299
Principal MSBs ^h	ⁱ 24,856
Agent MSBs	307,212
Broker-Dealers ^j	^k 3,278
Mutual Funds ^l	^m 1,355
Insurance Companies ⁿ	^o 717
FCMs and IBCs ^p	^q 954
DPMSJs ^r	^s 6,742
Operators of Credit Card Systems ^t	^u 4
Loan or Finance Companies ^v	^w 13,342
Housing GSEs ^x	^y 13
Total	368,760

^a See 31 U.S.C. 5312(a)(2); *see also* 31 CFR 1010.100(t) (definition of financial institution).

^b See 31 CFR 1010.100(t)(1); *see also* 31 CFR 1010.100(d) and 1020.210(a).

accuracy of the baseline population estimates as well as any supporting studies, data, or anecdotes in *infra* section X.F #1.

¹³⁹ See E.O. 12866, *supra* note 111, at section 1(a) ("In deciding whether and how to regulate, agencies should assess all costs and benefits of available

regulatory alternatives, including the alternative of not regulating.").

¹⁴⁰ See *infra* section X.A.4; *see also infra* sections X.C and X.E.

¹⁴¹ See *infra* section X.F #2.

¹⁴² See *infra* section X.A.2.i.d; *see also infra* sections X.A.4.i.d and X.A.4.ii.c.

¹⁴³ See *infra* section X.F #3.

¹⁴⁴ See *supra* note 2; *see also supra* section I.

¹⁴⁵ 31 CFR 1010.100(t).

¹⁴⁶ 13 CFR 121.201; *see generally infra* section X.C.

^c This includes 4,336 FDIC-insured depository institutions (*i.e.*, federally regulated banks) according to the FDIC's *Quarterly Bank Profile* for Q4 2025, p. 2 (<https://www.fdic.gov/quarterly-banking-profile/past-quarterly-banking-profiles>). It also includes 4,287 NCUA-chartered credit unions (*i.e.*, federally regulated credit unions) as of December 31, 2025, according to NCUA's *Quarterly Credit Union Data Summary: 2025 Q4*, p. i (<https://ncua.gov/analysis/credit-union-corporate-call-report-data/quarterly-data-summary-reports>).

^d See 31 CFR 1020.210(b).

^e The Board of Governors of the Federal Reserve System Master Account and Services Database (<https://www.federalreserve.gov/paymentsystems/master-account-and-services-database-existing-access.htm>) contains data as of November 30, 2025, on financial institutions that use Federal Reserve Bank financial services, including those with no additional Federal regulator. FinCEN used this data to identify 365 banks and credit unions with no additional Federal regulator using Federal Reserve Bank financial services.

^f See 31 U.S.C. 5312(a)(2)(X); see also 31 CFR 1010.100(t)(5) and (6).

^g American Gaming Association, *State of the States 2025: The AGA Analysis of the Commercial Casino Industry*, May 2025, p. 14 (<https://www.americangaming.org/wp-content/uploads/2025/05/AGA-State-of-the-States-2025.pdf>).

^h See 31 U.S.C. 5312(a)(2)(J,K,R); see also 31 CFR 1010.100(t)(3) and (ff) (definition of MSB).

ⁱ The definition of MSB (31 CFR 1010.100(ff)) covers both principal and agent MSBs. FinCEN estimated there were 24,856 uniquely identifiable registered principal MSBs with indicia of active business operations as of the three year-ends 2023–2025. FinCEN has estimated that the number of agent MSBs is approximately 307,212 based on internal data.

^j See 31 U.S.C. 5312(a)(2)(G); see also 31 CFR 1010.100(t)(2).

^k This estimate is based on U.S. Securities and Exchange Commission (SEC) data on active broker-dealers available at “Company Information About Active Broker-Dealers” (<https://www.sec.gov/foia-services/frequently-requested-documents/company-information-about-active-broker-dealers>), which listed 3,278 active broker-dealers registered with the SEC as of December 31, 2025.

^l See 31 U.S.C. 5312(a)(2)(I); see also 31 CFR 1010.100(t)(10) and (gg).

^m This estimate is based on the number of registered investment companies filing Form N–1A in SEC's *Annual Registered Investment Company Update: Form N–CEN Data, Period Ending December 2024*, April 2025, table 1.3, p. 4 (<https://www.sec.gov/files/annual-registered-investment-company-update-20250404.pdf>).

ⁿ See 31 U.S.C. 5312(a)(2)(M); see also 31 CFR 1025.100(g) (definition of “insurance company or insurer” for purposes of applicability of FinCEN regulations).

^o This estimate includes 717 life and health insurers in the United States during 2024. From U.S. Department of the Treasury, *Annual Report on the Insurance Industry* (Sept. 2025), p. 10 (<https://home.treasury.gov/system/files/311/Final%20FIO%202025%20Annual%20Report.pdf>). Neither the estimate presented here nor the estimate of broker-dealers controls for entities that may be both a broker-dealer and an insurance company; thus, a certain number of affected entities may be double-counted. However, based on consultation with staff of other Federal regulators, FinCEN believes this population of dually affected entities may be relatively small and unlikely to significantly distort the overall assessment.

^p See 31 U.S.C. 5312(a)(2)(H); see also 31 CFR 1010.100(t)(8) and (9).

^q According to Commodity Futures Trading Commission (CFTC) data on FCMs available at “Financial Data for FCMs” (<https://www.cftc.gov/MarketReports/financialfcmdata/index.htm>), there were 66 registered FCMs as of December 31, 2025. The number of IBCs as of December 31, 2025 (888) was obtained from the National Futures Association (NFA) “NFA Membership and Registration” website (<https://www.nfa.futures.org/registration-membership/membership-and-directories.html>). Because deduplication of entities registered as both FCMs and IBCs was not feasible, this estimate may double-count some entities registered in both categories. FinCEN, however, believes this subpopulation may be small.

^r See 31 U.S.C. 5312(a)(2)(N) (definition of a “dealer” in precious metals, stones, or jewels for purposes of applicability of FinCEN regulations); see also 31 CFR 1027.100(b).

^s This estimate is based on data on firms with North American Industry Classification System (NAICS) code 423940 (Jewelry, Watch, Precious Stone, and Precious Metal Merchant Wholesalers) in the U.S. Census Bureau 2022 Statistics of U.S. Businesses (“2022 SUBS Data”) accessed March 1, 2025 (<https://www.census.gov/data/tables/2022/econ/subs/2022-susb-annual.html>). It does not include Jewelry and Silverware Manufacturing (NAICS code 33991) or Jewelry Retailers (NAICS code 44831).

^t See 31 U.S.C. 5312(a)(2)(L) (definition of “operator of a credit card system” for purposes of applicability of FinCEN regulations); see also 31 CFR 1028.100(e).

^u This value is based on FinCEN review of active, U.S.-based market participants at year-end 2025.

^v See 31 U.S.C. 5312(a)(2)(P) (definition of “loan or finance company”); see also 31 CFR 1010.100(III).

^w This estimate is based on 2022 SUBS Data on firms with NAICS codes 522292 (Real Estate Credit) and 522310 (Mortgage and Non-Mortgage Loan Brokers).

^x See 31 CFR 1010.100(mmm) (definition of “housing government sponsored enterprise”).

^y Data on the 11 regional Federal home loan banks were obtained from the Federal Housing Finance Agency (<https://www.fhfa.gov/supervision/federal-home-loan-bank-system/about>). Housing GSEs are U.S. Government-sponsored enterprises and additionally include Fannie Mae and Freddie Mac.

b. Regulators and Other Compliance Examiners

Because covered financial institutions would be examined for compliance with the proposed requirements in this rule,

the proposed rule is expected to directly affect FinCEN, the FFRs, and other compliance examiners, including approximately 8,000 to 10,000 Federal examiners, who conduct such reviews.¹⁴⁷

FinCEN has delegated authority to examine covered financial institutions to determine compliance as presented in table 2.¹⁴⁸

TABLE 2—COVERED FINANCIAL INSTITUTIONS BY DELEGATED EXAMINING AGENCY

Financial institution type	Delegated examining agency
Banks with an FFR	FDIC FRB NCUA OCC IRS
Banks without an FFR	
Casinos.	
MSBs (Principals and Agents).	
Insurance Companies.	
DPMSJs.	
Operators of Credit Card Systems.	

¹⁴⁷ These figures represent an approximate number of Federal examiners provided by FFRs with AML/CFT supervisory responsibilities. These

estimates do not include persons performing examinations on behalf of SROs, though FinCEN expects that such parties may also be affected.

¹⁴⁸ See 31 CFR 1010.810(b).

TABLE 2—COVERED FINANCIAL INSTITUTIONS BY DELEGATED EXAMINING AGENCY—Continued

Financial institution type	Delegated examining agency
Loan or Finance Companies.	
Broker-Dealers	SEC ^a
Mutual Funds.	
FCMs and IBCs	CFTC ^a
Housing GSEs	FHFA

^a See FinCEN, *Anti-Money Laundering Programs for Financial Institutions*, 67 FR 21110 (Apr. 29, 2002). In the 2002 interim final rule, FinCEN noted it was appropriate to implement section 5318(h)(1) of the BSA with respect to broker-dealers and FCMs through their respective SROs, because the SEC and the CFTC and their SROs significantly accelerated the implementation of AML programs for their regulated financial institutions. Accordingly, 31 CFR 1023.210 and 1026.210 provided that broker-dealers, and FCMs and IBCs, respectively, would be deemed to be in compliance with the requirements of section 5318(h)(1) of the BSA if they comply with any applicable regulation of their FFR governing the establishment and implementation of AML programs. FinCEN recognizes the SEC as the FFR, and registered national securities exchanges or a national securities association, such as FINRA, as the SROs for member broker-dealers. Each SRO may have its own AML program requirements (see, e.g., FINRA Rule 3310). The CFTC's SRO is the NFA. The AML program requirements for FCMs and IBCs are set out in NFA Rule 2–9(c).

FinCEN additionally anticipates being uniquely affected as the agency (1) to which covered financial institutions would submit AML/CFT program-related reports; (2) which would coordinate how information submitted in AML/CFT program-related reports may in turn support law enforcement and national security efforts; and (3) which would take, or consult with the Agencies on, formal or informal enforcement or supervisory actions in regard to banks.¹⁴⁹

c. Law Enforcement and National Security Agencies

The proposed rule is intended to support the efforts of law enforcement and national security agencies by promoting AML/CFT program design and implementation that is responsive and better tailored to these entities' evolving needs. Law enforcement and national security agencies can directly access and use reports and data provided to FinCEN in compliance with the AML/CFT program requirements and other applicable BSA requirements after entering a memorandum of understanding with FinCEN. As of fiscal year 2024, 432 Federal, State, and local law enforcement; regulatory; and national security agencies had access to BSA reports and BSA Search, and the BSA Portal had over 12,000 users.¹⁵⁰

d. General Public

FinCEN expects the general public to be affected by the proposed rule, with certain subpopulations affected more directly than others. In particular, FinCEN considered two groups that it

anticipates could benefit most notably from the proposed rule: (1) those harmed, or who could be harmed, by ML/TF or related illicit activities and (2) those whose access to the financial system is unduly constrained as a result of inappropriately tailored AML/CFT programs.

AML/CFT programs that are effective facilitate law enforcement and national security efforts to prevent the flow of illicit funds, identify and prosecute criminals, and detect and deter illicit activity. To the extent that the proposed rule would enhance the current effectiveness of AML/CFT programs, this could benefit the public by reducing the instances of harm (via effective deterrence) or reducing the severity of harm (when illicit activity can be identified and prosecuted). While the annual cost of crime in general, and financial crimes, specifically, are generally inestimable, certain published statistics indicate that the scale is staggering.¹⁵¹ This effect is not only significant in its economic magnitude but affects a substantial fraction of the U.S. population. Considering only one type of illicit activity combatted by effective AML/CFT programs, a recent study suggests that approximately one in five adults may be the victim of a financial fraud or scam.¹⁵² Generalized to the

corresponding U.S. adult population in the survey year, that would imply that over 56 million people were affected by fraud or scams alone, and thus, that the subpopulation of those harmed, or who could be harmed, by ML/TF or related illicit activities is vast.

FinCEN anticipates that though smaller in size, the population whose access to the financial system is unduly constrained as a result of inappropriately tailored AML/CFT programs is also non-trivial. Recent studies report that in 2023, 4.2 percent of U.S. households and six percent of surveyed adults were unbanked.¹⁵³ This equates to approximately 5.6 million households and 15.5 million adults.¹⁵⁴ Because the extent to which unbanked or underbanked status is exclusively attributable to AML/CFT program concerns is unclear, these values should be considered upper bounds on the potentially affected subpopulation.

ii. Regulatory Baseline

As part of its baseline analysis, FinCEN considered the variation in requirements under the current regulatory framework for the covered financial institutions that would be affected by the proposed rule. This includes concurrent statutory requirements, regulatory requirements at the State level, or other regulatory regimes with which a covered financial institution must concurrently comply.

2024), <https://www.federalreserve.gov/publications/2025-economic-well-being-of-us-households-in-2024-banking-and-credit.htm>.

¹⁵³ See FDIC, *2023 FDIC National Survey of Unbanked and Underbanked Households* (Nov. 2024), <https://www.fdic.gov/household-survey/2023-fdic-national-survey-unbanked-and-underbanked-households-report>; see also SHED Report 2024, <https://www.federalreserve.gov/publications/2025-economic-well-being-of-us-households-in-2024-banking-and-credit.htm>.

¹⁵⁴ See U.S. Census Bureau, *Age and Sex Composition in the United States: 2023*, <https://www.census.gov/data/tables/2023/demo/age-and-sex/2023-age-sex-composition.html>.

¹⁴⁹ See *supra* sections V.F.2 and 3.

¹⁵⁰ See FinCEN, *Financial Crimes Enforcement Network (FinCEN) Year in Review for Fiscal Year 2024*, p. 5, <https://www.fincen.gov/system/files/2025-08/FinCEN-Infographic-Public-2025-508.pdf>. Note that not all users are from external agencies. FinCEN employees are also among the users with access to the BSA Portal.

¹⁵¹ Estimates of the annual cost of crime, generally, are usually measured in trillions of dollars (see, e.g., David A. Anderson, "The Aggregate Cost of Crime in the United States," *The Journal of Law and Economics*, vol 64 no. 4 (2021)) and financial crimes specifically in billions of dollars (see, e.g., the Federal Trade Commission, *Consumer Sentinel Network Data Book 2024* (Mar. 2025), https://www.ftc.gov/system/files/ftc_gov/pdf/csn-annual-data-book-2024.pdf).

¹⁵² Of participants in the FRB's 2024 Survey of Household Economics and Decisionmaking (SHED), 21 percent reported being the victim of financial fraud or a scam involving their money, of which, eight of those percent did not involve credit cards. See FRB, *Report on the Economic Well-Being of U.S. Households in 2024—May 2025 (SHED Report*

In particular, FinCEN considered: (1) the current program rule requirements that the proposed rulemaking would amend and to which it would add new requirements and (2) the broader framework of AML compliance requirements¹⁵⁵ that each type of covered financial institutions' program is meant to guide and ensure are met.¹⁵⁶ Table 3 presents an overview of features of the current program requirements that the proposed rule would further harmonize as well as their current organization and sequencing in the respective sections of the regulatory text.

As summarized in table 3, all covered financial institution types face broadly comparable program requirements with respect to developing and operationalizing internal policies, procedures, and controls; independent testing; designation of key individuals; training; and CDD (to the extent CDD is currently required for respective covered financial institution types). Nevertheless, a level of variation in not just the organization/ordering of the core requirements but also the specific language in each provision may lead different categories of covered financial institutions to interpret the harmonization and standardization of requirements in the proposed rule to represent a departure from current standards that is not uniform across types. To illustrate, FinCEN notes the following examples of variation as a non-exhaustive list of instances where the standardization of regulatory text in the proposed rule departs differentially from preceding regulatory language.

Internal Policies, Procedures, and Controls¹⁵⁷—Current rules require that the internal controls of banks and casinos “assure ongoing compliance,”¹⁵⁸ while for MSBs, the requirement is simply to ensure that the MSB complies.¹⁵⁹ Meanwhile for broker-dealers, internal policies, procedures and controls must be “reasonably designed to achieve compliance.”¹⁶⁰

¹⁵⁵ Although some financial institutions covered by this change have already incorporated awareness of and response to CFT issues into their programs (see *infra* table 4), for the purposes of this analysis, FinCEN is employing the term “AML/CFT program” for programs that would be adopted should this rulemaking become effective.

¹⁵⁶ See *supra* section V.D for a description of current program requirements and the proposed amendments.

¹⁵⁷ See *supra* section V.D.1 for a discussion of proposed amendments to internal policies, procedures, and controls requirements.

¹⁵⁸ See 31 CFR 1020.210(a)(2)(i) for banks with an FFR, 31 CFR 1020.210(b)(2)(i) for banks without an FFR, and 31 CFR 1021.210(b)(2)(i) for casinos.

¹⁵⁹ See 31 CFR 1022.210(d)(1).

¹⁶⁰ See 31 CFR 1023.210(b)(1).

Independent AML Program Testing¹⁶¹—The requirements for some financial institutions (*i.e.*, banks, broker-dealers, mutual funds, and FCMs and IBCs) simply specify that independent testing for compliance must be conducted by personnel or an outside party,¹⁶² while the requirements for other financial institution types (*i.e.*, MSBs, insurance companies, DPMSJs, operators of credit card systems, loan or finance companies, and housing GSEs) specify that the entities must provide for independent review or testing to monitor and maintain an adequate program.¹⁶³ Some requirements (*e.g.*, those for insurance companies, DPMSJs, operators of credit card systems, loan or finance companies, and housing GSEs) include further language about the scope and frequency of the testing, which must be commensurate with risk.¹⁶⁴

Designated Individual(s)¹⁶⁵—Banks must designate “an individual or individuals responsible for coordinating and monitoring day-to-day compliance,”¹⁶⁶ whereas broker-dealers, mutual funds, and FCMs and IBCs must designate person(s) “responsible for implementing and monitoring the operations and internal controls” of a program.¹⁶⁷ Others (*i.e.*, insurance companies, DPMSJs, operators of credit card systems, loan or finance companies, and housing GSEs) must designate a compliance officer who is responsible for ensuring that (1) the AML program is implemented effectively and updated as necessary and (2) appropriate persons are educated and trained.¹⁶⁸

¹⁶¹ See *supra* section V.D.2 for a discussion of proposed amendments to the independent testing requirements.

¹⁶² See 31 CFR 1020.210(a)(2)(ii) for banks with an FFR, 31 CFR 1020.210(b)(2)(ii) for banks without an FFR, 31 CFR 1023.210(b)(2) for broker-dealers, 31 CFR 1024.210(b)(2) for mutual funds, and 31 CFR 1026.210(b)(2) for FCMs and IBCs.

¹⁶³ See 31 CFR 1022.210(d)(4) for MSBs, 31 CFR 1025.210(b)(4) for insurance companies, 31 CFR 1027.210(b)(4) for DPMSJs, 31 CFR 1028.210(b)(4) for operators of credit card systems, 31 CFR 1029.210(b)(4) for loan or finance companies, and 31 CFR 1030.210(b)(4) for housing GSEs.

¹⁶⁴ See 31 CFR 1025.210(b)(4) for insurance companies, 31 CFR 1027.210(b)(4) for DPMSJs, 31 CFR 1028.210(b)(4) for operators of credit card systems, 31 CFR 1029.210(b)(4) for loan or finance companies, and 31 CFR 1030.210(b)(4) for housing GSEs.

¹⁶⁵ See *supra* section V.D.3 for a discussion on the proposed AML/CFT officer amendments.

¹⁶⁶ See 31 CFR 1020.210(a)(2)(iii) for banks with an FFR and 31 CFR 1020.210(b)(2)(iii) for banks without an FFR.

¹⁶⁷ See 31 CFR 1023(b)(3) for broker-dealers, 31 CFR 1024.210(b)(3) for mutual funds, and 31 CFR 1026.210(b)(3) for FCMs and IBCs.

¹⁶⁸ See 31 CFR 1025.210(b)(2) for insurance companies, 31 CFR 1027.210(b)(2) for DPMSJs, 31 CFR 1028.210(b)(2) for operators of credit card

Training¹⁶⁹—Several covered financial institution types' existing requirements specify that training must be ongoing (*i.e.*, for broker-dealers, mutual funds, insurance companies, FCMs and IBCs, DPMSJs, loan or finance companies, and housing GSEs),¹⁷⁰ while for the others, the requirements simply specify that training must be conducted.¹⁷¹ Further, the language regarding the training requirement for some covered financial institution types (*i.e.*, insurance companies, loan or finance companies, and housing GSEs) specifies an entity may choose to train appropriate persons directly or they can choose to verify “that such persons have received training by a competent third party.”¹⁷²

CDD¹⁷³—While it is understood that all categories of financial institutions have obligations to be diligent in developing an understanding of their clients or customers, generally, and often in the ordinary course of business, only certain financial institution types have programmatic CDD requirements. These include banks, irrespective of FFR; broker-dealers; mutual funds; and FCMs and IBCs. The language describing the CDD requirements for these covered financial institution types is nearly identical across financial institution type.¹⁷⁴ Other covered financial institutions do not have an explicit CDD requirement but have certain CDD-like requirements, including casinos and operators of credit card systems.¹⁷⁵ For example, casinos must have procedures for determining “the name, address, social security number, and other

systems, 31 CFR 1029.210(b)(2) for loan or finance companies, and 31 CFR 1030.210(b)(2) for housing GSEs.

¹⁶⁹ See *supra* section V.D.4 for a discussion of the proposed amendments to the training requirements.

¹⁷⁰ See 31 CFR 1023.210(b)(4) for broker-dealers, 31 CFR 1024.210(b)(4) for mutual funds, 31 CFR 1025.210(b)(3) for insurance companies, 31 CFR 1026.210(b)(4) for FCMs and IBCs, 31 CFR 1027.210(b)(3) for DPMSJs, 31 CFR 1029.210(b)(3) for loan or finance companies, and 31 CFR 1030.210(b)(3) for housing GSEs.

¹⁷¹ See 31 CFR 1020.210(a)(2)(iv) for banks with an FFR, 31 CFR 1020.210(b)(2)(iv) for banks without an FFR, 31 CFR 1021.210(b)(2)(iii) for casinos, 31 CFR 1022.210(d)(3) for MSBs, and 31 CFR 1028.210(b)(3) for operators of credit card systems.

¹⁷² See 31 CFR 1025.210(b)(3) for insurance companies, 31 CFR 1029.210(b)(3) for loan or finance companies, and 31 CFR 1030.210(b)(3) for housing GSEs.

¹⁷³ See *supra* section V.D.1.iii for a discussion of proposed amendments to the CDD requirements.

¹⁷⁴ See 31 CFR 1020.210(a)(2)(v) for banks with an FFR, 31 CFR 1020.210(b)(2)(v) for banks without an FFR, 31 CFR 1023.210(b)(5) for broker-dealers, 31 CFR 1024.210(b)(5) for mutual funds, 31 CFR 1026.210(b)(5) for FCMs and IBCs.

¹⁷⁵ See 31 CFR 1021.210(b)(2)(v)(A) for casinos and 31 CFR 1028.210(b)(1)(i) and (ii) for operators of credit card systems.

information” of a person and verifying that information when required.¹⁷⁶

Table 4 further illustrates additional features associated with the current program requirements that the proposed rule would standardize, including whether the program must be written, whether it must newly incorporate language to articulate program coverage of terrorist financing risks or the financing of terrorist activities, as well as who must approve the program and to whom a copy of the written program must be made available upon request.

Finally, while all covered financial institution types are required to have an effective AML/CFT program, the scope of requirements, obligations, and activities those programs cover, and hence, the number of components to be integrated and addressed by a program’s design, risk assessment processes, and training, among other things, differs across covered financial institution types. This variation in scope of programmatic components is illustrated with a non-exhaustive list of examples in table 5. Table 5 highlights, for instance, that the programs of banks,

broker-dealers, mutual funds, and FCMs and IBCs would be required to account for CIP requirements, SAR and CTR filing requirements, and other activities like additional due diligence (e.g., due diligence programs for correspondent accounts for foreign financial institutions and for private banking accounts as set forth in 31 CFR 1010.610 and 1010.620, respectively). Other covered financial institution types have fewer of these obligations, and hence the scope of what would need to be accounted for in their AML/CFT programs may be narrower.

TABLE 3—CURRENT PROGRAM COMPONENT REQUIREMENTS

Covered financial institution type	31 CFR chapter X section	Internal policies, procedures, and controls	Independent AML program testing	Designating individuals	Training	CDD
Banks:						
with an FFR	1020.210	(a)(2)(i)	(a)(2)(ii)	(a)(2)(iii)	(a)(2)(iv)	(a)(2)(v)
without an FFR		(b)(2)(i)	(b)(2)(ii)	(b)(2)(iii)	(b)(2)(iv)	(b)(2)(v)
Casinos	1021.210	(b)(2)(i)	(b)(2)(ii)	(b)(2)(iv)	(b)(2)(iii)	(a)
MSBs	1022.210	(d)(1)	(d)(4)	(d)(2)	(d)(3)	
Broker-Dealers	1023.210	(b)(1)	(b)(2)	(b)(3)	(b)(4)	(b)(5)
Mutual Funds	1024.210	(b)(1)	(b)(2)	(b)(3)	(b)(4)	(b)(5)
Insurance Companies	1025.210	(b)(1)	(b)(4)	(b)(2)	(b)(3)	
FCMs and IBCs	1026.210	(b)(1)	(b)(2)	(b)(3)	(b)(4)	(b)(5)
DPMSJs	1027.210	(b)(1)	(b)(4)	(b)(2)	(b)(3)	
Operators of Credit Card Systems	1028.210	(b)(1)	(b)(4)	(b)(2)	(b)(3)	(b)
Loan or Finance Companies	1029.210	(b)(1)	(b)(4)	(b)(2)	(b)(3)	
Housing GSEs	1030.210	(b)(1)	(b)(4)	(b)(2)	(b)(3)	

^a While the current casino AML program requirements do not include an itemized CDD subsection, they include some customer-specific requirements. See, e.g., 31 CFR 1021.210(b)(2)(v)(A).

^b Despite the absence of a CDD AML program requirement for operators of credit card systems, compliance with the AML program requirements necessitates some CDD-like activities. See 31 CFR 1028.210(b)(1)(i) and (ii).

TABLE 4—CURRENT PROGRAM ATTRIBUTES

Covered financial institution type	31 CFR chapter X section	Written	Addresses terrorist financing	Approved by	To whom a written copy of a program should be made available to upon request
Banks:					
with an FFR	1020.210	✓ ^a	.....	Board of directors or equivalent governing body ^a .	Not applicable.
without an FFR .....		✓	.....	Board of directors or equivalent governing body.	FinCEN or its designee.
Casinos	1021.210	✓	✓	.....	Not specified.
MSBs (Principals and Agents)	1022.210	✓	✓	.....	Department of the Treasury.
Broker-Dealers	1023.210	✓	.....	Senior management	Not specified. ^b
Mutual Funds	1024.210	✓	✓	Board of directors or trustees	SEC.
Insurance Companies	1025.210	✓	✓	Senior management	Department of the Treasury, FinCEN, or its designee.
FCMs and IBCs	1026.210	✓	✓	Senior management	Not specified.
DPMSJs	1027.210	✓	✓	Senior management	Department of the Treasury through FinCEN or its designee.
Operators of Credit Card Systems	1028.210	✓	✓	Senior management	Department of the Treasury or appropriate Federal regulator.
Loan or Finance Companies	1029.210	✓	✓	Senior management	FinCEN or its designee.
Housing GSEs	1030.210	✓	✓	Senior management	FinCEN or its designee.

^a The applicable regulations of the several Federal banking regulators specify these elements of a bank’s AML program. See 12 CFR 208.63(b) (FRB), 21.21(c)(1) (OCC), 326.8(b) (FDIC), 748.2(b) (NCUA). FinCEN regulations indirectly impose these requirements by deeming a bank with an FFR to be in compliance with FinCEN’s AML program requirement if it complies with comparable regulations of its FFR. 31 CFR 1020.210(a)(3).

^b FinCEN has delegated authority to examine broker-dealers’ compliance with FinCEN regulations to the SEC (see 31 CFR 1010.810(b)(6)). Thus, while the FinCEN regulation regarding broker-dealer AML programs, 31 CFR 1023.210, does not itself grant SEC authority to examine a broker-dealer’s AML program, the SEC has authority pursuant to 31 CFR 1010.810(b)(6), in combination with 31 CFR 1023.210, to request a written copy of a broker-dealer’s AML program.

¹⁷⁶ See 31 CFR 1021.210(b)(2)(v)(A).

TABLE 5—OTHER CURRENT REQUIREMENTS OF REGULATED FINANCIAL INSTITUTIONS

Covered financial institution type	31 CFR chapter X part	CIP	Required reports		Additional due diligence ^b
			CTR or Form 8300 ^a	SAR	
Banks (with and without an FFR)	1020	✓	✓	✓	✓
Casinos	1021	(^c)	✓	✓	.....
Principal MSBs:					
Providers or sellers of prepaid access programs ^d	1022	(^e)	✓	✓	.....
Others .....		.....	✓	✓	.....
Agent MSBs .....		.....	✓	✓	.....
Broker-Dealers	1023	✓	✓	✓	✓
Mutual Funds	1024	✓	✓	✓	✓
Insurance Companies	1025	.....	✓	✓	.....
FCMs and IBCs	1026	✓	✓	✓	✓
DPMSJs	1027	.....	✓	.....	.....
Operators of Credit Card Systems	1028	(^f)	✓	.....	.....
Loan or Finance Companies	1029	.....	✓	✓	.....
Housing GSEs	1030	.....	✓	✓	.....

^a Certain financial institutions (*i.e.*, banks, casinos, MSBs, broker-dealers, mutual funds, and FCMs and IBCs) are required to report currency transactions over \$10,000 conducted by, or on behalf of, one person and multiple currency transactions that aggregate to be over \$10,000 per day in a CTR. The remaining covered financial institutions are required to report cash payments over \$10,000 that are received in a trade or a business using Form 8300.

^b Additional due diligence requirements as set forth in 31 CFR 1010.610, and due diligence requirements for private banking accounts, as described in 31 CFR 1010.620, are included in program requirements.

^c While there is no directly comparable CIP section to the casino AML program requirements, there are CIP-like requirements in 31 CFR 1021.210(b)(2)(v)(A), as a casino's program must include procedures for determining and verifying relevant information related to persons.

^d A provider or seller of prepaid access includes principal MSBs as defined in 31 CFR 1010.100(ff)(4)(i) and (ii) for providers, 31 CFR 1010.100(ff)(7) for sellers.

^e While there is no directly comparable CIP section to the MSB program requirements, there are CIP-like requirements for providers and sellers of prepaid access in 31 CFR 1022.210(d)(1)(i) through (iv).

^f The program rules applicable to operators of credit card systems do not contain a formal CIP requirement; however, program compliance in certain cases necessitates some CIP-like activities. See 31 CFR 1028.210(b).

iii. Current Practices

FinCEN made efforts to account for current practices when estimating the expected incremental impact of the proposed rule. In the subsections below, FinCEN describes select key features of current practices of covered financial institutions, regulators, and law enforcement agencies considered salient to its analysis. FinCEN requests comment on the existence of other aspects of current practice that should have been considered or further information about the aspects considered that should be included.¹⁷⁷

a. Current Market Practices

FinCEN took certain data and features of financial institutions' current practices into consideration when estimating the expected incremental impact of the proposed rule. Among these features were the presence of third-party services, industry-specific associations, or other organizations that currently facilitate compliance with BSA/AML requirements as well as information about the costs of currently operating AML/CFT programs.

Public commentary has at times suggested that general compliance with the BSA and maintaining an AML program under current practice is costly and burdensome to covered financial

institutions and, in some cases, of perceived limited value.¹⁷⁸ However, publicly available data with which to form a robust estimate of the aggregate burden of program compliance—to the U.S. economy, generally, or to the unique industry groups to which the proposed rule would apply, specifically—as it has been understood and operationalized to date, is scarce. Absent more reliable comprehensive baseline data, FinCEN is constrained in its ability to estimate total current economic costs with any meaningful degree of certainty, or assess the substitutability of current and expected compliance activities under the proposed regulation, or quantify the potential for aggregate cost savings that covered institutions might privately benefit from in complying with the

¹⁷⁸ See Comments to the Advance Notice of Proposed Rulemaking, FinCEN, *Anti-Money Laundering Program Effectiveness*, 85 FR 58023 (Sept. 17, 2020), <https://www.regulations.gov/docket/FINCEN-2020-0011/comments>. See also Comments to the Request for Information, FinCEN, *Review of Bank Secrecy Act Regulations and Guidance*, 86 FR 71201 (Dec. 15, 2021), <https://www.regulations.gov/document/FINCEN-2021-0008-0001>. See also Comments to the NPRM, FinCEN, *Anti-Money Laundering and Countering the Financing of Terrorism Programs*, 89 FR 55428 (July 3, 2024), <https://www.regulations.gov/document/FINCEN-2024-0013-0001/comment>.

proposed rule.¹⁷⁹ Nevertheless, this analysis includes FinCEN's best efforts at quantification with certain qualifications. FinCEN continues to request more comprehensive, precise, and/or generalizable information on financial institutions' compliance burden and costs in its routine OMB control number renewals,¹⁸⁰ in its forthcoming survey,¹⁸¹ and as part of this rulemaking.¹⁸²

As in the 2024 Program NPRM, FinCEN continues to believe that the aggregate costs of BSA compliance, including AML program requirements, may be several billion dollars per year.¹⁸³ This estimate (1) is generally

¹⁷⁹ Nevertheless, such changes in expenditures may benefit some financial institutions (See *infra* section X.A.4.i.a).

¹⁸⁰ See 60-day notice for OMB Control No. 1506-0020, 1506-0030, and 1506-0035: FinCEN, *Anti-Money Laundering Programs for Certain Financial Institutions* (for banks lacking an FFR, principal MSBs, agent MSBs, mutual funds, insurance companies, DPMSJs, operators of credit card systems, and loan or finance companies), 89 FR 29427 (Apr. 22, 2024). See also 60-day notice for OMB Control No. 1506-0051: FinCEN, *Anti-Money Laundering Program Requirements for Casinos*, 89 FR 65977 (Aug. 13, 2024).

¹⁸¹ See FinCEN, *Agency Information Collection Activities: Proposed New Information Collection; Survey of the Costs of AML/CFT Compliance; Comment Request*, 90 FR 47132 (Sept. 30, 2025).

¹⁸² See *infra* section X.F #5.

¹⁸³ See FinCEN, *Anti-Money Laundering/Countering the Financing of Terrorism Programs*, 89

¹⁷⁷ See *infra* section X.F #4.

consistent with FinCEN's estimate that the aggregate annual costs of the portion of BSA compliance burden that are attributable to reporting and recordkeeping activities alone (PRA activities) is over \$6 billion and (2) tracks data interpolated from both a 2020 U.S. Government Accountability Office (GAO) study of bank AML programs¹⁸⁴ and a 2018 St. Louis Federal Reserve report on the regulatory burden on community banks.¹⁸⁵ Extrapolating from the survey results in these studies, FinCEN estimates that the comparable aggregate annual program costs for FDIC-insured banks and NCUA-regulated credit unions, as a unique subpopulation of all financial institutions subject to program requirements, would have been over \$4 billion at the time of the surveys, with the average bank spending approximately \$500 thousand or just under two percent of operating expenses, on program compliance. These results broadly comport with recent research findings that in non-financial industries, approximately 1.3 percent of the average firm's wage bill is expended on regulatory compliance activities.¹⁸⁶ Using a methodological approach similar to the 2020 and 2018 studies, but applied to data as available at end of calendar year 2024, FinCEN estimates that the size-weighted mean (median) bank or credit union currently spends approximately \$598,700 (\$414,300) on program compliance annually, which is equivalent to an aggregate annual expenditure level between \$3.7 and \$5.4 billion for banks with an FFR.

b. Current Supervisory and Enforcement Practices

The proposed rule is expected to introduce certain changes that could

affect current supervisory and enforcement practices to varying degree by category of affected financial institution. Thus, FinCEN took into consideration its own and other FFRs'—particularly, the Agencies'—current supervisory and enforcement processes.

In its capacity as the administrator of the BSA, FinCEN has delegated its authority to the FFRs, including the Agencies, to examine financial institutions for compliance with the BSA and its implementing regulations.¹⁸⁷ In connection with this delegation, FinCEN has entered into certain memoranda of understanding with the FFRs that enable FinCEN and the FFRs to share information with one another on a routine basis about relevant financial institutions' compliance with the BSA and its implementing regulations. FinCEN and the FFRs also regularly engage one another in supervisory dialogue, regarding both specific issues related to a particular financial institution's compliance and broader patterns or trends in financial institutions' general compliance with the BSA. Although such information sharing and supervisory dialogue may include matters that the proposed rule would define as significant supervisory actions or enforcement actions,¹⁸⁸ these current practices do not entail consultation by the Federal banking regulators with FinCEN to the same extent as the proposed rule would require.

With respect to the Agencies, FinCEN understands that these agencies examine banks' BSA/AML compliance programs every 12 to 18 months using risk-focused procedures outlined in the FFIEC BSA/AML Examination Manual. If violations are found or they have serious supervisory concerns that are not timely addressed, the Agencies may take actions ranging from informal corrective measures to formal enforcement actions such as cease-and-desist orders.¹⁸⁹ The baseline costs

associated with these activities are understood to be a fraction of the Agencies' reported aggregate expenses on conducting supervision and enforcement. In its survey of the most recent publicly available information, FinCEN noted that in total spending on supervision: (1) the FDIC allocated \$1.35 billion to supervision in its 2026 proposed operating budget;¹⁹⁰ (2) the FRB spent nearly \$2.2 billion on supervision and regulation in 2024 and proposed allocating nearly \$2.4 billion in its 2025 budget;¹⁹¹ and (3) the OCC reported spending \$1.2 billion in costs associated with its supervision program in fiscal year 2025.¹⁹² Using this data¹⁹³ to form a crude approximation, FinCEN estimates that a change in total expenditures or reallocation of current expenditures of less than two percent, would, independent of all other expected economic effects of the rule, constitute a significant economic impact in any given year.¹⁹⁴

Based on consultation with the Agencies, FinCEN anticipates changes of this magnitude to be unlikely because the proposed rulemaking is not expected to require substantial alterations to the Agencies' supervisory expenditures or to require significant additional resources to develop, implement, and maintain the enforcement and supervisory action consultation process with FinCEN. As such, any reallocation effects that flow from the proposed rule through changes in supervisory and enforcement practices are likely to be more pronounced for FinCEN than for those

Congressional Research Service, CRS Report R46648 (Dec. 28, 2020), <https://www.congress.gov/crs-product/R46648>.

¹⁹⁰ See FDIC, *Proposed 2026 FDIC Operating Budget*, Exhibit 6, Proposed 2026 Corporate Operating Budget by Business Line (Jan. 9, 2026), <https://www.fdic.gov/financial-reports/fdic-budget>.

¹⁹¹ See FRB, *Annual Report—2024*, Federal Reserve System Budgets, Table D.3 and D.9, <https://www.federalreserve.gov/publications/2024-annual-report>.

¹⁹² See OCC, *2025 Annual Report*, p. 25, <https://www.occ.gov/publications-and-resources/publications/annual-report/files/2025-annual-report.html>.

¹⁹³ FinCEN was unable to obtain comparable data on the NCUA's expenditures on supervisory or examinations activities but anticipates that it would be significantly smaller given that the NCUA's entire operating budget for 2025 was less than \$423 million in 2025. See NCUA, *2026–2027 Staff Draft Budget* (Sept. 2025), p. 11, <https://ncua.gov/files/publications/budget/budget-justification-proposed-2026-2027.pdf>.

¹⁹⁴ This estimated percentage does not include an estimate of expenditures by the NCUA, but given their expected order of magnitude (see *supra* note 193), this exclusion is not expected to affect the general magnitude of change required to exceed a \$100 million significance threshold.

FR 55428, 55458–55463 (July 3, 2024). In section VII.A.2.C., Current Market Practices, FinCEN estimated an annual burden between \$5.1 and \$7.5 billion in AML Program and SAR reporting costs.

¹⁸⁴ See GAO, *Anti-Money Laundering: Opportunities Exist to Increase Law Enforcement Use of Bank Secrecy Act Reports, and Banks' Costs to Comply with the Act Varied*, GAO–20–574 (Sept. 2020), <https://www.gao.gov/assets/gao-20-574.pdf>.

¹⁸⁵ See Drew Dahl, Jim Fuchs, Andrew Meyer, and Michelle Neely, *Compliance Costs, Economies of Scale and Compliance Performance: Evidence from a Survey of Community Banks*, Federal Reserve Bank of St. Louis (Apr. 2018), https://www.communitybanking.org/-/media/files/communitybanking/compliance-costs-economies-of-scale-and-compliance-performance.pdf?sc_lang=en&hash=19C682B5EFB86B37D6A8604DE9087DA6.

¹⁸⁶ See Francesco Trebbi, Miao Ben Zhang, and Michael Simkovic, *The Cost of Regulatory Compliance in the United States*, U.S.C. Marshall School of Business Research Paper (Oct. 23, 2024), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4331146.

¹⁸⁷ 31 CFR 1010.810(b).

¹⁸⁸ FinCEN has not delegated to the Agencies its ability to enforce the BSA and undertakes its own enforcement investigations and actions, as appropriate (see *supra* note 45). However, FinCEN generally undertakes a materially lower volume of BSA-related enforcement actions than the Agencies, including because FinCEN's enforcement mandate encompasses all types of financial institutions subject to the BSA (i.e., it is not limited to banks and depository institutions).

¹⁸⁹ For more detail, see, e.g., GAO 2020 report (*supra* note 184), see also OCC, *Examination Process: Bank Supervision Process Comptroller's Handbook* (Sept. 2019), <https://www.occ.gov/publications-and-resources/publications/comptrollers-handbook/files/bank-supervision-process/pub-ch-bank-supervision-process.pdf>; see also, David W. Perkins, *Bank Supervision by Federal Regulators: Overview and Policy Issues*,

to whom it has delegated examination authority.

c. Current Use of BSA Information by Law Enforcement and National Security Agencies

While results may not be published, FinCEN both routinely receives reports¹⁹⁵ and conduct surveys¹⁹⁶ that speak to the use and usefulness of BSA information to law enforcement and national security agencies. An older, but broadly analogous, publicly available report from the GAO found that in 2018, a majority of Federal and State law enforcement agencies had direct access to FinCEN's BSA database (*i.e.*, 85 percent of federal agencies and 54 percent of State agencies), though fewer than one percent of local law enforcement agencies did.¹⁹⁷ FinCEN believes these survey results may underrepresent the extent to which local law enforcement may benefit from BSA information insofar as the GAO study could not directly account for the incidence of referrals to local law

enforcement of matters not otherwise pursued by Federal or State agencies directly. The study also surveyed 5,257 investigators, analysts, and prosecutors at six Federal law enforcement agencies and found that these agencies used BSA data extensively, estimating that approximately 72 percent of personnel conducting investigations from 2015 to 2018 used BSA reports to support their work.¹⁹⁸

3. Description of Proposed Regulatory Changes

For purposes of the RIA, FinCEN considered the various components of the proposed rule—including its proposed amendments to existing rules and proposed new requirements—with a view towards the specific features or elements that are expected to generate, either directly or indirectly, an economic benefit or cost or lead to changes in market participant incentives in a way that may generate economic benefits or costs.¹⁹⁹ For components of the proposed rule that FinCEN analysis

has not assigned an expected economic effect, the reason for doing so is briefly described below.

The description of proposed requirements below is organized by the scope and anticipated potential magnitude of economic effects, starting with the proposed changes, applicable to the broadest scope of financial institutions, that are expected to be the least substantive and concluding with the proposed changes, concentrated on the narrowest scope of affected parties, that have the greatest potential to result in substantive changes. To balance the completeness of the RIA with the desire for expository clarity and ease of tractability between the proposed regulatory text and sections V (section-by-section analysis) and X (regulatory impact analysis), FinCEN has included table 6, to provide a mapping of the various components of the proposed rulemaking as presented in the section-by-section analysis to their analogous categorization in the RIA.

TABLE 6—OVERVIEW/MAPPING OF REGULATORY TEXT AND ANALYSES

Scope of affected entities	The proposed rule would . . .	Section V analysis	Considered in RIA subsection(s)	Proposed regulatory text location
Generally Applicable to all Financial Institutions.	Insert “CFT” to standardize references to “AML/CFT” as in “AML/CFT Program,” replacing “AML program” or “BSA/AML program”.	V.A, V.G	X.A.3.i	various (regulatory titles, CIP regulations, etc.)
	Remove program-related compliance dates that are no longer relevant.	V.G.3	X.A.3.i	n/a, text removed
	Conceptually define program “effectiveness”	V.B, V.C	X.A.3, X.A.4	10XX.210(a)
	Introduce a two-prong program framework of compliance with program requirements.	V.C.	X.A.3, X.A.4	10XX.210(a)(1) and (2) and (c)
	Encourage adoption of new technology or other innovative approaches, while removing prescriptive requirements.	V.B, V.D.1, V.F.4, V.G.2.	X.A.3.i, X.A.4.i.a, X.A.4.ii.a.	n/a
	Standardize requirements that a program's internal policies, procedures, and controls be reasonably designed to: (1) identify, assess, and document ML/TF risks through risk assessment processes; (2) mitigate ML/TF risks consistent with its risk assessment processes; and, if applicable (3) conduct ongoing CDD.	V.D.1	X.A.3.i	10XX.210(b)(1)
	Require that internal policies, procedures, and controls identify, assess, and document ML/TF risks through risk assessment processes.	V.D.1.i	X.A.3.i, X.A.4.ii.a	10XX.210(b)(1)(i)
	Require that internal policies, procedures, and controls mitigate ML/TF risks consistent with a financial institution's risk assessment processes (including appropriate allocation toward higher-risk customers).	V.D.1.ii	X.A.3.i, X.A.4.i.a, X.A.4.ii.a.	10XX.210(b)(1)(ii)
	Require that risk assessment processes (1) evaluate ML/TF risks from business activities; (2) consider AML/CFT Priorities; and (3) update promptly responsive to significant changes to ML/TF risks.	V.D.1.i.a, b, c	X.A.3.i, X.A.4.ii.a	10XX.210(b)(1)(i)(A), (B), and (C)
	Standardize language describing program requirements for independent testing.	V.D.2	X.A.3.i	10XX.210(b)(2)
	Require independent testing	V.D.2	X.A.3.i, X.A.4.ii.a	10XX.210(b)(2)

¹⁹⁵ FY21 NDAA, section 6201 (Annual reporting requirements), <https://www.congress.gov/116/plaws/publ283/PLAW-116publ283.pdf>.

¹⁹⁶ FinCEN, *Agency Information Collection Activities: Proposed Renewal; Comment Request*;

Renewal Without Change of the Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery, 88 FR 30383 (May 11, 2023).

¹⁹⁷ GAO conducted the survey from November 9, 2019, through March 16, 2020. *See supra* note 184.

¹⁹⁸ Based on a response rate of approximately 57 percent.

¹⁹⁹ *See infra* section X.A.4.

TABLE 6—OVERVIEW/MAPPING OF REGULATORY TEXT AND ANALYSES—Continued

Scope of affected entities	The proposed rule would . . .	Section V analysis	Considered in RIA subsection(s)	Proposed regulatory text location
Applicable to Covered FIs Only.	Standardize program requirements regarding the designated individual responsible for establishing, implementing, and coordinating day-to-day program compliance.	V.D.3.i	X.A.3.i, X.A.4.ii.a	10XX.210(b)(3)
	Require that the designated individual is located in the United States.	V.D.3.ii	X.A.3.i, X.A.4.ii.a	10XX.210(b)(3)
	Require that the designated individual is accessible to, and subject to oversight and supervision by, FinCEN and the appropriate FFR.	V.D.3.ii	X.A.3.i	10XX.210(b)(3)
	Require that the designated individual is responsible for establishing and implementing the AML/CFT program and coordinating and monitoring day-to-day compliance.	V.D.3	X.A.3.i, X.A.4.ii.a	10XX.210(b)(3)
	Standardize language describing program requirements for ongoing employee training.	V.D.4	X.A.3.i	10XX.210(b)(4)
	Require ongoing employee training	V.D.4	X.A.3.i, X.A.4.ii.a	10XX.210(b)(4)
	Require the AML/CFT program to be written	V.E.1	X.A.3.i, X.A.4.ii.a	10XX.210(d)
	Require the AML/CFT program to be made available upon request to FinCEN or its designee.	V.E.1	X.A.3.i, X.A.4.ii.a	10XX.210(d)
	Require the AML/CFT program to be approved by the financial institution's board of directors or an equivalent governing body within the financial institution, or appropriate senior management.	V.E.2	X.A.3.i, X.A.4.ii.a, X.E ..	10XX.210(d)
	Integrate CDD-related program requirements into the “establishment prong” of the proposed new program framework.	V.D.1.iii	X.A.3.ii, X.E	1020.210(b)(1)(iii), 1023.210(b)(1)(iii), 1024.210(b)(1)(iii), 1026.210(b)(1)(iii), and 1028.210(b)(1)(iii)
Applicable to Banks Only.	Consolidate 31 CFR 1020.210(a) and (b) into a single set of rules applicable to all banks.	V.G.1	X.A.3.iii	n/a, text consolidated
	Remove redundant regulatory text affirming the requirement that banks must comply with the rules of their FFRs.	V.G.4	X.A.3.iii	n/a, text removed
	Define the terms/phrases “AML/CFT enforcement action,” “AML/CFT requirement,” and “significant AML/CFT supervisory action”.	V.F.1	X.A.3.iii, X.A.4.ii.a	1020.221(a)
	Provide that a bank with an AML/CFT program established in accordance with proposed 31 CFR 1020.210(b) would not be subject to an AML/CFT enforcement action or significant AML/CFT supervisory action absent a significant or systemic failure to implement said program within the meaning of proposed 31 CFR 1020.210(c).	V.F.2	X.A.3.iii, X.A.4.i.a	1020.221(b)(1)
	Provide that the proposed 31 CFR 1020.221(b)(1) provisions do not apply when there is a failure to establish a bank program within the meaning of proposed 31 CFR 1020.210(b).	V.F.2	X.A.3.iii, X.A.4.i.a, X.A.4.ii.a.	1020.221(b)(2)
	Provide that in determining to take, or in review of, an AML/CFT enforcement action or significant AML/CFT supervisory action, the Director would take into account factors under 31 U.S.C. 5318(h)(2)(B) and the bank's unique ability and efforts to advance AML/CFT Priorities.	V.F.4	X.A.3.iii, X.A.4.i.a, X.A.4.i.b, X.A.4.ii.b.	1020.221(d)
	Require FFIRA consultation with the Director before any significant AML/CFT supervisory action pursuant to delegated authority is initiated.	V.F.3	X.A.3.iv, X.A.4.i.a, X.A.4.i.b, X.A.4.ii.a, X.A.4.ii.b.	1020.221(c)(1)
	Require, generally, an FFIRA to provide written notice to the Director of any intent to take a significant AML/CFT supervisory action pursuant to delegated authority at least 30 days in advance of the proposed action.	V.F.3		1020.221(c)(2)(i)
	Require, to the extent reasonably practicable, that an FFIRA respond to requests from the Director for additional information regarding a proposed significant AML/CFT supervisory action.	V.F.3		1020.221(c)(2)(ii)
Applicable to Bank FFIRAs.				

i. Generally Applicable to All Financial Institutions

In this NPRM, FinCEN proposes to introduce a number of technical changes that include new definitions and new or amended language that seek to improve the clarity and congruence of the current regulatory text across all categories of financial institutions. Many of these are expected to be non-substantive changes, but some might reasonably be expected to result in novel or alternative activities being undertaken by at least some affected parties. For completeness, the full scope of changes is reviewed in the section below; however, only those changes that could foreseeably result in non-negligible changes in the activities of a non-trivial subpopulation of affected parties are further discussed in section X.A.4.

Changes that are not foreseen to be substantive include updating 31 CFR chapter X to insert the term “CFT” into the program rules;²⁰⁰ the standardization of the ordering and language used to describe the necessary “four pillars” required of all financial institution types’ AML/CFT programs;²⁰¹ and other technical amendments to program attributes.²⁰² FinCEN is also proposing to amend certain existing definitions to incorporate non-substantive, modernizing updates.²⁰³

Other changes might reasonably be expected to result, to varying degrees, in novel or alternative activities being undertaken by affected parties and are identified as such for further consideration in section X.A.4 below. These include the introduction of certain definitions, concepts, textual reorganizations, and express requirements.

FinCEN proposes to define “AML/CFT priorities” such that when the term is used throughout 31 CFR chapter X, it is clear that only the most recently

published version²⁰⁴ of the AML/CFT Priorities is being referenced.²⁰⁵ The extent to which defining the priorities this way may affect expected burdens would depend on how path-dependent programmatic best practices would otherwise be and the magnitude of changes in AML/CFT Priorities between one publication and the next.

Additionally, the proposed rule includes certain linguistic changes that are to a greater extent intended to demarcate intended changes in conceptual framing and accountability mechanisms than introduce new requirements for financial institutions.²⁰⁶ The novel imposition of these specific semantic distinctions between “establish” and “maintain” are meant to create an evaluative framework that would enable an evaluator or evaluated entity to meaningfully distinguish between facially similar observed errors, omissions, or other failures that impede a program’s effectiveness by causal attribution (to either a flaw in program design or in program execution). This causal distinction, in turn, would afford certain protections from excessive supervisory and/or enforcement action by regulators or other compliance examiners and relieve a given financial institution from the need, real or perceived, to prophylactically undertake excessive program activities for the exclusive purpose of mitigating such excessive supervisory or enforcement action risks.

ii. Applicable to Covered Financial Institutions

As discussed in section X.A.2.ii, while all financial institutions must exercise diligence when developing an understanding of their clients or customers, only a select subset of financial institutions subject to the BSA have express “fifth pillar,” or CDD

obligations.²⁰⁷ FinCEN has long held that this “fifth pillar” is itself composed of four core elements,²⁰⁸ including three (in addition to beneficial ownership identification and verification) that are integral to the design and execution of a compliant AML program.²⁰⁹ This NPRM includes a proposed, non-substantive change in the structural organization of program requirements that would move CDD core elements three and four from their current standalone textual positions to become nested in the “establishment prong” of AML/CFT program requirements.

As explained in section V.D.1.iii, this change is intended to simply better reflect how covered financial institutions operationalize such ongoing CDD as part of their overall AML programs and would not be expected to engender novel incremental burden. It is therefore not further discussed in section X.A.4 below. However, FinCEN has, in the course of analysis undertaken in connection with several recent rulemakings and its review of its PRA obligations, taken note of certain clerical errors and omissions that caused the existing recordkeeping burden associated with CDD core elements three and four to be omitted from certain pre-existing OMB control numbers. As a result, the PRA analysis in section X.E below includes a line item associated with CDD program obligations that would address the previous omission. This administrative correction does not reflect, in either level or proportion, an anticipated need for catholic changes to covered financial institutions’ baseline due diligence practices.

iii. Applicable to Banks

When assessing the potential economic impact of the incremental portions of the proposed rule unique to banks, FinCEN considered both the

²⁰⁰ See *supra* section V.A.

²⁰¹ See, e.g., with respect to regulatory language used to describe program-related training requirements *supra* sections V.D.4 and X.A.2.ii. See also, with respect to regulatory language used to describe independent testing requirements *supra* sections V.D.2 and X.A.2.ii. See with respect to regulatory language used to describe a designated individual *supra* sections V.D.3.i and X.A.2.ii.

²⁰² See discussion of the documentation requirements for programs *supra* section V.E.1; see also *supra* table 4. See also discussion of the removal from regulatory text of automated data processing requirements for casino and MSBs *supra* section V.G.2, of no longer binding compliance deadlines *supra* section V.G.3, and of cross-references to other regulations that are binding independent of FinCEN regulations *supra* V.G.4.

²⁰³ See *supra* section V.G for description of definitional changes at 31 CFR 1010.100(e), (r), (nnn), and (ooo).

²⁰⁴ See AML/CFT Priorities (June 30, 2021), <https://www.fincen.gov/news/news-releases/fincen-issues-first-national-amlcft-priorities-and-accompanying-statements>. As required by 31 U.S.C. 5318(h)(4)(C), the AML/CFT priorities are consistent with Treasury’s National Strategy for Combating Terrorist and Other Illicit Financing (May 16, 2024), <https://home.treasury.gov/news/press-releases/jy2346>. The AML/CFT Priorities are supported by Treasury’s National Risk Assessments on Money Laundering, Terrorist Financing, and Proliferation Financing (Feb. 7, 2024), <https://home.treasury.gov/news/press-releases/jy2080>. As also required by 31 U.S.C. 5318(h)(4)(B), the Secretary, in consultation with the Attorney General, Federal functional regulators, relevant State financial regulators, and relevant national security agencies, must update the AML/CFT Priorities not less frequently than once every four years. 31 U.S.C. 5318(h)(2)(B).

²⁰⁵ See *supra* section V.D.1.i.b.

²⁰⁶ See *supra* sections V.B and C (describing the intent and mechanics of proposed 31 CFR 10XX.210(a)).

²⁰⁷ See *supra* table 3 for covered financial institutions; i.e., those with CDD obligations.

²⁰⁸ FinCEN, *Customer Due Diligence Requirements for Financial Institutions*, 81 FR 29398 (May 11, 2016), (stating, “FinCEN believes that there are four core elements of customer due diligence (CDD) [. . .]: (1) Customer identification and verification, (2) beneficial ownership identification and verification, (3) understanding the nature and purpose of customer relationships to develop a customer risk profile, and (4) ongoing monitoring for reporting suspicious transactions and, on a risk-basis, maintaining and updating customer information.”).

²⁰⁹ *Id.* (Referring to the core elements: “The first is already an AML program requirement [. . .] the third and fourth elements are already implicitly required for covered financial institutions to comply with their suspicious activity reporting requirements. The AML program rules for all covered financial institutions are being amended by the final rule in order to include the third and fourth elements as explicit requirements.”).

portions of the proposed regulatory text that pertain to requirements placed on banks directly as well as portions of the proposed regulatory text that may prescribe activities for parties other than banks but are reasonably expected to have an impact on banks. The distinction in causal channels, while recognized in this section, is not maintained in section X.A.4 below in cases where the economic effects of the proposed regulatory text on banks are not reliably separable or such incremental analysis would not enrich the analysis.

Additionally, certain proposed changes are not discussed further in section X.A.4 below because it is unclear that they would have either independent incremental effects or any economic effect at all. These changes include the proposals: (1) to combine the two bank program rules—for banks with an FFR and those without an FFR—into one framework;²¹⁰ (2) to remove regulatory text affirming the requirement for banks to comply with the rules of their FFRs;²¹¹ and (3) to define the terms/phrases “AML/CFT enforcement action,” “AML/CFT requirement,” and “significant AML/CFT supervisory action” for purposes of proposed 31 CFR 1020.221.²¹²

In the proposed rule, the supervision and enforcement requirements would apply only to banks and the Agencies. Of the proposed requirements, FinCEN anticipates that proposed 31 CFR 1020.221(b)(1) is likely to have the most substantive impact on banks, while, by contrast section 221(b)(2), in practice, represents the least difference from status quo. Notwithstanding that the framework of proposed § 10XX.210(a) and the proposed requirements/provision of § 10XX.210(b)(1)(ii) (to allocate program resources and attention by risk level) apply to all categories of regulated financial institutions, the economic effects of the proposed evaluative framework are expected to be greatest where supervisory and enforcement commitment to abide by the framework is perceived by affected financial institutions to be the most credible. For this reason, banks regulated by the Agencies may be uniquely affected among the categories of financial institutions that would be subject to the proposed rule because they are the only financial institutions with companionate regulation binding the parties supervising and enforcing their compliance.

FinCEN also expects proposed 31 CFR 1020.221(d) to affect banks’ incentives because it provides that in determining to take, or in review of, an AML/CFT enforcement action or significant AML/CFT supervisory action, the Director would take certain factors into consideration, including facts and circumstances unique to the bank in question. In particular, section 221(d)(2) would require the Director to consider the bank’s demonstrable efforts to advance AML/CFT Priorities such as its production of highly useful information, analytics, or other innovations. If these efforts would newly be, or to a markedly greater extent than they currently are, allowed to weigh in the bank’s favor when under consideration for an AML/CFT enforcement action or significant AML/CFT supervisory action, FinCEN expects that the proposed regulation could reasonably be expected to generate economic effects because it would likely change the scope or nature of activities undertaken and/or investments made.

iv. Applicable to Federal Financial Institutions Regulatory Agencies

As described above in section V.F.3, the proposed rule would introduce new notice,²¹³ consultation,²¹⁴ consideration,²¹⁵ and response²¹⁶ requirements for the Agencies before initiating significant AML/CFT supervisory actions. FinCEN anticipates that the proposed consultation process is likely to have direct economic effects on both FinCEN and the Agencies, further discussed below in sections X.A.4.i.b (expected benefits) and ii.b (expected costs). The proposed process could also reasonably be expected to have indirect effects on the banks subject to supervision and examination by Federal banking regulators to the extent that the consultative process is successful in better aligning supervisory and enforcement activities with the efficient establishment and maintenance of AML/CFT programs. Finally, while further downstream economic effects may also flow to the general public from this improved alignment, these effects

would be third order at best, and difficult to distinguish from the effects of other incremental components of the proposed rule. Thus, despite acknowledging that economic effects of the proposed regulatory changes applicable to the Agencies may reach to banks and the general public, they are not itemized or further considered for these affected parties in their respective sections below.

4. Anticipated Economic Effects

Ideally, conducting an RIA would enable FinCEN to identify and monetize all of a proposed regulation’s most salient economic effects with a high degree of certainty so that policymakers and the commenting public would be able to comparatively evaluate different regulatory options’ benefits and costs and advocate for the option with the greatest net benefits. In practice, however, financial regulations include benefits and costs that cannot be quantified with any degree of certainty, making simple benefit-cost comparisons potentially misleading, “because the calculation of net benefits in such cases does not provide a full evaluation of all relevant benefits and costs.”²¹⁷ In its analysis, FinCEN has therefore sought to include an evaluation of certain foreseeable non-quantified economic effects in addition to certain quantified costs to more comprehensively assess the potential net benefit of the proposed rule and select alternatives.

Additionally, because program rules are a minimum standard,²¹⁸ FinCEN preemptively qualifies its analysis as likely to overstate both the benefits and costs of the proposed rule for covered financial institutions that already strive for best practices or whose programs already meet or surpass the proposed requirements. However, because the lack of an incremental effect for these institutions would affect both benefits and costs, it should not, in theory, affect an assessment of the overall net effects, as the differences on both sides should offset each other. FinCEN requests comment on the reasonableness of this expectation and solicits data or information, if available, that would improve the accuracy of its assessment of impact if this reliance on theory is not appropriate.²¹⁹

i. Expected Benefits

The proposed rule is anticipated to result in certain nonquantifiable benefits to covered financial

²¹³ See proposed 31 CFR 1020.221(c)(2)(i) (generally requiring FFIRAs to provide written notice to the Director of any intent to take a significant AML/CFT supervisory action pursuant to delegated authority at least 30 days in advance of the proposed action).

²¹⁴ See proposed 31 CFR 1020.221(c)(1) (requiring FFIRA consultation with the Director before any significant AML/CFT supervisory action pursuant to delegated authority is initiated).

²¹⁵ *Id.*

²¹⁶ See proposed 31 CFR 1020.221(c)(2)(ii) (requiring, to the extent reasonably practicable, that an FFIRA respond to requests from the Director for additional information regarding a proposed significant AML/CFT supervisory action).

²¹⁷ See OMB, Circular A–4, at 10. (2003), <https://www.whitehouse.gov/wp-content/uploads/2025/08/Circular-A-4.pdf>.

²¹⁸ See *supra* section V.B.

²¹⁹ See *infra* section X.F.#7.

²¹⁰ See *supra* section V.G.1.

²¹¹ See *supra* section V.G.4.

²¹² See *supra* section V.F.1.

institutions, regulators and other compliance examiners, law enforcement and national security agencies, and the general public. As discussed in section X.A.1, these benefits are expected to flow from the extent to which the new and amended program requirements are better able to address the fundamental economic problems that might otherwise limit current AML program and regime effectiveness.

a. Regulated Financial Institutions

As discussed above in section X.A.1, this proposed rule, among other things, aims to reduce distortions due to information asymmetries by providing regulated financial institutions and their regulators with clarity about the requirements that would need to be met in order to have an effective AML/CFT program. By emphasizing that an effective program is one that mitigates a regulated financial institution's ML/TF risks by directing more attention and resources toward higher-risk customers and activities rather than toward lower-risk ones, regulated financial institutions may choose to reallocate their resources in a way that better aligns the program requirements and the elements of a regulated financial institution's compliance burden that are unobservable. This reallocation of resources could decrease the cost per unit of effectiveness. That is, it could reduce the expense of time and money on activities that do not create value, while improving the effectiveness of their AML/CFT programs by better preventing money laundering and financing of terrorism with risk-based improvements to detecting, preventing, and identifying illicit financial activity.

Further, by having FinCEN and the Federal regulators focus on addressing significant or systemic failures to implement an effective program rather than addressing isolated, technical, or immaterial implementation issues, FinCEN expects that in aggregate, financial institutions would have to respond to fewer such enforcement or supervisory actions and may save personnel time that would otherwise be allocated to unproductive supervisory inquiries.

Specifically for banks, giving FinCEN a greater role in the supervisory process could reduce the possibility for differences between how FinCEN and the compliance examiners might assess the quality of a bank's program. This would help ensure that bank regulators are focused on assessing banks' AML/CFT programs for effectiveness rather than mere technical compliance. Doing so would allow banks to focus their attention and resources on activities that

are truer to the nature of their business and clientele rather than non-meaningful metrics that aim to assess, by proxy, the program-related efforts that cannot be directly observed.

Additionally, by explicitly allowing (but not requiring) financial institutions to use technological innovation, financial institutions may be better positioned to incur benefits from being encouraged to use newer methods to identify and thwart illicit finance activity risks with a broader view to value of doing so.

The proposed rule may result in benefits to certain regulated financial institutions individually. In other instances, groups of regulated financial institutions may benefit collectively. The proposed program establishment requirement would require every regulated financial institution to develop risk-based internal policies, procedures, and controls that are reasonably designed to identify, assess, and document ML/TF risk through risk assessment processes and mitigate those risks consistent with the risk assessment processes, including by allocating more attention and resources toward higher risks. While some financial institutions already engage in such practices, the proposed rule would require *every* financial institution covered under the BSA to undertake such a process. This could enable each affected covered financial institution to better understand its own ML/TF risks and help it detect threat patterns or trends that could then be incorporated into its risk assessment processes.

The proposed changes in AML/CFT program requirements may also reduce the distortion in incentives of certain covered financial institutions that currently benefit disproportionately from the positive externalities of other institutions by more explicitly limiting their ability to underinvest in their own efforts by requiring them to direct more attention and resources toward higher-risk customers. While this would result in an incremental change in expenditures to the affected covered financial institutions, both peer institutions and the affected financial institution may benefit from the change.

FinCEN anticipates that financial institutions would also incur benefits from being better positioned to identify, deter, and detect illicit financial activity because financial crime not only impacts the public at large, but can also disrupt financial institutions directly impacted by financial crime or that are used as conduits to facilitate such crimes. Moreover, financial institutions with ineffective AML/CFT programs are exposed to the risks of criminal,

regulatory, and civil investigations; penalties; and actions, where restrictions to engage in mergers and acquisitions may be applied to certain covered financial institutions with ineffective AML records. Thus, financial institutions with effective programs could incur tangible benefits in avoiding litigation costs, investigation costs, and monetary penalties associated with ineffective AML/CFT programs.

Further, as a result of the collective enhancements to a covered financial institution's AMF/CFT program, the institution itself, or the group of financial institutions to which it belongs, may also experience reputational benefit if they come to be viewed as better insulated from such disruptions and/or potentially become generally perceived as more reliable or transparent in their financial services or activities.

b. Regulators and Other Compliance Examiners.

By encouraging regulators and other compliance examiners to focus their efforts on addressing significant or systemic failures to implement an effective AML/CFT program, rather than addressing isolated, technical, or immaterial implementation issues, these regulators and examiners may have fewer non-substantive issues to adjudicate with regulated entities, which could potentially relieve the demand for, and the less productive use of, time and other limited resources. This, in turn, may enable examinations and other supervisory activities to be more productive by better aligning outcomes with AML/CFT Priorities and objectives.²²⁰

c. Law Enforcement and National Security Agencies

The proposed rule may also benefit U.S. law enforcement and national security efforts against ML/TF risks by rendering AML/CFT programs more risk based through proposed requirements such as incorporating risk assessment processes into internal policies, procedures, and controls and ensuring that AML/CFT programs focus attention and resources on high-risk customers and activities. These proposed changes would increase the likelihood that the information provided to law enforcement and national security agencies from AML/CFT programs would be highly useful.

Moreover, under the proposed rule, covered financial institutions would be required to promptly re-establish their AML/CFT program any time they face a

²²⁰ See *infra* section X.F #6.

significant change in their ML/TF risk. This, along with ensuring they focus attention and resources toward higher-risk customers and activities, would allow AML/CFT programs to respond to evolving risks that the financial institutions may face. FinCEN anticipates that this risk-focused posture of AML/CFT programs would lead to better information that would enhance U.S. agencies' ability to investigate, prosecute, and disrupt financing of terrorism, other transnational security threats, and domestic and transnational illicit financial activity.

The proposed rule would also require covered financial institutions to review and, as appropriate, incorporate the AML/CFT Priorities into their AML/CFT programs. Incorporating the priorities, which have been issued in consultation with various U.S. and State government agencies,²²¹ would further equip AML/CFT programs to produce information that is highly useful to law enforcement, particularly with respect to identified threats to U.S. financial system and national security deemed government-wide priorities. Thus, law enforcement efforts with respect to these AML/CFT Priorities, such as investigations and prosecutions, data analytics, and policy analysis and decision making, would benefit.

There is also a corollary benefit from the proposed rule in *reducing* BSA records and reporting that are not highly useful, since such "not highly useful" records and reports degrade the ability of law enforcement and national security to efficiently and effectively identify illicit finance activity relevant to their investigations, prosecutions, and risk assessments.

Additionally, the proposed rule would provide financial institutions with the flexibility to innovate responsibly. In doing so, law enforcement and national security efforts may reap the benefits of financial institutions' use of technological innovation to detect and disrupt illicit financial activity.

d. General Public

The proposed rule is additionally expected to benefit the public. FinCEN anticipates that the public benefit would result from both the potential for a more effective AML/CFT regime to better deter illicit activity and the potential for

a better-calibrated regime to reduce certain low-value activities and unintended social costs.²²² The proposed rule is expected to enhance the deterrent effect of AML/CFT programs and the utility of information such programs provide to law enforcement and national security agencies, and through these mechanisms, contribute to reduced rates of crime and enhanced national security, respectively.

While FinCEN expects the proposed rule to enhance the deterrent effect of current AML/CFT programs at covered financial institutions and facilitate law enforcement and national security agencies in identifying and disrupting or otherwise bringing actions against illicit activities, it is difficult to estimate how much additional economic loss the proposed requirements would prevent. FinCEN lacks data that would be necessary to quantify how much money laundering and the financing of terrorism could be reduced as a result of the proposed rule or how much other illegal activity would be curbed by this reduction in money laundering and terrorist financing.²²³ Money laundering and other illicit financing is related to a wide array of activities including human trafficking, drug trafficking, terrorism, public corruption, the proliferation of weapons of mass destruction, fraud, and other crimes and illicit activities that cause substantial monetary and nonmonetary damages, but costs to the public attributable to each typology are not always measurable, able to be separately estimated, or quantified over the same period of time due to the variation in lags between when illicit activity occurs and when it is detected or related financial activity occurs.²²⁴

Nevertheless, certain subcategories of illicit financial activity that frequently have a nexus with ML/TF that are better identified and studied can help contextualize the significance of its economic effects. For example, the eight percent of 2024 SHED participants

²²² Further discussion of these changes to costs are covered in section X.A.4.ii.c. The discussion in this section considers more exclusively the expected benefits to the general public that would flow from successful implementation of the proposed rule.

²²³ See *infra* section X.F #8 for a request for comment about the availability of such data.

²²⁴ For further discussion of the harms and risks associated with money laundering, see U.S. Department of the Treasury, *2024 National Strategy for Combating Terrorist and Other Illicit Financing* (May 2024), <https://home.treasury.gov/system/files/136/2024-Illicit-Finance-Strategy.pdf>; see also U.S. Department of the Treasury, *National Money Laundering Risk Assessment* (2024), <https://home.treasury.gov/system/files/136/2024-National-Money-Laundering-Risk-Assessment.pdf>.

described in section X.A.2.i.d above who reported being the victim of financial fraud or a scam involving their money, but not a credit card, only recovered \$21 billion from \$84 billion in identified losses, meaning \$63 billion was lost to fraud and scams. If this were the exclusive category of losses that the proposed rule's effectiveness addressed, then enhanced AML/CFT programs would only need to reduce—whether by greater deterrence and/or an increase in recovery—losses by a mere two-tenths (0.2) of a percent to generate an economic impact large enough for the proposed rule to be deemed a significant regulatory action.²²⁵

Thus despite an inability to precisely quantify the magnitude of anticipated aggregate economic benefit of the proposed rule to the general public, FinCEN anticipates that by reducing ML/TF risks, and by extension associated illicit activities, the related economic effects could reasonably be expected to be meaningfully large even if the subset of harms that are quantifiable are only reduced by very small proportions.

ii. Expected Costs

a. Regulated Financial Institutions

Given the magnitude of expenses incurred annually by financial institutions in efforts to satisfy existing program obligations, FinCEN estimates that a change in expenditures of as little as one percent would already be economically significant.

FinCEN currently lacks the data necessary to estimate the proportion of covered financial institutions that would establish and maintain their AML/CFT programs differently as a result of the proposed rule, the manner in which they would do so, and whether such changes were technically necessary for reasons uniquely attributable to the regulatory changes proposed.²²⁶ Additionally, given (1) the differences in baselines between covered financial institution types; (2) the differences in scope that must be covered by each of the covered financial institution type's AML/CFT programs;²²⁷ and (3) the extent to which compliance costs can vary within a covered financial institution type based on, for example, a financial institution's

²²⁵ As defined by E.O. 12866 under section 3(f)(1) as an annual effect on the economy of \$100 million or more. See *supra* note 111.

²²⁶ FinCEN requests comment on whether there are any categories of burden to covered financial institutions that should be articulated and quantified in this subsection and requests data that would support such burden estimation. See *infra* section X.F #9.

²²⁷ See *supra* section X.A.2.ii.

²²¹ In this context, the phrase "U.S. and State government agencies" is meant to include Treasury's Offices of Terrorist Financing and Financial Crimes, Foreign Assets Control, and Intelligence and Analysis, as well as the Attorney General, FFRs, relevant State financial regulators, and relevant law enforcement and national security agencies.

size and the level of program sophistication, it is not clear that the aggregate net costs incurred by all affected financial institutions as a result of this proposed rule would be distinguishable from zero.²²⁸

On the one hand, FinCEN cannot definitively conclude that the aggregate annual expenditure level across all categories of affected financial institutions would be expected to decrease, particularly in the short run. At the same time, FinCEN does not have a reasonable basis to expect that the proposed rule would necessitate an increase in aggregate costs because of the flexibility in risk-based resource allocation that it is intended to promote.

Furthermore, there are a number of scenarios in which the proposed rule could achieve its intended deregulatory effects while facially appearing to increase the burden of program compliance. For example, at the institutional level, a certain financial institution may be able to reduce per-unit compliance costs, while simultaneously increasing compliance-related expenditures due to technology-enabled expansion into new products, markets, or lines of business activities.

While projecting or demonstrating the successful deregulatory outcomes of the proposed rule may prove challenging, if even possible, using traditional accounting metrics, FinCEN expects that, to the extent that financial institutions make use of the opportunities afforded by the new effectiveness framework embedded in the rule, they should unequivocally incur the same or lower costs per unit of effective compliance. Expending greater financial outlays per unit of effective compliance would be fundamentally at odds with the proposed requirement for risk assessment processes to inform the development of internal policies, procedures and controls that mitigate risk by directing attention and resources toward higher-risk customers and activities.²²⁹

b. Government Costs

To implement the proposed rule, FinCEN expects to incur certain operating costs that would include approximately \$2.8 million prior to the final rule's effective date, \$6.2 million in the first effective year of the final rule, and approximately \$7.5 million in

the average subsequent year. These estimates include anticipated expenses related to stakeholder outreach and informational support, compliance monitoring, and potential enforcement activities as well as certain incremental increases to pre-existing administrative and logistic expenses.

FinCEN acknowledges that this treatment of cost estimates implicitly assumes that increased resources commensurate with any novel operating costs would exist. If this assumption does not hold, then operating costs associated with a rule may impose certain economic costs on the public in the form of opportunity costs from the agency's forgone alternative activities and those activities' attendant benefits. Putting that into the context of this proposed rule, and benchmarking against FinCEN's actual appropriated budget for fiscal year 2025 (\$190,193,000),²³⁰ the corresponding opportunity cost could resemble forgoing up to 3.2 percent (4.0 percent) of current activities annually in the first year (each subsequent year) in which a final rule was effective. However, to the extent that activities FinCEN would undertake as a function of the proposed rule would functionally substitute for or otherwise replace forgone activities, such an estimate likely overstates the potential economic costs to FinCEN and, consequently, the public.

FinCEN notes that these estimates do not include the potential costs borne by other regulators or entities engaged in informational outreach, examinations (such as those by SROs), or related enforcement activities as a consequence of the proposed rule. These estimates also do not include considered costs to the Agencies that may accrue in connection with the proposed new consultation requirements. FinCEN acknowledges that, as such, the cost estimates here would understate the burden of activities required to promote compliance with the rules, as proposed, and the full scope of government costs.

c. Clients or Customers of Covered Financial Institutions

FinCEN is mindful of concerns certain parties have long expressed regarding the potential for unintended effects, or other indirect costs, that can accompany an AML/CFT program inappropriately tailored to a financial institution's true risk profile and that are borne by its current and potential clients or customers. These include concerns

about both (1) the risk of increased inequities in access to financial services (or other consequences of overbroad de-risking strategies), which, if not prohibitive, can make it more expensive and less efficient for affected persons to conduct financial transactions, and (2) the potential for inequalities in report filing on the basis of characteristics unrelated (or insufficiently related) to the underlying nature of risk reported, which may impose other types of indirect costs.

FinCEN's general expectation is that the advancements in this proposed rule toward more effective programs would generally reduce, not increase, such burdens and costs to otherwise affected persons and reduce the likelihood that they may continue to face unduly limited—or a complete absence of—access to the services of various financial institutions. This is because FinCEN expects that, in complying with changes in the proposed rule, if adopted, financial institutions would be more empowered to provide services in a manner that is more appropriately tailored to their respective risk profiles (as identified by their risk assessment processes) and would be required to direct more attention and resources toward higher-risk customers and activities rather than lower-risk ones, including via the adoption of technological innovations that could improve the calibration of reporting processes. Thus, by reducing those institutions' prior disincentives to provide underserved communities with more efficient levels of services and access to the U.S. financial system, FinCEN expects that the proposed rule may reduce the costs of previously forgone economic activity as well as additional indirect costs persons might have incurred from previously calibrated reporting mechanisms.

5. Consideration of Policy Alternatives

FinCEN has considered several alternatives, in part or whole, to the currently proposed version of the rule, but is limiting the presentation here to considerations where public response may be most useful. The alternatives described below are scenarios that may have resulted in reduced burdens for certain affected financial institutions but would do so at the expense of forgone benefits or efficiency gains. For the reasons described below, FinCEN decided not to propose any of these alternatives. FinCEN invites comment on these alternatives, and on any other

²²⁸ FinCEN requests data on whether this expectation is reasonably accurate. See *infra* section X.F #10.

²²⁹ FinCEN requests comment on whether its assessment that the proposed changes would have a deregulatory impact is appropriate. See *infra* section X.F #13.

²³⁰ See FinCEN, *Congressional Budget Justification FY 2026*, available at <https://home.treasury.gov/system/files/266/11.-FinCEN-FY-2026-CJ.pdf>.

alternatives that were not considered here.²³¹

i. Alternatives Proposing Regulatory Definitions

The proposed rule reflects FinCEN's view that because financial institutions know their customers, businesses, and risks better than their regulators and the government, they are best positioned to identify and evaluate their ML/TF risks. However, in response to previous rulemaking efforts, comments from the public have indicated that allocating resources can be challenging if there is regulatory ambiguity or if examiner expectations are unclear or inconsistent. One way to alleviate such uncertainties and/or ambiguities could have been to promulgate more specific and prescriptive definitions for certain key terms/phrases fundamental to the design and operation of highly productive, value-creating AML/CFT programs. FinCEN considered alternatives that would have taken that approach with respect to the various phrases discussed in greater detail below, but ultimately determined such approaches were less desirable than those in the proposed rule. FinCEN includes the reasoning that informed its determinations here for review so that commenters may respond with information, data, studies, or other evidence that may have altered FinCEN's rank ordering of policies by perceived optimality.

Instead of proposing a two-prong, conceptual framework approach to define an "effective" AML/CFT program, FinCEN could have proposed a more prescriptive, attribute- or component-based definition. This approach, by leaving less to the facts and circumstances of a particular financial institution, would have reduced the uncertainty about regulatory and/or examiner expectations, potentially giving the institution greater ability to allocate resources in a cost-effective manner given the certainty about what criteria the program would need to meet to be considered operationally effective.

While FinCEN considered this potential for enhanced efficiency as a result of the greater clarity a more prescriptive, attribute- or component-based definition of effective would provide, the agency also weighed the potential benefits of this approach against certain concerns. One concern was that by being more prescriptive, an alternative definition of effective may leave less flexibility for an AML/CFT program to be tailored based on a

financial institution's size, activities, or other characteristics. Another concern was that, while engendering some planning and design efficiencies, a more prescriptive definition may exacerbate other, and potentially more consequential, inefficiencies, costs, and potential harms related to one-size-fits-all or "paper" programs. For these reasons, among others, FinCEN concluded that the proposed two-prong framework approach would strike a more appropriate balance between anticipated benefits and costs.

ii. Adopting the 2024 Program NPRM

Instead of the proposed rule, FinCEN alternatively could have chosen to promulgate a final rule that in part, or as a whole, would have adopted the requirements proposed in the 2024 Program NPRM, described above in section II.C.1. For a number of reasons, including certain concerns also expressed by commenters,²³² FinCEN considered that the formulation of program amendments proposed in this NPRM is likely to strike a more appropriate balance of benefits to costs.

In particular, the relationship envisioned between a financial institution's risk assessment process(es) and the allocation of attention and resources in this proposed rule is expected to more efficiently connect business intelligence and program execution. The proposed program requirements with respect to internal policies, procedures, and controls, expressly enable the mechanisms that transform business-operations-specific data into information about a financial institution's ML/TF risks to guide the architecture and resource allocation of that institution's AML/CFT program. This informed tailoring, in turn, is rewarded (and hence better incentivized) by the protections a properly established program would afford.

The proposed rule also improves upon the likelihood of the prior proposal to incentivize dynamic program developments that are aligned with evolving AML/CFT Priorities. This is expected to be the case because, unlike the 2024 Program NPRM, the proposed rule proffers an evaluative framework of effectiveness that would better insulate a financial institution from supervisory or enforcement actions that may otherwise unduly penalize innovation and/or customization that FinCEN would welcome but whose value a supervisory evaluator may not be as well-positioned to appreciate.

iii. Alternatives Delaying the Effective Date

As set forth in section VI, FinCEN is proposing that the rule's effective date be 12 months following the publication of the final rule. Because of comments received in response to the 2024 Program NPRM, FinCEN considered whether providing any additional periods of time to some or all expected affected financial institutions would facilitate a more efficient transition to practices in conformance with the new requirements.²³³ While the scope and nature of the anticipated changes to current practices differs substantially between NPRMs, the economic and practical realities of any financial institution that perceived a need to make non-trivial adjustments to its current program structure or activities likely do not.

a. An Additional Delay in Effective Date of Six Months for All Financial Institutions

One option FinCEN considered was an additional delay in the effective date of the final rule by six months for all covered financial institutions. This might allow financial institutions making substantive changes to their AML/CFT programs to better optimize while doing so, if, for instance, financing for new investments would need to be procured or budgets would need to be redrawn and reapproved. It would also ensure a more effective transition, if, for instance, additional systems testing before deployment significantly improved the security or quality of a newly established (or re-established) AML/CFT program as a whole or one of its internal or risk assessment process(es). The relative merits of this contemplated delay are expected to correlate with the proportion of the population anticipated to undertake program establishment or re-establishment-like actions. That is, this alternative would be considered more valuable if a greater proportion of regulated financial institutions were expected to make substantive changes than the proportion that may simply reallocate existing personnel and allotted budgets.

Because FinCEN expects that more financial institutions are likely to reallocate existing budgets and resources than newly undertake

²³¹ See *infra* section X.F #15.

²³² See *supra* section II.C.2.

²³³ In response to the 2024 Program NPRM, certain parties asserted a transition period of two or more years would be necessary to operationalize a paradigmatic shift in program practices, pointing to various logistic issues such as updating processes and technology, systems testing, and developing and deploying new training materials, among other necessary activities.

substantive, costly activities in response to the proposed rule, FinCEN considers the cost of further delays to regulatory implementation insufficiently offset by the incremental value of an additional six months to the relatively smaller portion of the population that might benefit from the delay.

b. An Additional Delay in Effective Date of 12 Months for Small Entities as Defined by the RFA

Another option FinCEN considered was an additional delay in effective date of the final rule by 12 months for only small entities as defined by the RFA. FinCEN considered that this option might be beneficial to small entities that may require more time to effectuate programmatic updates. Small entities may rely more than non-small entities on personnel in-house to conduct certain activities manually and may outsource technology functions and/or training to third parties more frequently or pervasively than non-small entities. Thus, they may need to take more steps to modify their AML/CFT programs, including, for example, renegotiating certain third-party services in light of the need for programs to be demonstrably tailored to the unique ML/TF risks of a given financial institution. At the same time, the proposed rule would allow for AML/CFT programs to be better tailored to the characteristics of the financial institution, including size. In practice, this may imply that many smaller entities would not need to undertake significant or costly changes and may even be able to reduce certain expenditures of resources in connection with ML/TF risks that are less relevant or germane to the small business's operations. On balance, it was not clear to FinCEN which effect would dominate—the potentially greater costs to a small entity of regulatory transition, which would weigh in favor of a delayed effective date, versus the potential for the transition to relieve burden and reduce costs, which would weigh against any delay—therefore FinCEN did not opt to pursue a small entity-specific timing accommodation.

c. A Hybrid Delay of 12 Months for Small Entities and Six Months for All Other Covered Financial Institutions

As a third option, FinCEN considered proposing an alternative effective date of 24 months following the adoption of the final rule for small covered financial institutions²³⁴ and 18 months for the

remaining covered financial institutions. This alternative would allow for an additional 12 months for the small covered financial institutions and an additional six months for the remaining covered financial institutions to transition to compliance with the final rule as adopted than what is being proposed.

FinCEN is not proposing to adopt this combined, graduated approach at this time for the same reasons that it declined to adopt either the general or small entity-specific timing accommodations separately.

B. E.O.s 12866, 13563, and 14192

E.O. 12866 and E.O. 13563 direct agencies to assess the benefits and costs of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, and public health and safety effects; distributive impacts; and equity). E.O. 13563 emphasizes the importance of quantifying both benefits and costs, reducing costs, harmonizing rules, and promoting flexibility. E.O. 13563 also recognizes that some benefits are difficult to quantify and provides that, where appropriate and permitted by law, agencies may consider and discuss qualitatively values that are difficult or impossible to quantify.²³⁵

This proposed rule was deemed “Economically Significant” by the Office of Information and Regulatory Affairs under E.O. 12866, section 3(f)(1). Per E.O. 12866, section 6(a)(3)(C), if a regulatory action is expected to result in a rule that would have an annual effect on the economy equal to or greater than \$100 million,²³⁶ an RIA is required. Accordingly, the foregoing analysis was conducted because it is expected to result in effects beyond this threshold.

When final, however, this action is not expected to be an E.O. 14192 regulatory action because the net change in aggregate costs attributable to the proposed rule is not expected to be easily distinguishable from zero.

C. Initial Regulatory Flexibility Analysis

When an agency issues a rulemaking proposal, the RFA requires the agency to either provide an IRFA or certify that the proposed rule would not have a significant economic impact on a substantial number of small entities.²³⁷

²³⁵ *Supra* note 112, E.O. 13563 at section 1(c) (“Where appropriate and permitted by law, each agency may consider (and discuss qualitatively) values that are difficult or impossible to quantify, including [. . .] distributive impacts.”).

²³⁶ 58 FR 51740–41; 76 FR 3821–22.

²³⁷ 5 U.S.C. 601 *et seq.*

Because the proposed rule may have a significant economic impact on a substantial number of small entities in certain affected industries, FinCEN undertook the following analysis. In the event that FinCEN has potentially overestimated the anticipated significance of the economic impact of the proposed rule, and certification would instead be more appropriate, comments to this effect—including studies, data, or other evidence—are invited.²³⁸

1. The Proposed Rule: Objectives, Description, and Legal Basis

The proposed rule would require covered financial institutions to establish and maintain effective AML/CFT programs, while amending FinCEN's regulations that prescribe the minimum requirements for AML/CFT programs. The proposed rule would also provide FinCEN with a greater role in the bank supervisory process by requiring that the Agencies, when acting under supervisory authority delegated by FinCEN, consult with FinCEN prior to taking a significant AML/CFT supervisory action.

By explicitly defining the requirements for an institution to establish and maintain an effective AML/CFT program and by standardizing the AML/CFT supervision and enforcement process for banks and their Federal banking regulators, the proposed rule is expected to better achieve the purposes of the BSA and improve outcomes for financial institutions and law enforcement and national security agencies.

The legal basis for the proposed rule is the AML Act. The purposes of the AML Act, among others, include to “modernize anti-money laundering and counter the financing of terrorism laws to adapt the government and private sector response to new and emerging threats;” “to encourage technological innovation and the adoption of new technology by financial institutions to more effectively counter money laundering and the financing of terrorism;” and “to reinforce that the anti-money laundering and countering the financing of terrorism policies, procedures, and controls of financial institutions shall be risk-based”²³⁹ as part of the broader initiative to “strengthen, modernize, and improve” the U.S. AML/CFT regime.

Specifically, section 6101(b)(2)(B)(ii) of the AML Act amended the BSA to require Treasury, when prescribing minimum standards for AML/CFT

²³⁸ *See infra* section X.F #16.

²³⁹ AML Act, section 6002(2)–(4) (Purposes).

²³⁴ *See* 13 CFR 121.201 for the size standards applied to small financial institutions as defined by the U.S. Small Business Administration (SBA).

programs, to take into account that AML/CFT programs should be “reasonably designed to assure and monitor compliance with the BSA and its implementing regulations and be risk based.”²⁴⁰ FinCEN intends for this proposed rule to meet these objectives by clarifying that covered financial institutions would need to establish and maintain effective AML/CFT programs such that they yield useful outcomes that support the purposes of the BSA.

In addition, with this proposed rule, FinCEN is addressing its first AML/CFT

Priorities. FinCEN published the first AML/CFT Priorities on June 30, 2021, as required under 31 U.S.C. 5318(h)(4)(A). In the proposed rule, FinCEN is proposing to add a new definition of “AML/CFT priorities” at 31 CFR 1010.100(nnn) to support the promulgation of regulations pursuant to 31 U.S.C. 5318(h)(4)(D). According to the proposed definition, “AML/CFT priorities” would refer to the most recent statement of Anti-Money Laundering and Counting the Financing

of Terrorism National Priorities issued pursuant to 31 U.S.C. 5318(h)(4).

2. The Expected Impact on Small Entities

FinCEN estimates that 98 percent of the financial institutions that would be subject to the proposed rule meet the RFA’s definitional criteria for a “small entity” in their respective industry.²⁴¹ Table 7 presents the relative size distribution by category of financial institution.²⁴²

TABLE 7—ESTIMATED PERCENTAGE OF SMALL ENTITIES BY COVERED FINANCIAL INSTITUTION TYPE

Financial institution type	Number of financial institutions ^a	Estimated percentage of small entities (%)
Banks with an FFR:		
FDIC	2,738	^b 75.4
FRB	703	^c 62.6
NCUA	4,287	^d 58.6
OCC	895	^e 68.0
Banks without an FFR	365	^f 99.7
Casinos	1,299	^g 68.5
Principal MSBs	24,856	^h 95.0
Agent MSBs	307,212	ⁱ 100.0
Broker-Dealers	3,278	^j 38.9
Mutual Funds	1,355	^k 94.0
Insurance Companies	717	^l 81.2
FCMs and IBCs	954	^m 93.7
DPMSJs	6,742	ⁿ 99.8
Operators of Credit Card Systems	4	^o 0
Loan or Finance Companies	13,342	^p 93.5
Housing GSEs	13	^q 0
Total	368,760	97.9

^a See *supra* table 1.

^b Based on consultation with FDIC staff, using FFIEC Reports on Condition and Income (Call Reports) data as of September 30, 2025. FinCEN estimated the percentage of small entities by dividing FDIC’s estimated number of small entities (2,064) by the estimated number of FDIC-regulated banks (2,738).

^c Based on consultation with FRB staff. FinCEN estimated the percentage of small entities by dividing FRB’s estimated number of small entities (440) by the estimated number of FRB-regulated banks (703).

^d Based on consultation with NCUA staff. The NCUA estimated that 2,514 of 4,287 federally insured credit unions met their operational definition of small, which requires that a credit union have less than \$100 million in assets.

^e Based on consultation with OCC staff. The OCC estimates the number of small entities based on the SBA’s size thresholds for commercial banks and savings institutions, and trust companies, which are \$850 million and \$47 million, respectively. Consistent with the General Principles of Affiliation at 13 CFR 121.103(a), the OCC counted the assets of affiliated financial institutions when determining if it should classify an OCC-supervised institution as a small entity. The OCC used data as of December 31, 2024, to determine size because a “financial institution’s assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.” See footnote 8 of the SBA, *Table of Small Business Size Standards* (Mar. 17, 2023), <https://www.sba.gov/document/support-table-size-standards>. FinCEN estimated the percentage of small entities by dividing the OCC’s estimated number of small entities (609) by the estimated number of OCC-regulated banks (895).

^f To FinCEN’s knowledge, only one bank without an FFR exceeds the \$850 million threshold criteria for small.

^g The SBA thresholds for a small business in this category (NAICS codes 713210 and 713290) are \$34 million and \$40 million, respectively. The 2022 SUBS data on the number of firms by receipts size indicate that 97 out of the 198 firms that received over \$1 million in annual receipts in NAICS code 713210 received between \$1 million and \$35 million in annual receipts, and 674 out of the 766 firms that received over \$1 million in annual receipts in NAICS code 713290 received between \$1 million and \$40 million in annual receipts. This results in an average of 68.5 percent.

^h The SBA thresholds for a small business in this category (NAICS codes 522320 and 522390) are \$47 million and \$28.5 million, respectively. The 2022 SUBS data indicate that 3,357 out of 3,532 firms in NAICS code 522320 received under \$50 million in annual receipts and 2,844 out of 2,977 firms in NAICS code 522390 received under \$30 million in annual receipts. This results in an average of 95.0 percent. This estimate differs from alternatively using the current SEC small entity standards in rulemakings involving mutual funds. See 17 CFR 270.0–10. The SEC has proposed to amend this standard. See SEC, “*Small Business*” and “*Small Organization*” *Definitions for Investment Companies and Investment Advisers for Purposes of the Regulatory Flexibility Act*, 91 FR 1107 (Jan. 12, 2026).

ⁱ This estimate is based on the assumption that all agent MSBs are small entities.

²⁴⁰ 31 U.S.C. 5318(h)(2)(B)(9)(iv)(II), as amended by section 6101 of the AML Act.

²⁴¹ 5 U.S.C. 601(6).

²⁴² FinCEN requests comment on the accuracy of these baseline estimates. See *infra* section X.F #17.

²⁴³ See *infra* section X.F #4, 5, 9, and 16.

more in any one year. Accordingly, FinCEN does not believe a budgetary impact statement or a consideration of regulatory alternatives would be required for UMRA purposes. Nevertheless, were these items to be required, FinCEN believes the section X analysis in its totality, including the consideration of alternatives presented in section X.A.5, would satisfy the analytical requirements by incorporation as permitted by UMRA.²⁴⁹

Members of the public who have reason to believe FinCEN has erred in its UMRA analysis, such as the possession of facts, data, studies, or anecdotal or other qualitative information that would cause FinCEN to reconsider its analytical conclusions, are invited to provide comment.²⁵⁰

E. Paperwork Reduction Act

The recordkeeping requirements in the proposed rule, which qualify as “collections of information” under the PRA, will be submitted to OMB for review in accordance with the PRA.²⁵¹ Under the PRA, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.²⁵² Written comments and

recommendations for the proposed information collection can be submitted by visiting <https://www.reginfo.gov/public/do/PRAMain>. Find this particular document by selecting “Currently Under Review—Open for Public Comments” or by using the search function. Comments are welcome and must be received by June 9, 2026.

In accordance with requirements of the PRA, 44 U.S.C. 3506(c)(2)(A), and its implementing regulations, 5 CFR part 1320, the following information concerns the collection of information as it relates to the amendments to covered financial institutions’ AML/CFT program regulations.

1. Description of Affected Financial Institutions and OMB Control Numbers

OMB Control Number(s): 1506–0020, 1506–0030, 1506–0035, and 1506–0051.

FinCEN has historically accounted for the existing reporting and recordkeeping burdens associated with the program rules using the following OMB control numbers: 1506–0020 (MSBs, mutual funds, and operators of credit card systems); 1506–0030 (DPMSJs); 1506–0035 (insurance companies, loan or finance companies, and banks lacking an FFR); and 1506–0051 (casinos). FinCEN does not maintain existing

OMB control numbers for the program rule requirements for banks,²⁵³ broker-dealers, FCMs or IBCs,²⁵⁴ or housing GSEs.²⁵⁵

This scoping of the population for purposes of PRA estimates avoids double counting the recordkeeping burdens of the proposed rule for entities regulated by the Agencies. The accounting of burden estimates for OMB purposes, when aggregated across the relevant control numbers, should be generally comparable for the common program-related components considered in both this and the Agencies’ respective exercises to the extent that the same assumptions about incremental burden apply.

Table 8 presents the same population estimates from the baseline analysis but appends the respective agency’s OMB control numbers to illustrate the differences in aggregate estimates that are attributable to the inclusion or exclusion of covered financial institutions accounted for under another agency’s control numbers or unassigned to a control number. This is followed by table 9, which includes only the covered financial institutions whose burdens are included in this PRA analysis, grouped by their respective control numbers.

TABLE 8—ESTIMATED NUMBER OF COVERED FINANCIAL INSTITUTIONS BY AGENCY OMB CONTROL NUMBER

Covered financial institution type	^a Number of financial institutions	Agency OMB control No.
Banks with an FFR:		
FDIC	2,738	FDIC 3064–0087
FRB	703	FRB 7100–0310
NCUA	4,287	NCUA 3133–0108
OCC	895	OCC 1557–0180
Banks without an FFR	365	FinCEN 1506–0035
Casinos	1,299	FinCEN 1506–0051
Principal MSBs	24,856	FinCEN 1506–0020
Agent MSBs	307,212	FinCEN 1506–0020
Broker-Dealers	3,278	N/A
Mutual Funds	1,355	FinCEN 1506–0020
Insurance Companies	717	FinCEN 1506–0035
FCMs and IBCs	954	N/A
DPMSJs	6,742	FinCEN 1506–0030
Operators of Credit Card Systems	4	FinCEN 1506–0020
Loan or Finance Companies	13,342	FinCEN 1506–0035
Housing GSEs	13	N/A

²⁴⁹ 2 U.S.C. 1532(c) (“Any agency may prepare any statement required under subsection (a) of this section in conjunction with or as a part of any other statement or analysis, provided that the statement or analysis satisfies the provisions of subsection (a) of this section.”).

²⁵⁰ See *infra* section X.F #19.

²⁵¹ See 44 U.S.C. 3506(c)(2)(A).

²⁵² See 44 U.S.C. 3507(a)(3).

²⁵³ Banks with an FFR have OMB control numbers that are maintained by the Agencies, as follows: (1) FDIC (OMB Control No. 3064–0087); (2) FRB (OMB Control No. 7100–0310); (3) NCUA (OMB Control No. 3133–0108); and (4) OCC (OMB Control No. 1557–0180).

²⁵⁴ See FinCEN, *Financial Crimes Enforcement Network; Anti-Money Laundering Programs for Financial Institutions*, 67 FR 21110 (Apr. 29, 2002). In the 2002 interim final rule, FinCEN noted it was appropriate to implement section 5318(h)(1) of the BSA with respect to broker-dealers and FCMs through their respective SROs, because the SEC and the CFTC and their SROs significantly accelerated the implementation of AML programs for their regulated financial institutions. Accordingly, 31 CFR 1023.210 and 1026.210 provides that broker-dealers, and FCMs and IBCs, respectively, would be deemed to be in compliance with the requirements of section 5318(h)(1) of the BSA if they comply with any applicable regulation of their FFR governing the establishment and implementation of AML

programs. FinCEN recognizes the SEC as the FFR, and registered national securities exchanges or a national securities association, such as FINRA, as the SROs for member broker-dealers. Each SRO may have its own AML program requirements. See, e.g., FINRA Rule 3310. The CFTC’s SRO is the National Futures Association. The AML program requirements for FCMs and IBCs are set out in NFA Rule 2–9(c). The SROs are not required to comply with the PRA. Therefore, there are no OMB control numbers for the AML/CFT program regulatory requirements of broker-dealers or FCMs and IBCs.

²⁵⁵ The PRA does not apply to the collection of information by one Federal agency (FinCEN) from another Federal entity (the housing GSEs).

TABLE 8—ESTIMATED NUMBER OF COVERED FINANCIAL INSTITUTIONS BY AGENCY OMB CONTROL NUMBER—Continued

Covered financial institution type	^a Number of financial institutions	Agency OMB control No.
Total	368,760	

^a See *supra* table 1.

TABLE 9—ESTIMATED NUMBER OF COVERED FINANCIAL INSTITUTIONS IN THE PRA ANALYSIS

Covered financial institution type	Number of financial institutions ^a	Affected financial institution types by activity			FinCEN OMB Control No.
		31 CFR 1021.210(2)(b)(vi)	CDD ^b	Program approval ^c	
Principal MSBs	24,856	.....	.....	✓	1506–0020
Agent MSBs ^d	307,212	.....	.....	.....	
Mutual Funds	1,355	.....	✓	.....	
Operators of Credit Card Systems	4	.....	.....	✓	
DPMSJs	6,742	.....	.....	✓	1506–0030
Banks without an FFR	365	.....	✓	.....	1506–0035
Insurance Companies	717	.....	.....	✓	
Loan or Finance Companies	13,342	.....	.....	✓	
Casinos	1,299	✓	.....	✓	1506–0051
Total	355,892	1,299	1,720	46,960	.....

^a See *supra* table 1.^b See *supra* table 3.^c See *supra* table 4.

^d FinCEN assumes that the activities associated with program approval would be operationalized at the principal-MSB level. Therefore, FinCEN does not estimate PRA burden for the agent MSB population associated with program approval. FinCEN requests comment on whether this is a reasonable assumption. See *infra* section X.F #20.

2. Estimated Annual Burden

Table 10 presents the burden hours and labor costs associated with features of current market practices pertaining to BSA compliance as previously published for public comment by FinCEN,²⁵⁶ which is responsible for

²⁵⁶ See FinCEN, Supporting Statement to OMB Control No. 1506–0035: *Anti-Money Laundering Programs for Insurance Companies, Loan or Finance Companies, and Banks Lacking a Federal Functional Regulator* (June 27, 2024), https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202406-1506-005; FinCEN, Supporting Statement to OMB Control No. 1506–0020: *Anti-Money Laundering Programs for Money Services Businesses, Mutual Funds, Operators of Credit Card Systems* (June 27, 2024), https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202406-1506-003;

reporting the PRA burdens for eight of the 11 covered financial institution types.²⁵⁷ FinCEN estimated that these covered financial institutions incur the same per-entity hourly burden for certain program requirements (e.g., maintaining and updating the written AML program, storing the program, or producing the program upon request).

FinCEN, Supporting Statement to OMB Control No. 1506–0030: *Anti-Money Laundering Programs for Dealers in Precious Metals, Precious Stones, or Jewels* (June 27, 2024), https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202406-1506-004; FinCEN, Supporting Statement to OMB Control No. 1506–0051: *Anti-Money Laundering Program Requirements for Casinos* (Oct. 28, 2024), https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202410-1506-002.

²⁵⁷ See *supra* table 8.

However, only certain covered financial institution types incur or have previously been assigned pro forma PRA costs associated with program requirements such as obtaining board of director or trustee approval of the AML program; obtaining, verifying, and storing cardholder identifying information; and ongoing compliance with the requirements in 31 CFR 1021.210(b)(2)(v) and (vi). Thus, the total burden associated with BSA compliance can vary significantly across covered financial institution types.²⁵⁸

²⁵⁸ FinCEN requests comment on whether it should articulate and assign PRA reporting and/or recordkeeping burden associated with any other activities required under the program rules. See *infra* section X.F #21.

TABLE 10—ESTIMATED BURDEN HOURS AND COST OF COMPLIANCE WITH CURRENT PROGRAM REQUIREMENTS FOR COVERED FINANCIAL INSTITUTIONS UNDER FINCEN OMB CONTROL NUMBERS

OMB Control No.	Covered financial institution type	Number of financial institutions	Total burden hours per program requirement						Total
			A. Maintaining and updating written AML program	B. Storing the written AML program	C. Producing the AML program upon request	D. Board of Directors/ Trustees approval of the AML program	E. Obtaining, verifying, and storing cardholder identifying information	F. Ongoing compliance with the requirements in 31 CFR 1021.210(b) (2)(v) and (vi)	
1506-0020	Principal MSBs—Providers and Sellers of Prepaid Access. Principal MSBs—Others Agent MSBs Mutual Funds Operators of Credit Card Systems DPMSJs Banks without an FFR Insurance Companies Loan or Finance Companies Casinos	2,605 24,895 229,161 1,400 4 6,700 600 4,678 13,000 1,277	2,605 24,895 1,400 4 6,700 600 4,678 13,000 1,277	217 2,075 19,097 117 0.3 558 50 390 1,083 106	217 2,075 19,097 117 0.3 558 50 390 1,083 106	217 2,075 19,097 117 0.3 558 50 390 1,083 106	..... ..... ..... ..... ..... ..... ..... ..... ..... ..... .....	..... ..... ..... ..... ..... ..... ..... ..... ..... ..... .....	89,706 29,044 38,194 3,033 5 7,817 1,300 5,458 15,167 127,913
1506-0030									
1506-0035									
1506-0051									
Total Burden Hours		284,320	55,159	23,693	23,693	2,000	86,667	126,423	317,635
Total Labor Cost		.....	\$5,863,402	\$2,518,601	\$2,518,601	\$212,600	\$9,212,667	\$13,438,765	\$33,764,636

As discussed in section X.A.4.ii, FinCEN does not expect this proposed rule to impose any new incremental burden on the covered financial institutions. Consequently, FinCEN does not expect that this proposed rule would result in any new incremental PRA recordkeeping burden. Still, in this analysis, in response to the proposed removal of the language associated with 31 CFR 1021.210(b)(2)(vi), which is unique to the casino AML program regulations, FinCEN proposes to remove a *de minimis* burden that is currently associated with that activity. In addition, FinCEN introduces new pro forma accounting estimates that reflect administrative updates to more accurately represent the activity currently undertaken by covered financial institutions to comply with CDD and program approval requirements. FinCEN discusses these administrative changes to the PRA recordkeeping burdens in more detail below.²⁵⁹

Administrative Changes in PRA Recordkeeping Burden Due to the Proposed Removal of 31 CFR 1021.210(b)(2)(vi)

The rule proposes to remove the language in 31 CFR 1021.210(b)(2)(vi), which requires casinos that have automated data processing systems to provide for the use of automated programs to aid in assuring compliance in their compliance program.²⁶⁰ In the most recent renewal, FinCEN has estimated that the annual burden per casino associated with this provision was *de minimis*;²⁶¹ thus, given the proposed changes, FinCEN is revising the associated annual burden for this component of program requirements per casino to 0 hours.

²⁵⁹ Please note that FinCEN is estimating only the paperwork burden associated with the specific program components discussed above (*i.e.*, the 31 CFR 1021.210(b)(2)(vi), CDD, and program approval requirements) in this PRA analysis, as other components of the full burden associated with existing program rules are accounted for in connection with OMB control numbers 1506–0020, 1506–0030, 1506–0035, and 1506–0051. See *supra* note 180 for the 60-day notice for OMB Control No. 1506–0020, 1506–0030, and 1506–0035 and the 60-day notice for OMB Control No. 1506–0051.

²⁶⁰ See *supra* section V.G.2. This rule also proposed to remove the language requiring MSBs that have automated data processing systems to integrate their compliance procedures with such systems. Since no PRA burden is associated with this requirement, FinCEN is not proposing any changes to OMB control number 1506–0020 is association with the proposed change.

²⁶¹ See *supra* note 180 for FinCEN, *Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of Anti-Money Laundering Program Requirements for Casinos*.

Administrative Changes in PRA Recordkeeping Burden Due to Reorganizing CDD Requirements Under Internal Policies, Procedures, and Controls

The rule also proposes to make ongoing CDD obligations part of the requirement that covered financial institutions establish risk-based internal policies, procedures, and controls that are reasonably designed. The organizational change more accurately reflects how covered financial institutions integrate the design and operationalization of ongoing CDD as part of their overall AML programs.

As discussed in section V.D.1.iii, certain financial institution types are required to conduct ongoing CDD, such as monitoring customer relationships and maintaining and updating customer information on a risk basis, though this burden has never been articulated in FinCEN's previous OMB renewals. Upon review, FinCEN has determined that this omission was likely due to a clerical oversight at the time that the original CDD rule was finalized in 2016 and in subsequent rulemakings that would apply AML/CFT program obligations on new categories of financial institution, has typically proposed to include the program elements of ongoing CDD requirements as an itemized cost.²⁶² Therefore, to harmonize PRA accounting practices and to more accurately reflect the burden associated with including ongoing CDD program obligations as part of a covered financial institution's necessary activities to establish risk-based internal policies, procedures, and controls that are reasonably designed, FinCEN is incorporating a new pro forma average annual burden of 50 hours to the existing burden of certain OMB control numbers covered by the rulemaking, where applicable. These burdens and costs reflect administrative updates that are being introduced to more accurately represent the activity currently undertaken by covered financial institutions to comply with program requirements. These PRA estimates do not represent, and should not be interpreted to reflect, novel incremental costs attributable to the proposed rule.

²⁶² See, e.g., FinCEN, *Financial Crimes Enforcement Network: Anti-Money Laundering/Countering the Financing of Terrorism Program and Suspicious Activity Report Filing Requirements for Registered Investment Advisers and Exempts Reporting Advisers*, 89 FR 72156 (Sept. 4, 2024).

Administrative Changes in PRA Recordkeeping Burden Associated With Proposed Standardization of the Program Approval Requirement

The proposed rule would also require a financial institution's board of directors, equivalent governing body within the financial institution, or appropriate senior management to approve each covered financial institution's written AML/CFT program. As discussed in section V.E.2 and presented in table 4, casinos and MSBs do not have explicit requirements to have their programs approved. Still FinCEN expects that the programs of these financial institutions must also be approved as a matter of best practice. Other financial institution types, including insurance companies, DPMSJs, operators of credit card systems, loan or finance companies, and housing GSEs, must currently obtain senior management-level approval for their programs. For consistency across all the covered financial institution types, FinCEN will include a one-hour pro forma average annual burden for all financial institutions covered under FinCEN's OMB control numbers to obtain approval of their program that do not currently have a PRA burden associated with program approval. Again, these PRA estimates do not represent, and should not be interpreted to reflect, novel incremental costs attributable to the proposed rule.

Estimated Number of Respondents: 48,680 financial institutions.²⁶³

As discussed above, FinCEN would make the following administrative changes to the PRA recordkeeping burdens in response to the proposed changes: (1) removing the *de minimis* burden incurred by casinos associated with the 31 CFR 1021.210(b)(2)(vi) requirement, (2) newly articulating the pro forma average annual 50-hour burden that banks without an FFR and mutual funds already incur associated with CDD obligations, and (3) newly articulating a pro forma average annual one-hour burden associated with program approval for financial institution types that do not already have PRA burden associated with that activity.

As presented in table 11, FinCEN estimates on average, these activities

²⁶³ FinCEN is adding a pro forma recordkeeping burden associated with the CDD requirements for 1,720 covered financial institutions and a pro forma recordkeeping burden associated with the proposed program approval requirements for 46,960 financial institutions, which includes the 1,299 casinos that would be additionally affected by the proposed removal of 31 CFR 1021.210(b)(2)(vi). This results in a total of 48,680 respondents.

result in an average annual burden of approximately 132,960 hours.

TABLE 11—PRA AVERAGE ANNUAL PRO FORMA BURDEN ESTIMATES

Activity	Number of respondents ^a	Hours per respondent	Total burden hours
Removal of 31 CFR 1021.210(b)(2)(vi)	1,299	0	0
CDD—General Program	1,720	50	86,000
Program Approval	46,960	1	46,960
Total	48,680	.....	132,960

^a See *supra* table 9.

3. Estimated Annual Cost

FinCEN estimates that the 132,960 burden hours associated with these activities would result in an average annual pro forma cost adjustment of approximately \$16.6 million.²⁶⁴

4. Summary of Burden and Cost Estimates

Estimated Number of Respondents: 48,680 financial institutions.

Estimated Aggregate Pro Forma Annual Burden: Approximately 132,960 hours.

Estimated Aggregate Pro Forma Annual Cost: Approximately \$16,564,157.²⁶⁵

5. General Request for Comments under the Paperwork Reduction Act

FinCEN invites comments on: (1) whether the collection of information is necessary for the proper performance of the mission of FinCEN, including whether the information would have practical utility; (2) the accuracy of FinCEN's estimate of the burden of the

proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information required to be maintained; (4) ways to minimize the burden of the collection of information, 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 required to report the information.

F. Additional Requests for Comment

Baseline Estimates

1. Are FinCEN's baseline estimates of the number of covered financial institutions in each industry accurate? Are there specific sources of data that would suggest any of these population estimates should be revised? Please provide data, studies, or anecdotal evidence that would support any suggested alternatives.

2. Is it appropriate for FinCEN to presume covered financial institutions are generally in full compliance with current rules? If not, please provide defensible methods, data, studies, or anecdotal evidence that FinCEN could use to estimate the share of non-compliant financial institutions and identify the areas in which they are not currently compliant in order to revise the baseline assessment of current market practices.

3. To what extent should the economic impact on additional key, directly affected subpopulations of the general public be considered in the RIA? Please provide data, studies, or reports that would enhance FinCEN's ability to identify and quantify such effects.

4. Are FinCEN's baseline expectations about how covered financial institutions currently comply with existing program rules and the incremental change in burden due to the proposed changes reasonably accurate? In particular, are the baseline expectations accurate for small covered financial institutions? Are there any other aspects of current practice that FinCEN should have

considered or further information about the aspects considered that should be included?

5. Do the cost estimates presented in the RIA baseline reflect a reasonable range of the costs that covered financial institutions incur to maintain their AML/CFT programs? Is the assumption that per-entity costs would be lower for covered non-bank financial institutions than covered banks of similar sizes a reasonable one? How much does a typical financial institution spend to implement their current AML program? How much does a typical small financial institution spend to implement their current AML program?

6. Are FinCEN's expectations about the incremental change in burden on regulators and compliance examiners described in sections X.A.3.iv, X.A.4.i.b, and X.A.4.ii.b due to the proposed changes reasonable? If not, please provide data, studies, or anecdotal evidence that would support an alternate conclusion.

Potential Efficiencies and Burden

7. Because program rules are a minimum standard, FinCEN preemptively qualified its analysis as likely to overstate both the benefits and costs of the proposed rule for covered financial institutions that already strive for best practices or whose programs already meet or surpass the proposed requirements, and assumes it should not, in theory, affect an assessment of the overall net effects, as the differences in benefits and costs should offset each other. Is this expectation reasonable? Please provide data or information, if available, that would improve the accuracy of FinCEN's assessment of impact if this reliance on theory is not appropriate.

8. Is there any empirical evidence or data that would support the quantification of how much money laundering and the financial of terrorism could be reduced as a result of the proposed rule or the quantification of how much other illegal activity could

²⁶⁴ The wage rate applied here is a general composite hourly wage (\$87.61) scaled by a private sector benefits factor of 1.42 (\$124.58 = \$87.61 × 1.42). This incorporates Bureau of Labor Statistics mean wage data associated with six occupational codes (11–1010: Chief Executives; 11–3021: Computer and Information Systems Managers; 11–3031: Financial Managers; 13–1041: Compliance Officers; 23–1010: Lawyers and Judicial Law Clerks; 43–3099: Financial Clerks, All Other) for each of the nine groupings of NAICS industry codes that FinCEN determined are most directly comparable to its 11 categories of potentially affected financial institutions as delineated in 31 CFR parts 1020 to 1030. See Bureau of Labor Statistics, *May 2024—National industry-specific and by ownership*, <https://www.bls.gov/oes/tables.htm>. Given that many occupations provide benefits beyond wages (e.g., insurance and paid leave), FinCEN applies the private sector benefit factor to the unloaded wage rate to reflect the total cost to the employer. The benefit factor is the ratio of total compensation (which includes wages and benefits) to wages. Total compensation = 43.94 and Wages and salaries = 30.90 (1.42 = 43.94 ÷ 30.90) as of June 2024, based on the private industry workers series data downloaded from the Bureau of Labor Statistics. Bureau of Labor Statistics, *Employer Costs for Employee Compensation* data, https://www.bls.gov/news.release/archives/eccec_09102024.pdf.

²⁶⁵ 132,960 hours multiplied by an average hourly wage rate of \$124.58 equals \$16,564,157.

be curbed by this reduction in money laundering and terrorist financing?

9. As described in section X.A.4.ii.a of the RIA, FinCEN has not identified any unambiguous sources of significant burden on covered financial institutions that would result from the changes described in the proposed rule. Are there categories of burden that FinCEN should articulate and quantify as part of its calculated burden estimates? For example, costs associated with becoming familiar with the rule, external consultation costs, costs to establish and maintain an AML/CFT program, training costs, or other costs associated with ongoing compliance. If so, what are they, and what are the estimated one-time and ongoing burdens per financial institution? In particular, what are the estimated one-time and ongoing burdens per small financial institution?

10. Is FinCEN's expectation that, in aggregate, the net change in cost incurred by covered financial institutions would not be easily distinguished from zero as a result of the proposed changes reasonably accurate?

11. Would implementing any changes necessary to comply with the proposed rule be expected to increase or decrease current compliance costs and by how much? For example, are there any current compliance costs that would be reduced by the proposed requirement that attention and resources be directed toward high-risk activities and customers rather than low-risk activities and customers? What type and share of covered financial institutions would likely experience this change in compliance costs?

12. What is the likelihood that a covered financial institution or group of covered financial institutions, by type, would invest in updating or new technology as a result of the rule as proposed? Are there modifications to the proposed rule that would significantly increase (or decrease) this likelihood? If so, please describe. Where possible, please explain why the described modification is expected to change the likelihood.

13. Is FinCEN's assessment that the proposed changes would have a deregulatory impact appropriate? Are there specific sources of empirical evidence or data that would suggest this determination should be revised? Please provide data, studies, or anecdotal evidence that would support any suggested alternative determination.

14. With respect to the economic analysis in its entirety, are there comments as to the specific findings, assumptions, or expectations?

ALTERNATIVES

15. FinCEN requests comment on the alternative policy options presented in section X.A.5 as well as any other alternatives that were not considered and their economic effects. Please provide information, data, studies, or other evidence that would support any suggested alternatives that FinCEN should consider.

IRFA

16. Is FinCEN's expectation that the proposed rule would have a significant economic impact on a significant number of small entities reasonable? Are there specific sources of empirical evidence or data that would suggest this determination should be revised? Please provide data, studies, or anecdotal evidence that would support the suggested alternative determination.

17. Are FinCEN's baseline estimates of the proportion of each industry type's regulated financial institutions that are small reasonably accurate? Are there specific sources of data that would suggest any of these percentages should be revised?

18. Has FinCEN reasonably assessed the relative value to affected small businesses that the alternative 12 additional months to transition compliance to the proposed new and amended program requirements would afford?

UMRA

19. FinCEN does not anticipate that the proposed rule would result in novel incremental aggregate expenditures by State, local, or Tribal governments, or by the private sector of \$193 million or more in any one year. Is this assumption reasonable? If not, what studies, data, or anecdotal evidence should be taken into consideration that would update this expectation?

PRA

20. Is it reasonable to assume that the PRA recordkeeping burden associated with program approval requirements would generally be incurred at the principal-MSB level rather than the agent-MSB level? If not, what share of the agent MSB population would likely incur the recordkeeping burden?

21. Does current market practice associated with conducting an audit as part of independent AML program testing involve documenting the results of the audit? If so, should FinCEN articulate and assign a PRA recordkeeping burden for doing so? And if so, how much burden should be attributed to the activity?

List of Subjects

31 CFR Part 1010

Administrative practice and procedure, Aliens, Authority delegations (Government agencies), Banks, banking, Brokers, Business and industry, Citizenship and naturalization, Commodity futures, Crime, Currency, Electronic filing, Federal savings associations, Federal-State relations, Fiduciaries, Foreign banking, Foreign currencies, Foreign persons, Gambling, Holding companies, Indians, Indians-law, Indians-tribal government, Insurance companies, Investigations, Investment companies, Law enforcement, Penalties, Reporting and recordkeeping requirements, Savings associations, Securities, Small business, Terrorism, Time.

31 CFR Part 1020

Administrative practice and procedure, Banks, banking, Brokers, Citizenship and naturalization, Commodity futures, Currency, Electronic filing, Federal savings associations, Federal-State relations, Foreign banking, Foreign currencies, Foreign persons, Holding companies, Investigations, Penalties, Reporting and recordkeeping requirements, Securities, Terrorism.

31 CFR Parts 1021, 1024, 1025, and 1028

Administrative practice and procedure, Banks, banking, Brokers, Currency, Foreign banking, Foreign currencies, Gambling, Investigations, Penalties, Reporting and recordkeeping requirements, Securities.

31 CFR Parts 1022 and 1027

Administrative practice and procedure, Banks, banking, Currency, Foreign banking, Foreign currencies, Gambling, Investigations, Penalties, Reporting and recordkeeping requirements, Securities.

31 CFR Part 1023

Administrative practice and procedure, Banks, banking, Brokers, Currency, Foreign banking, Gambling, Investigations, Penalties, Reporting and recordkeeping requirements, Securities.

31 CFR Part 1026

Administrative practice and procedure, Banks, banking, Brokers, Currency, Foreign banking, Gambling, Investigations, Penalties, Reporting and recordkeeping requirement, Securities.

31 CFR Parts 1029 and 1030

Administrative practice and procedure, Banks, banking, Brokers,

Currency, Foreign banking, Foreign currencies, Gambling, Investigations, Penalties, Reporting and recordkeeping requirements, Securities, Terrorism.

For the reasons set forth in the **SUPPLEMENTARY INFORMATION**, FinCEN proposes to amend 31 CFR parts 1010, 1020, 1021, 1022, 1023, 1024, 1025, 1026, 1027, 1028, 1029, and 1030 as follows:

PART 1010—GENERAL PROVISIONS

- 1. The authority citation for part 1010 is revised to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1960; 31 U.S.C. 5311–5314 and 5316–5336; title III, sec. 314, Pub. L. 107–56, 115 Stat. 307; sec. 2006, Pub. L. 114–41, 129 Stat. 458–459; sec. 701, Pub. L. 114–74, 129 Stat. 599; sec. 6403, Pub. L. 116–283, 134 Stat. 3388.

- 2. Amend § 1010.100 by:

- a. Revising paragraphs (e) and (r); and
■ b. Adding paragraphs (nnn) and (ooo).
The revisions and additions read as follows:

§ 1010.100 General definitions.

* * * * *

(e) *Bank Secrecy Act*. The Bank Secrecy Act means 12 U.S.C. 1829b, 12 U.S.C. 1951–1960, and 31 U.S.C. 5311–5314 and 5316–5336, including notes thereto.

* * * * *

(r) *Federal functional regulator*. (1) The Board of Governors of the Federal Reserve System;

(2) The Office of the Comptroller of the Currency;

(3) The Federal Deposit Insurance Corporation;

(4) The National Credit Union Administration;

(5) The Securities and Exchange Commission; or

(6) The Commodity Futures Trading Commission.

* * * * *

(nnn) *AML/CFT priorities*. AML/CFT priorities means the most recent statement of Anti-Money Laundering and Countering the Financing of Terrorism National Priorities issued pursuant to 31 U.S.C. 5318(h)(4).

(ooo) *Federal Financial Institutions Regulatory Agency*. (1) The Board of Governors of the Federal Reserve System;

(2) The Office of the Comptroller of the Currency;

(3) The Federal Deposit Insurance Corporation; or

(4) The National Credit Union Administration.

PART 1020—RULES FOR BANKS

- 3. The authority citation for part 1020 is revised to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1960; 31 U.S.C. 5311–5314 and 5316–5336; title III, sec. 314, Pub. L. 107–56, 115 Stat. 307; sec. 701, Pub. L. 114–74, 129 Stat. 599.

- 4. Revise the subpart A heading to read as follows:

Subpart A—General Provisions

- 5. Add § 1020.110 to read as follows:

§ 1020.110 Severability.

If any provision of this part, or any provision of this chapter referencing banks, is held to be invalid, or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions, or application of such provisions to other persons or circumstances, that can be given effect without the invalid provision or application.

- 6. Revise § 1020.210 to read as follows:

§ 1020.210 Anti-money laundering/ countering the financing of terrorism program requirements for banks.

(a) *In general*. A bank has an effective AML/CFT program and complies with the requirements of 31 U.S.C. 5318(h)(1) and this section if the bank:

(1) Establishes an AML/CFT program in accordance with paragraph (b) of this section; and

(2) Maintains an AML/CFT program by implementing the AML/CFT program in accordance with paragraph (c) of this section.

(b) *Program establishment*. A bank establishes an AML/CFT program in accordance with this paragraph (b) if the bank:

(1) Establishes a risk-based set of internal policies, procedures, and controls that is reasonably designed to ensure compliance with the Bank Secrecy Act and this chapter and to:

(i) Identify, assess, and document the bank's money laundering, terrorist financing, and other illicit finance activity risks through risk assessment processes that:

(A) Evaluate the money laundering, terrorist financing, and other illicit finance activity risks of the bank's business activities, including its products, services, distribution channels, customers, and geographic locations;

(B) Review and, as appropriate, incorporate the AML/CFT priorities; and

(C) Are updated promptly upon any change that the bank knows or has reason to know significantly changes the bank's money laundering, terrorist financing, and other illicit finance activity risks;

(ii) Mitigate the bank's money laundering, terrorist financing, and other illicit finance activity risks consistent with the risk assessment processes required under paragraph (b)(1)(i) of this section, including by directing more attention and resources toward higher-risk customers and activities, consistent with the risk profile of the bank, rather than toward lower-risk customers and activities; and

(iii) Conduct ongoing customer due diligence, including to:

(A) Understand the nature and purpose of customer relationships for the purpose of developing a customer risk profile; and

(B) Conduct ongoing monitoring to identify and report suspicious transactions and, on a risk basis, to maintain and update customer information (including information regarding the beneficial owners of legal entity customers, as defined in § 1010.230 of this chapter);

(2) Establishes independent AML/CFT program testing to be conducted by bank personnel or by an outside party;

(3) Designates an individual, who is:

(i) Located in the United States;

(ii) Accessible to, and subject to oversight and supervision by, FinCEN and its designee; and

(iii) Responsible for establishing and implementing the AML/CFT program and coordinating and monitoring day-to-day compliance; and

(4) Establishes an ongoing employee training program.

(c) *Program implementation*. A bank implements an AML/CFT program in accordance with this paragraph (c) if the bank implements, in all material respects, the AML/CFT program required under paragraph (b) of this section.

(d) *Written AML/CFT program and approval*. A bank's AML/CFT program must be written, and it must be approved by the bank's board of directors, an equivalent governing body within the bank, or appropriate senior management. The bank must make a copy of its AML/CFT program available to FinCEN or its designee upon request.

- 7. Amend § 1020.220 by revising paragraphs (a)(1) and (a)(6)(iii) to read as follows:

§ 1020.220 Customer identification program requirements for banks.

(a) * * *

(1) *In general*. A bank required to have an AML/CFT program under 31 U.S.C. 5318(h), 12 U.S.C. 1818(s), or 12 U.S.C. 1786(q)(1) must implement a written Customer Identification Program (CIP) appropriate for the bank's size and type of business that, at a minimum,

includes each of the requirements of paragraphs (a)(1) through (5) of this section. The CIP must be a part of the AML/CFT program.

* * * * *

(6) * * *

(iii) The other financial institution enters into a contract requiring it to certify annually to the bank that it has implemented its AML/CFT program, and that it will perform (or its agent will perform) the specified requirements of the bank's CIP.

* * * * *

■ 8. Add § 1020.221 to read as follows:

§ 1020.221 Supervision and enforcement.

(a) *Definitions.* For purposes of this section:

(1) *AML/CFT enforcement action* means any formal or informal action taken by FinCEN that seeks to penalize, remedy, prevent, or respond to noncompliance with past or ongoing violations of, or past or ongoing deficiencies relating to, an AML/CFT requirement. The term includes—

(i) A cease-and-desist order, consent order, or memorandum of understanding; or

(ii) The assessment of a civil money penalty.

(2) *AML/CFT requirement* means a requirement of the Bank Secrecy Act or this chapter.

(3) *Significant AML/CFT supervisory action* means any written communication or other formal supervisory determination issued by FinCEN or a Federal Financial Institutions Regulatory Agency when acting pursuant to authority delegated under this chapter that, in either case—

(i) Identifies one or more alleged deficiencies, weaknesses, violations of law, or unsafe or unsound practices or conditions relating to an AML/CFT requirement;

(ii) Communicates supervisory expectations to a bank regarding actions or remedial measures required to correct the deficiency, weakness, violation, or practice or condition; and

(iii) Contemplates significant or programmatic actions or remedial measures to be taken by the bank.

(iv) The term does not include examiner observations, suggestions, or other informal comments.

(b) *FinCEN enforcement and supervision policy*—(1) *In general.* Except with respect to a significant or systemic failure to implement the AML/CFT program in accordance with § 1020.210(c), a bank that has established an AML/CFT program in accordance with § 1020.210(b) will not be subject to:

(i) An AML/CFT enforcement action related to the requirements of 31 U.S.C. 5318(h)(1) § 1020.210 by FinCEN; or

(ii) A significant AML/CFT supervisory action related to the requirements of 31 U.S.C. 5318(h)(1) or § 1020.210 by FinCEN or by a Federal Financial Institutions Regulatory Agency when acting pursuant to authority delegated under this chapter.

(2) *Program establishment violations.* Nothing in this paragraph (b) may be construed to restrict an AML/CFT enforcement action by FinCEN, or a significant AML/CFT supervisory action by FinCEN or a Federal Financial Institutions Regulatory Agency when acting pursuant to authority delegated under this chapter with respect to any failure to establish an AML/CFT program in accordance with § 1020.210(b).

(3) *Criminal enforcement.* Nothing in this paragraph (b) may be construed to affect criminal enforcement liability under the Bank Secrecy Act.

(c) *FinCEN consultation*—(1) *Consultation and consideration requirement.* Before initiating a significant AML/CFT supervisory action, a Federal Financial Institutions Regulatory Agency when acting pursuant to authority delegated under this chapter will provide the Director, FinCEN an opportunity to review the action and consider any input offered by the Director, FinCEN on the action, which may include any view as to the effectiveness of the bank's AML/CFT program.

(2) *Notice requirement.* To provide the Director, FinCEN an opportunity to provide a view under paragraph (c)(1) of this section, a Federal Financial Institutions Regulatory Agency when acting pursuant to authority delegated under this chapter will:

(i) Send written notice to the Director, FinCEN of its intent to take that action at least 30 days before taking the action (unless a shorter period of time is necessary, in the sole discretion of the Federal Financial Institutions Regulatory Agency, to remedy, prevent, or respond to an unsafe or unsound practice or condition), accompanied by the relevant AML/CFT information underlying the proposed action, including the relevant portions of the draft report or enforcement action, the relevant examination workpapers supporting the proposed action, and the relevant AML/CFT information submitted by the bank to the Federal Financial Institutions Regulatory Agency, other than information over which the bank may claim privilege under Federal or State law; and

(ii) Respond to the extent reasonably practicable to requests for additional information from the Director, FinCEN regarding the proposed action.

(d) *FinCEN considerations.* In determining whether to take an AML/CFT enforcement action or significant AML/CFT supervisory action, or when reviewing a proposed action by a Federal Financial Institutions Regulatory Agency under paragraph (c) of this section or 12 CFR 21.21, 208.63, 211.5(m), 211.24(j), 326.8, or 748.2, the Director, FinCEN shall consider:

(1) The factors under 31 U.S.C. 5318(h)(2)(B), as applicable to actions concerning the AML/CFT program requirements under § 1020.210;

(2) The extent (if any) to which the bank, where appropriate in light of its size, complexity, and risk profile, has advanced the AML/CFT priorities by providing highly useful information to law enforcement authorities or national security officials, conducting proactive analytics, or performing other innovative activities producing demonstrable outputs evincing the effectiveness of the bank's AML/CFT program (including effective use of artificial intelligence, federated learning, and other advanced monitoring tools); and

(3) Any other factor the Director, FinCEN deems appropriate, including the bank's size, complexity, and risk profile, and, as relevant, where the bank's low-risk customers or limited business activities naturally limits the extent to which the bank can meaningfully contribute to AML/CFT priorities.

PART 1021—RULES FOR CASINOS AND CARD CLUBS

■ 9. Revise the authority citation for part 1021 to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1960; 31 U.S.C. 5311–5314 and 5316–5336; title III, sec. 314, Pub. L. 107–56, 115 Stat. 307; sec. 701, Pub. L. 114–74, 129 Stat. 599.

■ 10. Revise the subpart A heading to read as follows:

Subpart A—General Provisions

■ 11. Add § 1021.110 to read as follows:

§ 1021.110 Severability.

If any provision of this part, or any provision of this chapter referencing casinos and card clubs, is held to be invalid, or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions, or application of such provisions to other persons or circumstances, that can be given effect

without the invalid provision or application.

■ 12. Revise § 1021.210 to read as follows:

§ 1021.210 Anti-money laundering/countering the financing of terrorism program requirements for casinos.

(a) *In general.* A casino has an effective AML/CFT program and complies with the requirements for 31 U.S.C. 5318(h)(1) if the casino:

(1) Establishes an AML/CFT program in accordance with paragraph (b) of this section; and

(2) Maintains an AML/CFT program by implementing the AML/CFT program in accordance with paragraph (c) of this section.

(b) *Program establishment.* A casino establishes an AML/CFT program in accordance with this paragraph (b) if the casino:

(1) Establishes a risk-based set of internal policies, procedures, and controls that is reasonably designed to ensure compliance with the Bank Secrecy Act and this chapter and to:

(i) Identify, assess, and document the casino's money laundering, terrorist financing, and other illicit finance activity risks through risk assessment processes that:

(A) Evaluate the money laundering, terrorist financing, and other illicit finance activity risks of the casino's business activities, including products, services, distribution channels, customers, and geographic locations;

(B) Review and, as appropriate, incorporate the AML/CFT priorities; and

(C) Are updated promptly upon any change that the casino knows or has reason to know significantly changes the casino's money laundering, terrorist financing, and other illicit finance activity risks; and

(ii) Mitigate the casino's money laundering, terrorist financing, and other illicit finance activity risks consistent with the risk assessment processes required under paragraph (b)(1)(i) of this section, including by directing more attention and resources toward higher-risk customers and activities, consistent with the risk profile of the casino, rather than toward lower-risk customers and activities;

(2) Establishes independent AML/CFT program testing to be conducted by casino personnel or by an outside party;

(3) Designates an individual, who is:

(i) Located in the United States;

(ii) Accessible to, and subject to oversight and supervision by, FinCEN and its designee; and

(iii) Responsible for establishing and implementing the AML/CFT program

and coordinating and monitoring day-to-day compliance; and

(4) Establishes an ongoing employee training program.

(5) Procedures for using all available information to determine:

(i) When required by this chapter, the name, address, social security number, and other information, and verification of the same, of a person;

(ii) The occurrence of any transactions or patterns of transactions required to be reported pursuant to § 1021.320; and

(iii) Whether any record as described in subpart D of part 1010 of this chapter or subpart D of this part must be made and retained.

(c) *Program implementation.* A casino implements an AML/CFT program in accordance with this paragraph (c) if the casino implements, in all material aspects, the AML/CFT program required under paragraph (b) of this section.

(d) *Written AML/CFT program and approval.* A casino's AML/CFT program must be written, and it must be approved by the casino's board of directors, an equivalent governing body within the casino, or appropriate senior management. The casino must make a copy of its AML/CFT program available to FinCEN or its designee upon request.

■ 13. Amend § 1021.410 by revising paragraph (b)(10) to read as follows:

§ 1021.410 Additional records to be made and retained by casinos.

* * * * *

(b) * * *

(10) A copy of the AML/CFT program described in § 1021.210.

* * * * *

PART 1022—RULES FOR MONEY SERVICES BUSINESSES

■ 14. Revise the authority citation for part 1022 to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1960; 31 U.S.C. 5311–5314 and 5316–5336; title III, sec. 314, Pub. L. 107–56, 115 Stat. 307; sec. 701, Pub. L. 114–74, 129 Stat. 599.

■ 15. Revise the subpart A heading to read as follows:

Subpart A—General Provisions

■ 16. Add § 1022.110 to read as follows:

§ 1022.110 Severability.

If any provision of this part, or any provision of this chapter referencing money services businesses, is held to be invalid, or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions, or application of such provisions to other persons or circumstances, that can be given effect without the invalid provision or application.

■ 17. Revise § 1022.210 to read as follows:

§ 1022.210 Anti-money laundering/countering the financing of terrorism program requirements for money services businesses.

(a) *In general.* A money services business has an effective AML/CFT program and complies with the requirements of 31 U.S.C. 5318(h) and this section if the money services business:

(1) Establishes an AML/CFT program in accordance with paragraph (b) of this section; and

(2) Maintains an AML/CFT program by implementing the AML/CFT program in accordance with paragraph (c) of this section.

(b) *Program establishment.* A money services business establishes an AML/CFT program in accordance with this paragraph (b) if the money services business:

(1) Establishes a risk-based set of internal policies, procedures, and controls that is reasonably designed to ensure compliance with the Bank Secrecy Act and this chapter and to:

(i) Identify, assess, and document the money services business's money laundering, terrorist financing, and other illicit finance activity risks through risk assessment processes that:

(A) Evaluate the money laundering, terrorist financing, and other illicit finance activity risks of the money services business's activities, including products, services, distribution channels, customers, and geographic locations;

(B) Review and, as appropriate, incorporate the AML/CFT priorities; and

(C) Are updated promptly upon any changes that the money services business knows or has reason to know significantly changes the money services business's money laundering, terrorist financing, and other illicit finance activity risks; and

(ii) Mitigate the money services business's money laundering, terrorist financing, and other illicit finance activity risks consistent with the risk assessment processes required under paragraph (b)(1)(i) of this section, including by directing more attention and resources toward higher-risk customers and activities, consistent with the risk profile of the money services business, rather than toward lower-risk customers and activities; and

(iii) To the extent applicable to the money services business:

(A) Verify customer identification, including as set forth in paragraph (b)(1)(v) of this section;

- (B) File reports;
- (C) Create and retain records; and
- (D) Respond to law enforcement requests.

(iv) For a person that is a money services business solely because it is an agent for another money services business, as set forth in § 1022.380(a)(3) and for the money services business for which it serves as agent, choose by agreement to allocate between them responsibility for development of internal policies, procedures, and controls required by this paragraph (b)(1). Each money services business will remain solely responsible for implementation of the requirements set forth in this section, and nothing in this paragraph (b)(1) relieves any money services business from its obligation to establish and maintain an effective AML/CFT program.

(v) For a money services business that is a provider or seller of prepaid access, establish procedures to verify the identity of a person who obtains prepaid access under a prepaid program and obtain identifying information concerning such a person, including name, date of birth, address, and identification number. Sellers of prepaid access must also establish procedures to verify the identity of a person who obtains prepaid access to funds that exceed \$10,000 during any one day and obtain identifying information concerning such a person, including name, date of birth, address, and identification number. Providers of prepaid access must retain access to such identifying information for five years after the last use of the prepaid access device or vehicle; such information obtained by sellers of prepaid access must be retained for five years from the date of the sale of the prepaid access device or vehicle.

(2) Establishes independent AML/CFT program testing to be conducted by money services business personnel or by an outside party.

(3) Designates an individual, who is:

- (i) Located in the United States;
- (ii) Accessible to, and subject to oversight and supervision by, FinCEN and its designee; and
- (iii) Responsible for establishing and implementing the AML/CFT program and coordinating and monitoring day-to-day compliance.

(4) Establishes an ongoing employee training program.

(c) *Program implementation.* A money services business implements an AML/CFT program in accordance with this paragraph (c) if the money services business implements, in all material respects, the AML/CFT program

required under paragraph (b) of this section.

(d) *Written AML/CFT program and approval.* A money services business's AML/CFT program must be written, and it must be approved by the money services business's board of directors, an equivalent governing body within the bank, or appropriate senior management. The money services business must make a copy of its AML/CFT program available to FinCEN or its designee upon request.

(e) *Compliance date.* A money services business must develop and implement an anti-money laundering program that complies with the requirements of this section on or before the end of the 90-day period beginning on the day following the date the business is established.

PART 1023—RULES FOR BROKERS OR DEALERS IN SECURITIES

■ 18. Revise the authority citation for part 1023 to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1960; 31 U.S.C. 5311–5314 and 5316–5336; title III, sec. 314, Pub. L. 107–56, 115 Stat. 307; sec. 701, Pub. L. 114–74, 129 Stat. 599.

■ 19. Revise the subpart A heading to read as follows:

Subpart A—General Provisions

■ 20. Add § 1023.110 to read as follows:

§ 1023.110 Severability.

If any provision of this part, or any provision of this chapter referencing brokers-dealers, is held to be invalid, or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions, or application of such provisions to other persons or circumstances, that can be given effect without the invalid provision or application.

■ 21. Revise § 1023.210 to read as follows:

§ 1023.210 Anti-money laundering/countering the financing of terrorism program requirements for broker-dealers.

(a) *In general.* A broker-dealer has an effective AML/CFT program and complies with the requirements of 31 U.S.C. 5318(h)(1) and this section if the broker-dealer:

- (1) Establishes an AML/CFT program in accordance with paragraph (b) of this section;
- (2) Maintains an AML/CFT program by implementing the AML/CFT program in accordance with paragraph (c) of this section.

(b) *Program establishment.* A broker-dealer establishes an AML/CFT program

in accordance with this paragraph (b) if the broker-dealer:

(1) Establishes a risk-based set of internal policies, procedures, and controls that is reasonably designed to ensure compliance with the Bank Secrecy Act and this chapter and to:

(i) Identify, assess, and document the broker-dealer's money laundering, terrorist financing, and other illicit finance activity risks through risk assessment processes that:

(A) Evaluate the money laundering, terrorist financing, and other illicit finance activity risks of the broker-dealer's business activities, including products, services, distribution channels, customers, and geographic locations;

(B) Review and, as appropriate, incorporate the AML/CFT priorities; and

(C) Are updated promptly upon any change that the broker-dealer knows or has reason to know significantly changes the broker-dealer's money laundering, terrorist financing, and other illicit finance activity risks;

(ii) Mitigate the broker-dealer's money laundering, terrorist financing, and other illicit finance activity risks consistent with the risk assessment processes required under paragraph (b)(1)(i) of this section, including by directing more attention and resources toward higher-risk customers and activities, consistent with the risk profile of the broker-dealer, rather than toward lower-risk customers and activities; and

(iii) Conduct ongoing customer due diligence, including to:

(A) Understand the nature and purpose of customer relationships for the purpose of developing a customer risk profile; and

(B) Conduct ongoing monitoring to identify and report suspicious transactions and, on a risk basis, to maintain and update customer information (including information regarding the beneficial owners of legal entity customers, as defined in § 1010.230 of this chapter);

(2) Establishes independent AML/CFT program testing to be conducted by broker-dealer personnel or by an outside party;

(3) Designates an individual, who is:

- (i) Located in the United States;
- (ii) Accessible to, and subject to oversight and supervision by, FinCEN and its designee; and

(iii) Responsible for establishing and implementing the AML/CFT program and coordinating and monitoring day-to-day compliance; and

(4) Establishes an ongoing employee training program.

(c) *Program implementation.* A broker-dealer implements an AML/CFT program in accordance with this paragraph (c) if the broker-dealer implements, in all material respects, the AML/CFT program required under paragraph (b) of this section.

(d) *Written AML/CFT program and approval.* A broker-dealer AML/CFT program must be written, and it must be approved by the broker-dealer's board of directors, an equivalent governing body within the broker-dealer, or appropriate senior management. The broker-dealer must make a copy of its AML/CFT program available to FinCEN or its designee upon request.

(e) *Compliance with self-regulatory organization.* A broker-dealer AML/CFT program must comply with the rules, regulations, or requirements of its self-regulatory organization governing such programs; provided that the rules, regulations, or requirements of the self-regulatory organization governing such programs have been made effective under the Securities Exchange Act of 1934 by the appropriate Federal functional regulator in consultation with FinCEN.

■ 22. Amend § 1023.220 by revising paragraphs (a)(1) and (a)(6)(iii) to read as follows:

§ 1023.220 Customer identification programs for broker-dealers.

(a) * * *

(1) *In general.* A broker-dealer must establish, document, and maintain a written Customer Identification Program (CIP) appropriate for its size and business that, at a minimum, includes each of the requirements of paragraphs (a)(1) through (5) of this section. The CIP must be a part of the broker-dealer's AML/CFT program required under 31 U.S.C. 5318(h).

* * * * *

(6) * * *

(iii) The other financial institution enters into a contract requiring it to certify annually to the broker-dealer that it has implemented its AML/CFT program, and that it will perform (or its agent will perform) the specified requirements of the broker-dealer's CIP.

* * * * *

PART 1024—RULES FOR MUTUAL FUNDS

■ 23. Revise the authority citation for part 1024 to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1960; 31 U.S.C. 5311–5314 and 5316–5336; title III, sec. 314, Pub. L. 107–56, 115 Stat. 307; sec. 701, Pub. L. 114–74, 129 Stat. 599.

■ 24. Revise the subpart A heading to read as follows:

Subpart A—General Provisions

■ 25. Add § 1024.110 to read as follows:

§ 1024.110 Severability.

If any provision of this part, or any provision of this chapter referencing mutual funds, is held to be invalid, or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions, or application of such provisions to other persons or circumstances, that can be given effect without the invalid provision or application.

■ 26. Revise § 1024.210 to read as follows:

§ 1024.210 Anti-money laundering/ countering the financing of terrorism program requirements for mutual funds.

(a) *In general.* A mutual fund has an effective AML/CFT program and complies with the requirements of 31 U.S.C. 5318(h)(1) and this section if the mutual fund:

(1) Establishes an AML/CFT program in accordance with paragraph (b) of this section; and

(2) Maintains an AML/CFT program by implementing the AML/CFT program in accordance with paragraph (c) of this section.

(b) *Program establishment.* A mutual fund establishes an AML/CFT program in accordance with this paragraph (b) if the mutual fund:

(1) Establishes a risk-based set of internal policies, procedures, and controls that is reasonably designed to ensure compliance with the Bank Secrecy Act and this chapter and to:

(i) Identify, assess, and document the mutual fund's money laundering, terrorist financing, and other illicit finance activity risks through risk assessment processes that:

(A) Evaluate the money laundering, terrorist financing, and other illicit finance activity risks of the mutual fund's business activities, including products, services, distribution channels, customers, and geographic locations;

(B) Review and, as appropriate, incorporate the AML/CFT priorities; and

(C) Are updated promptly upon any change that the mutual fund knows or has reason to know significantly changes the mutual fund's money laundering, terrorist financing, and other illicit finance activity risks;

(ii) Mitigate the mutual fund's money laundering, terrorist financing, and other illicit finance activity risks consistent with the risk assessment processes required under paragraph (b)(1)(i) of this section, including by

directing more attention and resources toward higher-risk customers and activities, consistent with the risk profile of the mutual fund, rather than toward lower-risk customers and activities; and

(iii) Conduct ongoing customer due diligence, including to:

(A) Understand the nature and purpose of customer relationships for the purpose of developing a customer risk profile; and

(B) Conduct ongoing monitoring to identify and report suspicious transactions and, on a risk basis, to maintain and update customer information (including information regarding the beneficial owners of legal entity customers, as defined in § 1010.230 of this chapter);

(2) Establishes independent AML/CFT program testing to be conducted by mutual fund personnel or by an outside party;

(3) Designates an individual, who is:

(i) Located in the United States;

(ii) Accessible to, and subject to oversight and supervision by, FinCEN and its designee; and

(iii) Responsible for establishing and implementing the AML/CFT program and coordinating and monitoring day-to-day compliance; and

(4) Establishes an ongoing employee training program.

(c) *Program implementation.* A mutual fund implements an AML/CFT program in accordance with this paragraph (c) if the mutual fund implements, in all material respects, the AML/CFT program required under paragraph (b) of this section.

(d) *Written AML/CFT program and approval.* A mutual fund's AML/CFT program must be written, and it must be approved by the mutual fund's board of directors, an equivalent governing body within the mutual fund, or appropriate senior management. The mutual fund must make a copy of its AML/CFT program available to FinCEN or its designee upon request.

■ 27. Amend § 1024.220 by revising paragraphs (a)(1) and (a)(6)(iii) to read as follows:

§ 1024.220 Customer identification programs for mutual funds.

(a) * * *

(1) *In general.* A mutual fund must implement a written Customer Identification Program (CIP) appropriate for its size and type of business that, at a minimum, includes each of the requirements of paragraphs (a)(1) through (5) of this section. The CIP must be a part of the mutual fund's AML/CFT program required under the regulations

in this part implementing 31 U.S.C. 5318(h).

* * * * *

(6) * * *

(iii) The other financial institution enters into a contract requiring it to certify annually to the mutual fund that it has implemented its AML/CFT program, and that it will perform (or its agent will perform) the specified requirements of the mutual fund's CIP.

* * * * *

PART 1025—RULES FOR INSURANCE COMPANIES

■ 28. Revise the authority citation for part 1025 to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1960; 31 U.S.C. 5311–5314 and 5316–5336; title III, sec. 314, Pub. L. 107–56, 115 Stat. 307; sec. 701, Pub. L. 114–74, 129 Stat. 599.

■ 29. Revise the subpart A heading to read as follows:

Subpart A—General Provisions

■ 30. Add § 1025.110 to read as follows:

§ 1025.110 Severability.

If any provision of this part, or any provision of this chapter referencing insurance companies, is held to be invalid, or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions, or application of such provisions to other persons or circumstances, that can be given effect without the invalid provision or application.

■ 31. Revise § 1025.210 to read as follows:

§ 1025.210 Anti-money laundering/countering the financing of terrorism program requirements for insurance companies.

(a) *In general.* An insurance company has an effective AML/CFT program and complies with the requirements of 31 U.S.C. 5318(h)(1) and this section if the insurance company:

(1) Establishes an AML/CFT program in accordance with paragraph (b) of this section; and

(2) Maintains an AML/CFT program by implementing the AML/CFT program in accordance with paragraph (c) of this section.

(b) *Program establishment.* An insurance company establishes an AML/CFT program in accordance with this paragraph (b) if the insurance company:

(1) Establishes a risk-based set of internal policies, procedures, and controls that is reasonably designed to ensure compliance with the Bank Secrecy Act and this chapter and to:

(i) Identify, assess, and document the insurance company's money laundering, terrorist financing, and other illicit finance activity risks through risk assessment processes that:

(A) Evaluate the money laundering, terrorist financing, and other illicit finance activity risks of the insurance company's business activities, including products, services, distribution channels, customers, and geographic locations;

(B) Review and, as appropriate, incorporate the AML/CFT priorities; and

(C) Are updated promptly upon any change that the insurance company knows or has reason to know significantly changes the insurance company's money laundering, terrorist financing, and other illicit finance activity risks; and

(ii) Mitigate the insurance company's money laundering, terrorist financing, and other illicit finance activity risks consistent with the risk assessment processes required under paragraph (b)(1)(i) of this section, including by directing more attention and resources toward higher-risk customers and activities, consistent with the risk profile of the insurance company's, rather than toward lower-risk customers and activities;

(2) Establishes independent AML/CFT program testing to be conducted by insurance company personnel or by an outside party;

(3) Designates an individual, who is:

(i) Located in the United States;

(ii) Accessible to, and subject to oversight and supervision by, FinCEN and its designee; and

(iii) Responsible for establishing and implementing the AML/CFT program and coordinating and monitoring day-to-day compliance; and

(4) Establishes an ongoing employee training program.

(c) *Program implementation.* An insurance company implements an AML/CFT program in accordance with this paragraph (c) if the insurance company implements, in all material respects, the AML/CFT program required under paragraph (b) of this section.

(d) *Written AML/CFT program and approval.* An insurance company's AML/CFT program must be written, and it must be approved by the insurance company's board of directors, an equivalent governing body within the insurance company, or appropriate senior management. The insurance company must make a copy of its AML/CFT program available to FinCEN or its designee upon request.

(e) *AML/CFT program requirements for insurance companies required to register with the Securities and Exchange Commission as broker-dealers in securities.* An insurance company that is registered or required to register with the Securities and Exchange Commission as a broker-dealer in securities shall be deemed to have satisfied the requirements of this section for its broker-dealer activities to the extent that the company is required to establish and has established an anti-money laundering program pursuant to § 1023.210 of this chapter and complies with such program.

PART 1026—RULES FOR FUTURES COMMISSION MERCHANTS AND INTRODUCING BROKERS IN COMMODITIES

■ 32. Revise the authority citation for part 1026 to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1960; 31 U.S.C. 5311–5314 and 5316–5336; title III, sec. 314, Pub. L. 107–56, 115 Stat. 307; sec. 701, Pub. L. 114–74, 129 Stat. 599.

■ 33. Revise the subpart A heading to read as follows:

Subpart A—General Provisions

■ 34. Add § 1026.110 to read as follows:

§ 1026.110 Severability.

If any provision of this part, or any provision of this chapter referencing futures commission merchants or introducing brokers in commodities, is held to be invalid, or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions, or application of such provisions to other persons or circumstances, that can be given effect without the invalid provision or application.

■ 35. Revise § 1026.210 to read as follows:

§ 1026.210 Anti-money laundering/countering the financing of terrorism program requirements for futures commission merchants and introducing brokers in commodities.

(a) *In general.* A futures commission merchant or an introducing broker in commodities has an effective AML/CFT program and complies with the requirements of 31 U.S.C. 5318(h)(1) and this section if the futures commission merchant or introducing broker in commodities:

(1) Establishes an AML/CFT program in accordance with paragraph (b) of this section; and

(2) Maintains an AML/CFT program by implementing the AML/CFT program in accordance with paragraph (c) of this section.

(b) *Program establishment.* A futures commission merchant or an introducing broker in commodities establishes an AML/CFT program in accordance with this paragraph (b) if the futures commission merchant or introducing broker in commodities:

(1) Establishes a risk-based set of internal policies, procedures, and controls that is reasonably designed to ensure compliance with the Bank Secrecy Act and this chapter and to:

(i) Identify, assess, and document the futures commission merchant's or introducing broker's money laundering, terrorist financing, and other illicit finance activity risks through risk assessment processes that:

(A) Evaluate the money laundering, terrorist financing, and other illicit finance activity risks of the futures commission merchant's or introducing broker's business activities, including products, services, distribution channels, customers, and geographic locations;

(B) Review and, as appropriate, incorporate the AML/CFT priorities; and

(C) Are updated promptly upon any change that the futures commission merchant or introducing broker in commodities knows or has reason to know significantly changes the futures commission merchant's or introducing broker's money laundering, terrorist financing, and other illicit finance activity risks;

(ii) Mitigate the futures commission merchant's or introducing broker's money laundering, terrorist financing, and other illicit finance activity risks consistent with the risk assessment processes required under paragraph (b)(1)(i) of this section, including by directing more attention and resources toward higher-risk customers and activities, consistent with the risk profile of the futures commission merchant or introducing broker in commodities, rather than toward lower-risk customers and activities; and

(iii) Conduct ongoing customer due diligence, including to:

(A) Understand the nature and purpose of customer relationships for the purpose of developing a customer risk profile; and

(B) Conduct ongoing monitoring to identify and report suspicious transactions and, on a risk basis, to maintain and update customer information (including information regarding the beneficial owners of legal entity customers, as defined in § 1010.230 of this chapter);

(2) Establishes independent AML/CFT program testing to be conducted by futures commission merchant or

introducing broker personnel or by an outside party;

(3) Designates an individual, who is:

(i) Located in the United States;

(ii) Accessible to, and subject to oversight and supervision by, FinCEN and its designee; and

(iii) Responsible for establishing and implementing the AML/CFT program and coordinating and monitoring day-to-day compliance; and

(4) Establishes an ongoing employee training program.

(c) *Program implementation.* A futures commission merchant or introducing broker in commodities implements an AML/CFT program in accordance with this paragraph (c) if the futures commission merchant or introducing broker in commodities implements, in all material respects, the AML/CFT program required under paragraph (b) of this section.

(d) *Written AML/CFT program and approval.* A futures commission merchant or introducing broker in commodities AML/CFT program must be written, and it must be approved by the futures commission merchant's or introducing broker's board of directors, an equivalent governing body within the futures commission merchant or introducing broker in commodities, or appropriate senior management. The futures commission merchant and the introducing broker in commodities must make copies of their respective AML/CFT programs available to FinCEN or its designee upon request.

(e) *Compliance with self-regulatory organization.* Complies with the rules, regulations, or requirements of its self-regulatory organization governing such programs, provided that the rules, regulations, or requirements of the self-regulatory organization governing such programs have been made effective under the Commodity Exchange Act by the appropriate Federal functional regulator in consultation with FinCEN.

■ 36. Amend § 1026.220 by revising paragraphs (a)(1) and (a)(6)(iii) to read as follows:

§ 1026.220 Customer identification programs for futures commission merchants and introducing brokers.

(a) * * *

(1) *In general.* Each futures commission merchant or introducing broker must implement a written Customer Identification Program (CIP) appropriate for its size and business that, at a minimum, includes each of the requirements of paragraphs (a)(1) through (5) of this section. The CIP must be a part of each futures commission merchant's or introducing broker's

AML/CFT program required under 31 U.S.C. 5318(h).

* * * * *

(6) * * *

(iii) The other financial institution enters into a contract requiring it to certify annually to the futures commission merchant or introducing broker that it has implemented its AML/CFT program, and that it will perform (or its agent will perform) the specified requirements of the futures commission merchant's or introducing broker's CIP.

* * * * *

PART 1027—RULES FOR DEALERS IN PRECIOUS METALS, PRECIOUS STONES, OR JEWELS

■ 37. Revise the authority citation for part 1027 to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1960; 31 U.S.C. 5311–5314 and 5316–5336; title III, sec. 314, Pub. L. 107–56, 115 Stat. 307; sec. 701, Pub. L. 114–74, 129 Stat. 599.

■ 38. Revise the subpart A heading to read as follows:

Subpart A—General Provisions

■ 39. Amend § 1027.100 by revising paragraph (b)(4) to read as follows:

§ 1027.100 Definitions.

* * * * *

(b) * * *

(4) For purposes of this paragraph (b) and § 1027.210, the terms “purchase” and “sale” do not include the purchase of jewels, precious metals, or precious stones that are incorporated into machinery or equipment to be used for industrial purposes, and the purchase and sale of such machinery or equipment.

* * * * *

■ 40. Add § 1027.110 to read as follows:

§ 1027.110 Severability.

If any provision of this part, or any provision of this chapter referencing dealers in precious metals, precious stones, or jewels, is held to be invalid, or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions, or application of such provisions to other persons or circumstances, that can be given effect without the invalid provision or application.

■ 41. Revise § 1027.210 to read as follows:

§ 1027.210 Anti-money laundering/ countering the financing of terrorism program requirements for dealers in precious metals, precious stones, or jewels.

(a) *In general.* A dealer has an effective AML/CFT program and

complies with the requirements of 31 U.S.C. 5318(h)(1) and this section if the dealer:

(1) Establishes an AML/CFT program in accordance with paragraph (b) of this section; and

(2) Maintains an AML/CFT program by implementing the AML/CFT program in accordance with paragraph (c) of this section.

(3) To the extent that a retailer's purchases from persons other than dealers and other retailers exceeds the \$50,000 threshold contained in § 1027.100(b)(2)(i), the AML/CFT program required of the retailer under this paragraph (a) need only address such purchases.

(b) *Program establishment.* A dealer establishes an AML/CFT program in accordance with this paragraph (b) if the dealer:

(1) Establishes a risk-based set of internal policies, procedures, and controls that is reasonably designed to ensure compliance with the Bank Secrecy Act and this chapter and to:

(i) Identify, assess, and document the dealer's money laundering, terrorist financing, and other illicit finance activity risks through risk assessment processes that:

(A) Evaluate the money laundering, terrorist financing, and other illicit finance activity risks of the dealer's business activities, including products, services, distribution channels, customers, and geographic locations;

(B) Review and, as appropriate, incorporate the AML/CFT priorities; and

(C) Are updated promptly upon any change that the dealer knows or has reason to know significantly changes the dealer's money laundering, terrorist financing, and other illicit finance activity risks; and

(ii) Mitigate the dealer's money laundering, terrorist financing, and other illicit finance activity risks consistent with the risk assessment processes required under paragraph (b)(1)(i) of this section, including by directing more attention and resources toward higher-risk customers and activities, consistent with the risk profile of the dealer, rather than toward lower-risk customers and activities;

(2) Establishes independent AML/CFT program testing to be conducted by dealer personnel or by an outside party;

(3) Designates an individual, who is:

(i) Located in the United States;

(ii) Accessible to, and subject to oversight and supervision by, FinCEN and its designee; and

(iii) Responsible for establishing and implementing the AML/CFT program

and coordinating and monitoring day-to-day compliance; and

(4) Establishes an ongoing employee training program.

(c) *Program implementation.* A dealer implements an AML/CFT program in accordance with this paragraph (c) if the insurance company implements, in all material respects, the AML/CFT program required under paragraph (b) of this section.

(d) *Written AML/CFT program and approval.* A dealer's AML/CFT program must be written, and it must be approved by the dealer's board of directors, an equivalent governing body within the dealer, or appropriate senior management. The dealer must make a copy of its AML/CFT program available to FinCEN or its designee upon request.

(e) *Implementation date.* A dealer must develop and implement an anti-money laundering program that complies with the requirements of this section on or before six months after the date a dealer becomes subject to the requirements of this section.

PART 1028—RULES FOR OPERATORS OF CREDIT CARD SYSTEMS

■ 42. Revise the authority citation for part 1028 to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1960; 31 U.S.C. 5311–5314 and 5316–5336; title III, sec. 314, Pub. L. 107–56, 115 Stat. 307; sec. 701, Pub. L. 114–74, 129 Stat. 599.

■ 43. Revise the subpart A heading to read as follows:

Subpart A—General Provisions

■ 44. Add § 1028.110 to read as follows:

§ 1028.110 Severability.

If any provision of this part, or any provision of this chapter referencing operators of credit card systems, is held to be invalid, or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions, or application of such provisions to other persons or circumstances, that can be given effect without the invalid provision or application.

■ 45. Revise § 1028.210 to read as follows:

§ 1028.210 Anti-money laundering/ countering the financing of terrorism program requirements for operators of credit card systems.

(a) *In general.* An operator of credit card systems has an effective AML/CFT program and complies with the requirements of 31 U.S.C. 5318(h)(1) and this section if the operator of credit card systems:

(1) Establishes an AML/CFT program in accordance with paragraph (b) of this section; and

(2) Maintains an AML/CFT program by implementing the AML/CFT program in accordance with paragraph (c) of this section.

(b) *Program establishment.* An operator establishes an AML/CFT program in accordance with this paragraph (b) if the operator of credit card systems:

(1) Establishes a risk-based set of internal policies, procedures, and controls that is reasonably designed to ensure compliance with the Bank Secrecy Act and this chapter and to:

(i) Identify, assess, and document the operator's money laundering, terrorist financing, and other illicit finance activity risks through risk assessment processes that:

(A) Evaluate the money laundering, terrorist financing, and other illicit finance activity risks of the operator's business activities, including products, services, distribution channels, customers, and geographic locations;

(B) Review and, as appropriate, incorporate the AML/CFT priorities; and

(C) Are updated promptly upon any change that the operator knows or has reason to know significantly changes the operator's money laundering, terrorist financing, and other illicit finance activity risks;

(ii) Mitigate the operator's money laundering, terrorist financing, and other illicit finance activity risks consistent with the risk assessment processes required under paragraph (b)(1)(i) of this section, including by directing more attention and resources toward higher-risk customers and activities, consistent with the risk profile of the operator's, rather than toward lower-risk customers and activities; and

(iii) That the operator does not authorize, or maintain authorization for, any person to serve as an issuing or acquiring institution without the operator taking appropriate steps, based upon the operator's money laundering or terrorist financing risk assessment, to guard against that person issuing the operator's credit card or acquiring merchants who accept the operator's credit card in circumstances that facilitate money laundering or the financing of terrorist activities; and

(iv) For purposes of making the risk assessment required by paragraph (b)(1)(i) of this section, the following persons are presumed to pose a heightened risk of money laundering or terrorist financing when evaluating whether and under what circumstances

to authorize, or to maintain authorization for, any such person to serve as an issuing or acquiring institution:

(A) A foreign shell bank that is not a regulated affiliate, as those terms are defined in § 1010.605(g) and (n) of this chapter;

(B) A person appearing on the Specially Designated Nationals List issued by Treasury's Office of Foreign Assets Control;

(C) A person located in, or operating under a license issued by, a jurisdiction whose government has been identified by the Department of State as a sponsor of international terrorism under 22 U.S.C. 2371;

(D) A foreign bank operating under an offshore banking license, other than a branch of a foreign bank if such foreign bank has been found by the Board of Governors of the Federal Reserve System under the Bank Holding Company Act (12 U.S.C. 1841, *et seq.*) or the International Banking Act (12 U.S.C. 3101, *et seq.*) to be subject to comprehensive supervision or regulation on a consolidated basis by the relevant supervisors in that jurisdiction;

(E) A person located in, or operating under a license issued by, a jurisdiction that has been designated as noncooperative with international anti-money laundering principles or procedures by an intergovernmental group or organization of which the United States is a member, with which designation the United States representative to the group or organization concurs; and

(F) A person located in, or operating under a license issued by, a jurisdiction that has been designated by the Secretary of the Treasury pursuant to 31 U.S.C. 5318A as warranting special measures due to money laundering concerns;

(2) Establishes independent AML/CFT program testing to be conducted by operator personnel or by an outside party;

(3) Designates an individual, who is:

(i) Located in the United States;

(ii) Accessible to, and subject to oversight and supervision by, FinCEN and its designee; and

(iii) Responsible for establishing and implementing the AML/CFT program and coordinating and monitoring day-to-day compliance; and

(4) Establishes an ongoing employee training program.

(c) *Program implementation.* An operator implements an AML/CFT program in accordance with this paragraph (c) if the operator implements, in all material respects, the

AML/CFT program required under paragraph (b) of this section.

(d) *Written AML/CFT program and approval.* An operator's AML/CFT program must be written, and it must be approved by the operator's board of directors, or an equivalent governing body within the operator, or appropriate senior management. The operator must make a copy of its AML/CFT program available to FinCEN or its designee upon request.

PART 1029—RULES FOR LOAN OR FINANCE COMPANIES

■ 47. Revise the authority citation for part 1029 to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1960; 31 U.S.C. 5311–5314 and 5316–5336; title III, sec. 314, Pub. L. 107–56, 115 Stat. 307; sec. 701, Pub. L. 114–74, 129 Stat. 599.

■ 48. Revise the subpart A heading to read as follows:

Subpart A—General Provisions

■ 49. Add § 1029.110 to read as follows:

§ 1029.110 Severability.

If any provision of this part, or any provision of this chapter referencing loan or finance companies, is held to be invalid, or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions, or application of such provisions to other persons or circumstances, that can be given effect without the invalid provision or application.

■ 50. Revise § 1029.210 to read as follows:

§ 1029.210 Anti-money laundering/countering the financing of terrorism program requirements for loan or finance companies.

(a) *In general.* A loan or finance company has an effective AML/CFT program and complies with the requirements of 31 U.S.C. 5318(h)(1) and this section if the operator of credit card systems:

(1) Establishes an AML/CFT program in accordance with paragraph (b) of this section; and

(2) Maintains an AML/CFT program by implementing the AML/CFT program in accordance with paragraph (c) of this section.

(b) *Program establishment.* A loan or finance company establishes an AML/CFT program in accordance with this paragraph (b) if the loan or finance company:

(1) Establishes a risk-based set of internal policies, procedures, and controls that is reasonably designed to ensure compliance with the Bank Secrecy Act and this chapter and to:

(i) Identify, assess, and document the operator's money laundering, terrorist financing, and other illicit finance activity risks through risk assessment processes that:

(A) Evaluate the money laundering, terrorist financing, and other illicit finance activity risks of the loan or finance company's business activities, including products, services, distribution channels, customers, and geographic locations;

(B) Review and, as appropriate, incorporate the AML/CFT priorities; and

(C) Are updated promptly upon any change that the loan or finance company knows or has reason to know significantly changes the loan or finance company's money laundering, terrorist financing, and other illicit finance activity risks; and

(ii) Mitigate the loan or finance company's money laundering, terrorist financing, and other illicit finance activity risks consistent with the risk assessment processes required under paragraph (b)(1)(i) of this section, including by directing more attention and resources toward higher-risk customers and activities, consistent with the risk profile of the loan or finance company's, rather than toward lower-risk customers and activities;

(2) Establishes independent AML/CFT program testing to be conducted by loan or finance company personnel or by an outside party;

(3) Designates an individual, who is:

(i) Located in the United States;

(ii) Accessible to, and subject to oversight and supervision by, FinCEN and its designee; and

(iii) Responsible for establishing and implementing the AML/CFT program and coordinating and monitoring day-to-day compliance; and

(4) Establishes an ongoing employee training program.

(c) *Program implementation.* A loan or finance company implements an AML/CFT program in accordance with this paragraph (c) if the operator implements, in all material respects, the AML/CFT program required under paragraph (b) of this section.

(d) *Written AML/CFT program and approval.* A loan or finance company AML/CFT program must be written, and it must be approved by the loan or finance company's board of directors, an equivalent governing body within the loan or finance company, or appropriate senior management. The loan or finance company must make a copy of its AML/CFT program available to FinCEN or its designee upon request.

§ 1029.320 [Amended]

- 51. Amend § 1029.320 by removing paragraph (g).

PART 1030—RULES FOR HOUSING GOVERNMENT SPONSORED ENTERPRISES

- 52. Revise the authority citation for part 1030 to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1960; 31 U.S.C. 5311–5314 and 5316–5336; title III, sec. 314, Pub. L. 107–56, 115 Stat. 307; sec. 701, Pub. L. 114–74, 129 Stat. 599.

- 53. Revise the subpart A heading to read as follows:

Subpart A—General Provisions

- 54. Add § 1030.110 to read as follows:

§ 1030.110 Severability.

If any provision of this part, or any provision of this chapter referencing housing government sponsored enterprises, is held to be invalid, or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions, or application of such provisions to other persons or circumstances, that can be given effect without the invalid provision or application.

- 55. Revise § 1030.210 to read as follows:

§ 1030.210 Anti-money laundering/ countering the financing of terrorism program requirements for housing government sponsored enterprises.

(a) *In general.* A housing government sponsored enterprise has an effective AML/CFT program and complies with the requirements of 31 U.S.C. 5318(h)(1) and this section if the housing government sponsored enterprise:

(1) Establishes an AML/CFT program in accordance with paragraph (b) of this section; and

(2) Maintains an AML/CFT program by implementing the AML/CFT program

in accordance with paragraph (c) of this section.

(b) *Program establishment.* A housing government sponsored enterprise establishes an AML/CFT program in accordance with this paragraph (b) if the housing government sponsored enterprise:

(1) Establishes a risk-based set of internal policies, procedures, and controls that is reasonably designed to ensure compliance with the Bank Secrecy Act and this chapter and to:

(i) Identify, assess, and document the housing government sponsored enterprise's money laundering, terrorist financing, and other illicit finance activity risks through risk assessment processes that:

(A) Evaluate the money laundering, terrorist financing, and other illicit finance activity risks of the housing government sponsored enterprise business activities, including products, services, distribution channels, customers, and geographic locations;

(B) Review and, as appropriate, incorporate the AML/CFT priorities; and

(C) Are updated promptly upon any change that the housing government sponsored enterprise knows or has reason to know significantly changes the housing government sponsored enterprise's money laundering, terrorist financing, and other illicit finance activity risks; and

(ii) Mitigate the housing government sponsored enterprise's money laundering, terrorist financing, and other illicit finance activity risks consistent with the risk assessment processes required under paragraph (b)(1)(i) of this section, including by directing more attention and resources toward higher-risk customers and activities, consistent with the risk profile of the housing government sponsored enterprise, rather than toward lower-risk customers and activities; and

(2) Establishes independent AML/CFT program testing to be conducted by housing government sponsored enterprise personnel or by an outside party;

(3) Designates an individual, who is:

(i) Located in the United States;

(ii) Accessible to, and subject to oversight and supervision by, FinCEN and its designee; and

(iii) Responsible for establishing and implementing the AML/CFT program and coordinating and monitoring day-to-day compliance; and

(4) Establishes an ongoing employee training program.

(c) *Program implementation.* A housing government sponsored enterprise implements an AML/CFT program in accordance with this paragraph (c) if the housing government sponsored enterprise implements, in all material respects, the AML/CFT program required under paragraph (b) of this section.

(d) *Written AML/CFT program and approval.* A housing government sponsored enterprise's AML/CFT program must be written, and it must be approved by the housing government sponsored enterprise's board of directors, an equivalent governing body within the housing government sponsored enterprise, or appropriate senior management. The housing government sponsored enterprise must make a copy of its AML/CFT program available to FinCEN or its designee upon request.

§ 1030.320 [Amended]

- 56. Amend § 1030.320 by removing paragraph (g).

Andrea M. Gacki,

Director, Financial Crimes Enforcement Network.

[FR Doc. 2026–07033 Filed 4–9–26; 8:45 am]

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FEDERAL REGISTER

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April 10, 2026

Part VI

The President

Notice of April 8, 2026—Continuation of the National Emergency With Respect to Somalia

Presidential Documents

Title 3—

Notice of April 8, 2026

The President

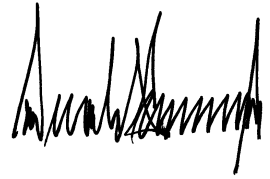
Continuation of the National Emergency With Respect to Somalia

On April 12, 2010, by Executive Order 13536, the President declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the deterioration of the security situation and the persistence of violence in Somalia; acts of piracy and armed robbery at sea off the coast of Somalia, which have been the subject of United Nations Security Council resolutions; and violations of the arms embargo imposed by the United Nations Security Council.

On July 20, 2012, the President issued Executive Order 13620 to take additional steps to deal with the national emergency declared in Executive Order 13536 in view of United Nations Security Council Resolution 2036 of February 22, 2012, and Resolution 2002 of July 29, 2011, and to address: exports of charcoal from Somalia, which generate significant revenue for al-Shabaab; the misappropriation of Somali public assets; and certain acts of violence committed against civilians in Somalia, all of which contribute to the deterioration of the security situation and the persistence of violence in Somalia.

The situation with respect to Somalia continues to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, the national emergency declared on April 12, 2010, and the measures adopted on that date and on July 20, 2012, to deal with that threat, must continue in effect beyond April 12, 2026. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13536.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

A handwritten signature in black ink, appearing to be a stylized name, possibly "Donald Trump", written in a cursive, slanted style.

THE WHITE HOUSE,
April 8, 2026.

[FR Doc. 2026-07069
Filed 4-9-26; 11:15 am]
Billing code 3395-F4-P

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